

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 5735

(As amended by the Senate, December 13, 2002)

A bill to amend 2000 PA 403, entitled
"Motor fuel tax act,"
by amending sections 2, 3, 4, 5, 8, 30, 37, 38, 92, 121, and 122
(MCL 207.1002, 207.1003, 207.1004, 207.1005, 207.1008, 207.1030,
207.1037, 207.1038, 207.1092, 207.1121, and 207.1122); 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 methanol~~ or a
3 mixture of fuel grade ethanol and ~~methanol~~ ANOTHER PRODUCT.

4 (b) "Blendstock" means and includes any petroleum product
5 component of motor fuel, such as naphtha, reformate, or toluene;
6 or any oxygenate that can be blended for use in a motor fuel.

7 (c) "Blended motor fuel" means a mixture of motor fuel and
8 another liquid, other than a de minimis amount of a product

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1 including but not limited to carburetor detergent or oxidation
2 inhibitor, that can be used as motor fuel in a motor vehicle.

3 (d) "Blender" means and includes any person who produces
4 blended motor fuel outside of the bulk transfer/terminal system.

5 (e) "Blends" or "blending" means the mixing of 1 or more
6 petroleum products, with or without another product, regardless
7 of the original character of the product blended, if the product
8 obtained by the blending is capable of use in the generation of
9 power for the propulsion of a motor vehicle, an airplane, or a
10 marine vessel. Blending does not include mixing that occurs in
11 the process of refining by the original refiner of crude petro-
12 leum or the blending of products known as lubricating oil in the
13 production of lubricating oils and greases.

14 (f) "Bulk end user" means a person who receives into the
15 person's own storage facilities by transport truck or tank wagon
16 motor fuel for the person's own consumption.

17 (g) "Bulk plant" means a motor fuel storage and distribution
18 facility that is not a terminal and from which motor fuel may be
19 withdrawn by a tank wagon, a transport truck, or a marine
20 vessel.

21 (h) "Bulk transfer" means a transfer of motor fuel from 1
22 location to another by pipeline tender or marine delivery within
23 the bulk transfer/terminal system, including but not limited to
24 all of the following transfers:

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

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1 (ii) Pipeline movements of motor fuel from a refinery or
2 terminal to a terminal.

3 (iii) Book transfers of motor fuel within a terminal between
4 licensed suppliers before completion of removal across the termi-
5 nal rack.

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

7 (i) "Bulk transfer/terminal system" means the motor fuel
8 distribution system consisting of refineries, pipelines, marine
9 vessels, and terminals. Motor fuel in a refinery, pipeline, ter-
10 minal, or a marine vessel transporting motor fuel to a refinery
11 or terminal is in the bulk transfer/terminal system. Motor fuel
12 in a fuel storage facility including, but not limited to, a bulk
13 plant that is not part of a refinery or terminal, in the fuel
14 supply tank of any engine or motor vehicle, in a marine vessel
15 transporting motor fuel to a fuel storage facility that is not in
16 the bulk transfer/terminal system, or in any tank car, rail car,
17 trailer, truck, or other equipment suitable for ground transpor-
18 tation is not in the bulk transfer/terminal system.

19 (j) "Carrier" means an operator of a pipeline or marine
20 vessel engaged in the business of transporting motor fuel above
21 the terminal rack.

22 (k) "Commercial motor vehicle" means a motor vehicle
23 licensed under the motor carrier fuel tax act, 1980 PA 119,
24 MCL 207.211 to 207.234.

25 (l) "Dead storage" is the amount of motor fuel that cannot
26 be pumped out of a motor fuel storage tank because the motor fuel
27 is below the mouth of the tank's draw pipe. The amount of motor

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1 fuel in dead storage is 200 gallons for a tank with a capacity of
2 less than 10,000 gallons and 400 gallons for a tank with a capac-
3 ity of 10,000 gallons or more.

4 (m) "Denaturants" means and includes gasoline, natural gaso-
5 line, gasoline components, or toxic or noxious materials added to
6 fuel grade ethanol to make it unsuitable for beverage use but not
7 unsuitable for automotive use.

8 (n) "Department" means the bureau of revenue within the
9 department of treasury or its designee.

10 (o) "Destination state" means the state, Canadian province
11 or territory, or foreign country to which motor fuel is directed
12 for export.

13 (p) "Diesel fuel" means any liquid other than gasoline that
14 is capable of use as a fuel or a component of a fuel in a motor
15 vehicle that is propelled by a diesel-powered engine or in a
16 diesel-powered train. Diesel fuel includes number 1 and number 2
17 fuel oils, kerosene, dyed diesel fuel, and mineral spirits.
18 Diesel fuel also includes any blendstock or additive that is sold
19 for blending with diesel fuel, any liquid prepared, advertised,
20 offered for sale, sold for use as, or used in the generation of
21 power for the propulsion of a diesel-powered engine, airplane, or
22 marine vessel. An additive or blendstock is presumed to be sold
23 for blending unless a certification is obtained for federal pur-
24 poses that the substance is for a use other than blending for
25 diesel fuel. DIESEL FUEL DOES NOT INCLUDE AN EXCLUDED LIQUID.

26 (q) "Dyed diesel fuel" means diesel fuel that is dyed in
27 accordance with internal revenue service rules or pursuant to any

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1 other internal revenue service requirements, including any
2 invisible marker requirements.

3 (r) "Eligible purchaser" means a person who has been autho-
4 rized by the department under section 75 to make the election
5 under section 74.

6 (S) "EXCLUDED LIQUID" MEANS THAT TERM AS DEFINED IN 26
7 C.F.R. 48.4081-1.

8 (T) ~~(s)~~ "Export" means to obtain motor fuel in this state
9 for sale or other distribution outside of this state. Motor fuel
10 delivered outside of this state by or for the seller constitutes
11 an export by the seller and motor fuel delivered outside of this
12 state by or for the purchaser constitutes an export by the
13 purchaser.

14 (U) ~~(t)~~ "Exporter" means a person who exports motor fuel.

15 Sec. 3. As used in this act:

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

19 (b) "Fuel grade ethanol" means the American society for
20 testing and materials standard in effect on the effective date of
21 this act as the D-4806 specification for denatured fuel grade
22 ethanol for blending with gasoline.

23 (c) "Fuel transportation vehicle" means a vehicle designed
24 or used to transport motor fuel on the public roads or highways.
25 Fuel transportation vehicle includes, but is not limited to, a
26 transport truck and a tank wagon. Fuel transportation vehicle
27 does not include a vehicle transporting a nurse tank or limited

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1 volume auxiliary-mounted supply tank used for fueling an
2 implement of husbandry.

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

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

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

15 (F) ~~(g)~~ "Gasoline" means and includes gasoline, alcohol,
16 gasohol, casing head or natural gasoline, benzol, benzine, naph-
17 tha, and any blendstock ~~or~~ additive, OR OTHER PRODUCT INCLUDING
18 METHANOL that is sold for blending with gasoline OR FOR USE ON
19 THE ROAD other than products typically sold in containers of less
20 than 5 gallons. Gasoline also includes a liquid prepared, adver-
21 tised, offered for sale, sold for use as, or used in the genera-
22 tion of power for the propulsion of a motor vehicle, airplane, or
23 marine vessel, including a product obtained by blending together
24 any 1 or more products of petroleum, with or without another pro-
25 duct, and regardless of the original character of the petroleum
26 products blended, if the product obtained by the blending is
27 capable of use in the generation of power for the propulsion of a

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1 motor vehicle, airplane, or marine vessel. The blending of all
2 of the above named products, regardless of their name or charac-
3 teristics, shall conclusively be presumed to have been done to
4 produce motor fuel, unless the product obtained by the blending
5 is entirely incapable of use as motor fuel. Gasoline also
6 includes transmix. Gasoline does not include diesel fuel. An
7 additive or blendstock is presumed to be sold for blending unless
8 a certification is obtained for federal purposes that the sub-
9 stance is for a use other than blending for gasoline.

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

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

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

23 (J) ~~(k)~~ "Import" means to bring motor fuel into this state
24 by motor vehicle, marine vessel, pipeline, or any other means.
25 However, import does not include bringing motor fuel into this
26 state in the fuel supply tank of a motor vehicle if the motor
27 fuel is used to power that motor vehicle. Motor fuel delivered

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1 into this state from outside of this state by or for the seller
2 constitutes an import by the seller, and motor fuel delivered
3 into this state from out of this state by or for the purchaser
4 constitutes an import by the purchaser.

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

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

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

16 ~~(o) "Industrial end user" means a person who incorporates
17 motor fuel into, or uses motor fuel incidental to, industrial
18 processing. Industrial end user includes a person who repackages
19 motor fuel into containers that hold not more than 55 gallons of
20 liquid if the motor fuel is sold or used for a tax-exempt
21 purpose.~~

22 ~~(p) "Industrial process reseller" means a person licensed
23 under this act to engage in tax-exempt sales of motor fuel and
24 other products to an industrial end user for use in tax-exempt
25 industrial processing.~~

26 ~~(q) "Industrial processing" means that term as defined in
27 section 4t of the general sales tax act, 1933 PA 167,~~

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1 ~~MCL 205.54t, and section 4o of the use tax act, 1937 PA 94,~~

2 ~~MCL 205.94o.~~

3 (N) ~~(r)~~ "Invoiced gallons" means the number of gallons
4 actually billed on an invoice.

5 Sec. 4. As used in this act:

6 (a) "Kerosene" means all grades of kerosene, including, but
7 not limited to, the 2 grades of kerosene, No. 1-K and No. 2-K,
8 commonly known as K-1 kerosene and K-2 kerosene respectively,
9 described in American society for testing and materials specifi-
10 cations D-3699, in effect on January 1, 1999, and kerosene-type
11 jet fuel described in American society for testing and materials
12 specification D-1655 and military specifications MIL-T-5624r and
13 MIL-T-83133d (grades jp-5 and jp-8), and any successor internal
14 revenue service rules or regulations, as the specification for
15 kerosene and kerosene-type jet fuel. KEROSENE DOES NOT INCLUDE
16 AN EXCLUDED LIQUID.

17 (b) "Liquid" means any substance that is liquid in excess of
18 60 degrees Fahrenheit and a pressure of 14.7 pounds per square
19 inch absolute.

20 (c) "Motor fuel" means gasoline, diesel fuel, kerosene, a
21 mixture of gasoline, diesel fuel, or kerosene, or a mixture of
22 gasoline, diesel fuel, or kerosene and any other substance.

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

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1 (i) An implement of husbandry.

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

4 (iii) Machinery designed principally for off-road use and
5 not licensed for on-road use.

6 (iv) A stationary engine.

7 (e) "Net gallons" means the remaining product, after all
8 considerations and deductions have been made, measured in gal-
9 lons, corrected to a temperature of 60 degrees Fahrenheit, 13
10 degrees Celsius, and a pressure of 14.7 pounds per square inch,
11 the ultimate end amount.

12 (f) "Oxygenate" means an oxygen-containing, ashless, organic
13 compound, such as an alcohol or ether, which may be used as a
14 fuel or fuel supplement.

15 (g) "Permissive supplier" means a person who may not be
16 subject to the taxing jurisdiction of this state but who does
17 meet both of the following requirements:

18 (i) Is a position holder in a federally registered terminal
19 located outside of this state, or a person who acquires from a
20 position holder motor fuel in an out-of-state terminal in a
21 transaction that otherwise qualifies as a two-party exchange
22 under this act.

23 (ii) Is registered under section 4101 of the internal reve-
24 nue code for transactions in motor fuel in the bulk
25 transfer/terminal system.

26 (h) "Person" means and includes an individual, cooperative,
27 partnership, firm, association, limited liability company,

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1 limited liability partnership, joint stock company, syndicate,
2 and corporation, both private and municipal, and any receiver,
3 trustee, conservator, or any other officer having jurisdiction
4 and control of property by law or by appointment of a court other
5 than units of government.

6 (i) "Position holder" means a person who has a contract with
7 a terminal operator for the use of storage facilities and other
8 terminal services for motor fuel at the terminal, as reflected in
9 the records of the terminal operator. Position holder includes a
10 terminal operator who owns motor fuel in the terminal.

11 (j) "Public roads or highways" means a road, street, or
12 place maintained by this state or a political subdivision of this
13 state and generally open to use by the public as a matter of
14 right for the purpose of vehicular travel, notwithstanding that
15 they may be temporarily closed or travel is restricted for the
16 purpose of construction, maintenance, repair, or reconstruction.

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

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

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

25 (c) "Refinery" means a facility used to produce motor fuel
26 from crude oil, unfinished oils, natural gas liquids, or other

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1 hydrocarbons and from which motor fuel may be removed by
2 pipeline, by marine vessel, or at a rack.

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

7 (e) "Retail diesel dealer" means a person who sells or dis-
8 tributes diesel fuel to an end user in this state.

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

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

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

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

22 (i) Is subject to the general taxing jurisdiction of this
23 state.

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

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1 (iii) Is any 1 of the following:

2 (A) The position holder in a terminal or refinery in this
3 state.

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

6 (C) A person who acquires motor fuel from a terminal or
7 refinery in this state from a position holder pursuant to a
8 2-party exchange.

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

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

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

26 (a) Nineteen cents per gallon on gasoline.

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

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

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

6 ~~(i) A person who sells or delivers diesel fuel to a licensed~~
7 ~~supplier, licensed importer, licensed fuel vendor, licensed~~
8 ~~retail diesel dealer, or licensed marine retail dealer.~~

9 ~~(ii) A person who delivers the fuel into the bulk storage~~
10 ~~tank of a motor carrier licensed under the motor carrier fuel tax~~
11 ~~act, 1980 PA 119, MCL 207.211 to 207.234, or into the fuel supply~~
12 ~~tank of a qualified commercial motor vehicle issued a decal under~~
13 ~~the motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to~~
14 ~~207.234.~~

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

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

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

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

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1 ~~(c) Fifteen cents of tax per gallon shall be collected and~~
2 ~~remitted by any person importing, selling, distributing,~~
3 ~~delivering, or using diesel fuel unless otherwise provided for in~~
4 ~~subdivision (a) or (b).~~

5 (2) ~~(3)~~ Tax shall not be imposed under this section on
6 motor fuel that is in the bulk transfer/terminal system.

7 (3) ~~(4)~~ The collection, payment, and remittance of the tax
8 imposed by this section shall be accomplished in the manner and
9 at the time provided for in this act.

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

17 (5) ~~(6)~~ It is the intent of this act:

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

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

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

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1 (d) That the tax imposed by this act be collected and paid
2 at those times, in the manner, and by those persons specified in
3 this act.

4 Sec. 30. (1) Motor fuel is exempt from the tax imposed by
5 section 8 and the tax shall not be collected by the supplier if
6 the motor fuel:

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

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

13 (c) Is sold directly by the supplier to a nonprofit, pri-
14 vate, parochial, or denominational school, college, or university
15 and is used in a school bus owned and operated or leased and
16 operated by the educational institution that is used in the
17 transportation of students to and from the institution or to and
18 from school functions authorized by the administration of the
19 institution.

20 (d) Is fuel for which proof of export is available in the
21 form of a terminal-issued destination state shipping paper under
22 any of the following circumstances:

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

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

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1 (iii) The motor fuel is sold by a supplier to another person
2 for immediate export to a state for which the destination state
3 fuel tax has been paid to the supplier who is licensed to remit
4 tax to that destination state.

5 (e) Is gasoline removed from a pipeline or marine vessel by
6 a taxable fuel registrant with the internal revenue service as a
7 fuel feedstock user.

8 ~~(f) Is sold by a supplier to a licensed industrial process~~
9 ~~reseller for resale to an industrial end user who uses the fuel~~
10 ~~for an exempt purpose or that is sold by a licensed industrial~~
11 ~~process reseller to an industrial end user who uses the fuel for~~
12 ~~an exempt purpose.~~

13 (F) ~~(g)~~ Is motor fuel that is sold for use in aircraft but
14 only if the purchaser paid the tax imposed on that fuel under the
15 aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1
16 to 259.208, and the purchaser is registered under section 94 if
17 required to be registered under that section.

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

23 (3) A person who uses motor fuel for a taxable purpose where
24 the tax imposed by this act was not collected shall pay to the
25 department the tax imposed by section 8 and any applicable penal-
26 ties or interest. The payment shall be made on a form or in a
27 format prescribed by the department.

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1 Sec. 37. (1) A person may seek a refund for tax paid under
2 this act on motor fuel that the person exported out of a bulk
3 plant in this state in a tank wagon if proof of reporting of
4 import to the destination state and proof of payment of the tax
5 imposed by this act have been provided. The refund is subject to
6 conditions established by the department.

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

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

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1 Sec. 92. (1) A person shall not deliver diesel fuel into
2 the fuel supply tank of an end user's ~~motor vehicle~~ BOAT OR
3 OTHER MARINE VESSEL or make a bulk delivery of diesel fuel to an
4 unlicensed end user unless licensed as a retail MARINE diesel
5 dealer under this act.

6 (2) The fee for a retail MARINE diesel dealer license is
7 \$50.00.

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

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

21 (4) ~~(5)~~ The report shall be filed and the tax paid to the
22 department on or before the twentieth day of the month following
23 the close of the reporting period.

24 (5) ~~(6)~~ The department may waive the requirement for
25 filing a report under this section.

26 Sec. 121. A person shall not sell or use or hold for sale
27 or use dyed diesel fuel or other exempt fuel, including, but not

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1 limited to, ~~motor fuel used in industrial processing~~ EXCLUDED
2 LIQUID, undyed diesel fuel that is repackaged into a container
3 that holds 55 gallons or less, or aviation, aircraft, or jet
4 fuel, for any use that the person knows or has reason to know is
5 a taxable use of the diesel fuel under this act or the motor car-
6 rier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234.

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

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

12 (a) A motor vehicle owned and operated or leased and oper-
13 ated by the federal or state government or a political subdivi-
14 sion of this state.

15 (b) A motor vehicle used exclusively by the American red
16 cross.

17 (c) An implement of husbandry.

18 (D) A PASSENGER VEHICLE THAT HAS A CAPACITY OF 10 OR MORE
19 AND THAT OPERATES OVER REGULARLY TRAVELED ROUTES EXPRESSLY PRO-
20 VIDED FOR IN 1 MORE OF THE FOLLOWING THAT APPLIES TO THE PASSEN-
21 GER VEHICLE:

22 (i) A CERTIFICATE OF AUTHORITY ISSUED BY THE STATE TRANSPOR-
23 TATION DEPARTMENT.

24 (ii) A MUNICIPAL FRANCHISE.

25 (iii) A MUNICIPAL LICENSE.

26 (iv) A MUNICIPAL PERMIT.

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1 (v) A MUNICIPAL AGREEMENT.

2 (vi) A MUNICIPAL GRANT.

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

14 Enacting section 1. Sections 90 and 91 of the motor fuel
15 tax act, 2000 PA 403, MCL 207.1090 and 207.1091, are repealed.

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

19 (a) House Bill No. 5734.

20 (b) House Bill No. 5736.

Enacting section 3. This amendatory act takes effect April 1, 2003.