

**SUBSTITUTE FOR
HOUSE BILL NO. 5735**

A bill to amend 2000 PA 403, entitled
"Motor fuel tax act,"
by amending sections 3, 5, 8, 37, 38, and 92 (MCL 207.1003,
207.1005, 207.1008, 207.1037, 207.1038, and 207.1092); and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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 as the D-4806 specification for denatured fuel grade
8 ethanol for blending with gasoline.

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

8 ~~(d) "Fuel vendor" means a person who receives, stores, or~~
9 ~~distributes gasoline or diesel fuel for resale within this~~
10 ~~state.~~

11 (D) ~~(e)~~ "Gallon" means a unit of liquid measure as custom-
12 arily used in the United States containing 231 cubic inches, or 4
13 quarts, or its metric equivalent expressed in liters. Where the
14 term gallon appears in this act, the term liters is interchange-
15 able so long as the equivalence of a gallon and 3.785 liters is
16 preserved. A quantity required to be furnished under this act
17 may be specified in liters when authorized by the department.

18 (E) ~~(f)~~ "Gasohol" means a blended motor fuel composed of
19 gasoline and fuel grade ethanol.

20 (F) ~~(g)~~ "Gasoline" means and includes gasoline, alcohol,
21 gasohol, casing head or natural gasoline, benzol, benzine, naph-
22 tha, and any blendstock or additive that is sold for blending
23 with gasoline other than products typically sold in containers of
24 less than 5 gallons. Gasoline also includes a liquid prepared,
25 advertised, offered for sale, sold for use as, or used in the
26 generation of power for the propulsion of a motor vehicle,
27 airplane, or marine vessel, including a product obtained by

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1 blending together any 1 or more products of petroleum, with or
2 without another product, and regardless of the original character
3 of the petroleum products blended, if the product obtained by the
4 blending is capable of use in the generation of power for the
5 propulsion of a motor vehicle, airplane, or marine vessel. The
6 blending of all of the above named products, regardless of their
7 name or characteristics, shall conclusively be presumed to have
8 been done to produce motor fuel, unless the product obtained by
9 the blending is entirely incapable of use as motor fuel.

10 Gasoline also includes transmix. Gasoline does not include
11 diesel fuel. An additive or blendstock is presumed to be sold
12 for blending unless a certification is obtained for federal pur-
13 poses that the substance is for a use other than blending for
14 gasoline.

15 (G) ~~(h)~~ "Gross gallons" means the total measured product,
16 exclusive of any temperature or pressure adjustments, considera-
17 tions, or deductions, in gallons.

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

21 (I) ~~(j)~~ "Implement of husbandry" means and includes a farm
22 tractor, a vehicle designed to be drawn or pulled by a farm trac-
23 tor or animal, a vehicle that directly harvests farm products,
24 and a vehicle that directly applies fertilizer, spray, or seeds
25 to a farm field. Implement of husbandry does not include a motor
26 vehicle licensed for use on the public roads or highways of this
27 state.

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1 (J) ~~(k)~~ "Import" means to bring motor fuel into this state
2 by motor vehicle, marine vessel, pipeline, or any other means.
3 However, import does not include bringing motor fuel into this
4 state in the fuel supply tank of a motor vehicle if the motor
5 fuel is used to power that motor vehicle. Motor fuel delivered
6 into this state from outside of this state by or for the seller
7 constitutes an import by the seller, and motor fuel delivered
8 into this state from out of this state by or for the purchaser
9 constitutes an import by the purchaser.

10 (K) ~~(l)~~ "Importer" means a person who imports motor fuel
11 into this state.

12 (l) ~~(m)~~ "Import verification number" means the number
13 assigned by the department to an individual delivery of motor
14 fuel by a transport truck, tank wagon, marine vessel, or rail car
15 in response to a request for a number from an importer or trans-
16 porter carrying motor fuel into this state for the account of an
17 importer.

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

21 (N) ~~(o)~~ "Industrial end user" means a person who incor-
22 porates motor fuel into, or uses motor fuel incidental to, indus-
23 trial processing. Industrial end user includes a person who
24 repackages motor fuel into containers that hold not more than 55
25 gallons of liquid if the motor fuel is sold or used for a
26 tax-exempt purpose.

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1 (O) ~~(P)~~ "Industrial process reseller" means a person
2 licensed under this act to engage in tax-exempt sales of motor
3 fuel and other products to an industrial end user for use in
4 tax-exempt industrial processing.

5 (P) ~~(Q)~~ "Industrial processing" means that term as defined
6 in section 4t of the general sales tax act, 1933 PA 167,
7 MCL 205.54t, and section 4o of the use tax act, 1937 PA 94,
8 MCL 205.94o.

9 (Q) ~~(R)~~ "Invoiced gallons" means the number of gallons
10 actually billed on an invoice.

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

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

17 (b) "Refiner" means a person who owns, operates, or other-
18 wise controls a refinery within the United States.

19 (c) "Refinery" means a facility used to produce motor fuel
20 from crude oil, unfinished oils, natural gas liquids, or other
21 hydrocarbons and from which motor fuel may be removed by pipe-
22 line, by marine vessel, or at a rack.

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

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

3 (F) "RETAIL MARINE DIESEL DEALER" MEANS A PERSON WHO SELLS
4 OR DISTRIBUTES DIESEL FUEL TO AN END USER IN THIS STATE FOR USE
5 IN BOATS OR OTHER MARINE VESSELS.

6 (G) ~~(f)~~ "Source state" means the state, Canadian province
7 or territory, or foreign country from which motor fuel is
8 imported.

9 (H) ~~(g)~~ "Stationary engine" means a temporary or per-
10 manently affixed engine designed and used to supply power primar-
11 ily for agricultural or construction work. Stationary engine
12 includes, but is not limited to, an engine powering irrigation
13 equipment, generators, or earth-moving equipment.

14 (I) ~~(h)~~ "Supplier", IN ADDITION TO SUBSECTION (2), means a
15 person who meets all of the following requirements:

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

18 (ii) Is registered under section 4101 of the internal reve-
19 nue code for transactions in motor fuel in the bulk
20 transfer/terminal distribution system.

21 (iii) Is any 1 of the following:

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

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

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1 (C) A person who acquires motor fuel from a terminal or
2 refinery in this state from a position holder pursuant to a
3 2-party exchange.

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

7 (2) Supplier also means a person who either produces alcohol
8 or alcohol derivative substances in this state or produces alco-
9 hol or alcohol derivative substances for import into a terminal
10 in this state, or who acquires immediately upon import by trans-
11 port truck, tank wagon, rail car, or marine vessel into a termi-
12 nal or refinery or other storage facility that is not part of a
13 terminal or refinery, alcohol or alcohol derivative substances.
14 A terminal operator is not considered a supplier merely because
15 the terminal operator handles motor fuel consigned to it within a
16 terminal. Supplier includes a permissive supplier unless other-
17 wise specifically provided in this act.

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

21 (a) Nineteen cents per gallon on gasoline.

22 (b) Fifteen cents per gallon on diesel fuel.

23 ~~(2) The tax on diesel fuel shall be collected or paid in~~
24 ~~the following manner:~~

25 ~~(a) Subject to subsection (3), 9 cents of tax per gallon~~
26 ~~shall be collected by all of the following:~~

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1 ~~(i) A person who sells or delivers diesel fuel to a licensed~~
2 ~~supplier, licensed importer, licensed fuel vendor, licensed~~
3 ~~retail diesel dealer, or licensed marine retail dealer.~~

4 ~~(ii) A person who delivers the fuel into the bulk storage~~
5 ~~tank of a motor carrier licensed under the motor carrier fuel tax~~
6 ~~act, 1980 PA 119, MCL 207.211 to 207.234, or into the fuel supply~~
7 ~~tank of a qualified commercial motor vehicle issued a decal under~~
8 ~~the motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to~~
9 ~~207.234.~~

10 ~~(b) An additional 6 cents of tax per gallon shall be col-~~
11 ~~lected and remitted to the department by any person who collected~~
12 ~~or paid 9 cents per gallon of tax on diesel fuel under subdivi-~~
13 ~~sion (a) and who does any of the following:~~

14 ~~(i) Uses the diesel fuel in a motor vehicle that is not~~
15 ~~issued a decal under the motor carrier fuel tax act.~~

16 ~~(ii) Sells or delivers diesel fuel into the fuel supply tank~~
17 ~~of a motor vehicle that is not licensed under the motor carrier~~
18 ~~fuel tax act.~~

19 ~~(iii) Delivers undyed diesel fuel into a storage tank of a~~
20 ~~person who is neither licensed under the motor carrier fuel tax~~
21 ~~act nor licensed under this act.~~

22 ~~(c) Fifteen cents of tax per gallon shall be collected and~~
23 ~~remitted by any person importing, selling, distributing, deliver-~~
24 ~~ing, or using diesel fuel unless otherwise provided for in subdivi-~~
25 ~~vision (a) or (b).~~

26 ~~(2) -(3)-~~ Tax shall not be imposed under this section on
27 motor fuel that is in the bulk transfer/terminal system.

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1 (3) ~~-(4)-~~ The collection, payment, and remittance of the tax
2 imposed by this section shall be accomplished in the manner and
3 at the time provided for in this act.

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

11 (5) ~~-(6)-~~ It is the intent of this act:

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

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

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

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

24 Sec. 37. (1) A person may seek a refund for tax paid under
25 this act on motor fuel that the person exported out of a bulk
26 plant in this state in a tank wagon if proof of reporting of
27 import to the destination state and proof of payment of the tax

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1 imposed by this act have been provided. The refund is subject to
2 conditions established by the department.

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

16 Sec. 38. A ~~licensed~~ retail diesel dealer may claim a
17 ~~deduction~~ REFUND for tax paid under this act on sales of undyed
18 diesel fuel in amounts of 100 gallons or less sold tax-free for a
19 nontaxable purpose. If a sale of undyed diesel fuel for a non-
20 taxable purpose exceeds 100 gallons, tax shall be charged and
21 collected by the retail diesel dealer, and the end user may file
22 a claim for a refund. A sale for a nontaxable purpose shall meet
23 the invoicing requirement of the department.

24 Sec. 92. (1) A person shall not deliver diesel fuel into
25 the fuel supply tank of an end user's ~~motor vehicle~~ BOAT OR
26 OTHER MARINE VESSEL or make a bulk delivery of diesel fuel to an

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1 unlicensed end user unless licensed as a retail MARINE diesel
2 dealer under this act.

3 (2) The fee for a retail MARINE diesel dealer license is
4 \$50.00.

5 ~~(3) A retail diesel dealer shall list the amount of tax and~~
6 ~~any applicable tax discounts for motor carriers on diesel fuel as~~
7 ~~separate line items on all invoices or billings to end users.~~

8 (3) ~~(4)~~ A retail MARINE diesel dealer shall file with the
9 department on forms or in a format prescribed by the department a
10 quarterly report containing the information the department
11 requires as reasonably necessary for the department to determine
12 the amount of diesel fuel tax due. A licensed retail MARINE
13 diesel dealer shall ~~not be required to~~ report the amount of
14 dyed diesel fuel ~~purchased or sold until 2 years after the~~
15 ~~effective date of this act~~ FOR A TAXABLE PURPOSE. ~~The depart-~~
16 ~~ment may waive the requirements in this subsection if the report~~
17 ~~is not needed to administer this act.~~

18 (4) ~~(5)~~ The report shall be filed and the tax paid to the
19 department on or before the twentieth day of the month following
20 the close of the reporting period.

21 (5) ~~(6)~~ The department may waive the requirement for
22 filing a report under this section.

23 Enacting section 1. Section 91 of the motor fuel tax act,
24 2000 PA 403, MCL 207.1091, is repealed.

25 Enacting section 2. This amendatory act does not take
26 effect unless all of the following bills of the 91st Legislature
27 are enacted into law:

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- 1 (a) House Bill No. 5734.
- 2 (b) House Bill No. 5736.