

HOUSE BILL NO. 6194

November 26, 2024, Introduced by Rep. Kunse and referred to the Committee on Government Operations.

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending sections 6a and 25 (MCL 205.56a and 205.75), section 6a as amended by 2015 PA 264 and section 25 as amended by 2023 PA 20, and by adding section 4gg.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 4gg. (1) Beginning October 1, 2025, the sale at retail of**
2 **eligible fuel is exempt from the tax under this act.**

3 **(2) As used in this section, "eligible fuel" means any fuel**
4 **subject to the tax levied under the motor fuel tax act, 2000 PA**
5 **403, MCL 207.1001 to 207.1170.**

1 Sec. 6a. (1) Through March 31, 2013, at the time of purchase
2 or shipment from a refiner, pipeline terminal operator, or marine
3 terminal operator, a purchaser or receiver of gasoline shall prepay
4 a portion of the tax imposed by this act at the rate provided in
5 this section to the refiner, pipeline terminal operator, or marine
6 terminal operator for the purchase or receipt of gasoline. If the
7 purchase or receipt of gasoline is made outside this state for
8 shipment into and subsequent sale within this state, the purchaser
9 or receiver, other than a refiner, pipeline terminal operator, or
10 marine terminal operator, shall make the prepayment required by
11 this section directly to the department. Prepayments for gasoline
12 ~~shall~~**must** be made at a cents-per-gallon rate determined by the
13 department and ~~shall~~**must** be based on 6% of the statewide average
14 retail price of a gallon of self-serve unleaded regular gasoline as
15 determined and certified by the department rounded up to the
16 nearest 1/10 of 1 cent. A person that makes prepayments directly to
17 the department shall make those prepayments according to the
18 schedule in subsection (6).

19 (2) Beginning April 1, 2013 through March 31, 2016, at the
20 time of purchase or shipment from a refiner, pipeline terminal
21 operator, or marine terminal operator, a purchaser or receiver of
22 fuel shall prepay a portion of the tax imposed by this act at the
23 rates provided in this section to the refiner, pipeline terminal
24 operator, or marine terminal operator for the purchase or receipt
25 of fuel. If the purchase or receipt of fuel is made outside this
26 state for shipment into and subsequent sale within this state, the
27 purchaser or receiver, other than a refiner, pipeline terminal
28 operator, or marine terminal operator, shall make the prepayment
29 required by this section directly to the department. Prepayments

1 for gasoline ~~shall~~**must** be made at a cents-per-gallon rate
2 determined by the department and ~~shall~~**must** be based on 6% of the
3 statewide average retail price of a gallon of self-serve unleaded
4 regular gasoline as determined and certified by the department
5 rounded up to the nearest 1/10 of 1 cent. Prepayments for diesel
6 fuel ~~shall~~**must** be made at a cents-per-gallon rate determined by
7 the department and ~~shall~~**must** be based on 6% of the statewide
8 average retail price of a gallon of undyed No. 2 ultra-low sulfur
9 diesel fuel as determined and certified by the department rounded
10 up to the nearest 1/10 of 1 cent. A person that makes prepayments
11 directly to the department shall make those prepayments according
12 to the schedule in subsection (6).

13 (3) Beginning April 1, 2016 **through September 30, 2025**, at the
14 time of purchase or shipment in this state from a refiner, pipeline
15 terminal operator, or marine terminal operator, a purchaser or
16 receiver of fuel other than an exporter or supplier for immediate
17 export, as evidenced by the terminal's shipping papers or bill of
18 lading, shall prepay a portion of the tax imposed by this act at
19 the rates provided in this section to the refiner, pipeline
20 terminal operator, or marine terminal operator for the purchase or
21 receipt of fuel. If the purchase or receipt of fuel is made outside
22 this state for shipment into and subsequent sale within this state,
23 the purchaser or receiver, other than a refiner, pipeline terminal
24 operator, or marine terminal operator as part of a bulk transfer,
25 shall make the prepayment required by this section directly to the
26 department. Prepayments for gasoline ~~shall~~**must** be made at a cents-
27 per-gallon rate determined by the department and ~~shall~~**must** be
28 based on 6% of the statewide average retail price of a gallon of
29 self-serve unleaded regular gasoline as determined and certified by

1 the department rounded up to the nearest 1/10 of 1 cent.
2 Prepayments for diesel fuel ~~shall~~**must** be made at a cents-per-
3 gallon rate determined by the department and ~~shall~~**must** be based on
4 6% of the statewide average retail price of a gallon of undyed No.
5 2 ultra-low sulfur diesel fuel as determined and certified by the
6 department rounded up to the nearest 1/10 of 1 cent. A person that
7 makes prepayments directly to the department shall make those
8 prepayments according to the schedule in subsection (6).

9 (4) ~~The~~**Through September 30, 2025, the department shall**
10 **determine the** rates of prepayment ~~applied~~**applicable to gasoline**
11 **and diesel fuel** pursuant to subsections (2) and (3) ~~shall be~~
12 ~~determined every month by the department. The department~~**and** shall
13 publish notice of ~~the~~**those** rates of ~~prepayment applicable to~~
14 ~~gasoline and diesel fuel pursuant to subsections (2) and (3)~~ not
15 later than the tenth day of the month immediately preceding the
16 month in which the rate is effective.

17 (5) A person subject to tax under this act that makes
18 prepayment to another person as required by this section for
19 gasoline may claim an estimated prepayment credit on its regular
20 monthly return filed pursuant to section 6. The credit ~~shall~~**must**
21 be for prepayments made during the month for which the return is
22 required and ~~shall~~**must** be based upon the difference between
23 prepayments made in the immediately preceding month and collections
24 of prepaid tax received from sales or transfers during the month
25 for which the return required under section 6 is made. A sale or
26 transfer for which collection of prepaid tax is due the taxpayer is
27 subject to a bad debt deduction under section 4i, whether or not
28 the sale or transfer is a sale at retail. The credit ~~shall~~**must** not
29 be reduced because of actual shrinkage. A taxpayer that does not,

1 in the ordinary course of business, sell gasoline in each month of
2 the year may, with the approval of the department, base the initial
3 prepayment deduction in each tax year on prepayments made in a
4 month other than the immediately preceding month. The difference in
5 actual prepayments ~~shall~~**must** be reconciled on the annual return in
6 accordance with procedures prescribed by the department.

7 (6) Notwithstanding the other provisions for the payment and
8 remitting of tax due under this act, a refiner, pipeline terminal
9 operator, or marine terminal operator shall account for and remit
10 to the department the prepayments received ~~pursuant to~~**under** this
11 section in accordance with the following schedule:

12 (a) On or before the twenty-fifth of each month, prepayments
13 received after the end of the preceding month and before the
14 sixteenth of the month in which the prepayments are made.

15 (b) On or before the tenth of each month, payments received
16 after the fifteenth and before the end of the preceding month.

17 (7) A refiner, pipeline terminal operator, or marine terminal
18 operator that fails to remit prepayments made by a purchaser or
19 receiver of fuel is subject to the penalties provided by 1941 PA
20 122, MCL 205.1 to 205.31.

21 (8) The refiner, pipeline terminal operator, or marine
22 terminal operator shall not receive a deduction under section 4 for
23 receiving and remitting prepayments from a purchaser or receiver
24 pursuant to this section.

25 (9) The purchaser or receiver of fuel that makes prepayments
26 is not subject to further liability for the amount of the
27 prepayment if the refiner, pipeline terminal operator, or marine
28 terminal operator fails to remit the prepayment.

29 (10) A person subject to tax under this act that makes

1 prepayment to another person as required by this section for diesel
 2 fuel may claim an estimated prepayment credit on its regular
 3 monthly return filed pursuant to section 6. The credit ~~shall~~**must**
 4 be for prepayments made during the month for which the return is
 5 required and ~~shall~~**must** be based upon the difference between the
 6 prepayments made in the immediately preceding month and collections
 7 of prepaid tax received from sales or transfers during the month
 8 for which the return required under section 6 is made. A sale or
 9 transfer for which collection of prepaid tax is due the taxpayer is
 10 subject to a bad debt deduction under section 4i, whether or not
 11 the sale or transfer is a sale at retail. The credit ~~shall~~**must** not
 12 be reduced because of actual shrinkage. A taxpayer that does not,
 13 in the ordinary course of business, sell diesel fuel in each month
 14 of the year may, with the approval of the department, base the
 15 initial prepayment deduction in each tax year on prepayments made
 16 in a month other than the immediately preceding month. Estimated
 17 prepayment credits claimed with the return due in April 2013 ~~shall~~
 18 **must** be based on the taxpayer's retail sales of diesel fuel in
 19 March 2013. The difference in actual prepayments ~~shall~~**must** be
 20 reconciled on the annual return ~~in accordance with~~**pursuant to**
 21 procedures prescribed by the department. Repayment of the credit
 22 claimed on the return due in April 2013 ~~shall~~**must** be made by the
 23 earlier of the date that the taxpayer stops selling diesel fuel or
 24 October 15, 2013.

25 (11) As used in this section:

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

28 (b) "Blendstock" includes all of the following:

29 (i) Any petroleum product component of fuel, such as naphtha,

1 reformate, or toluene.

2 (ii) Any oxygenate that can be blended for use in a motor fuel.

3 (c) "Boat terminal transfer" means a dock, a tank, or
4 equipment contiguous to a dock or a tank, including equipment used
5 in the unloading of fuel from a ship and in transferring the fuel
6 to a tank pending wholesale bulk reshipment.

7 (d) "Bulk transfer" means a transfer of fuel from, or purchase
8 for resale by, a refiner, pipeline terminal operator, or marine
9 terminal operator to or from another refiner, pipeline terminal
10 operator, or marine terminal operator through pipeline tender or
11 marine delivery, including pipeline movements of fuel or marine
12 vessel movements of fuel. Bulk transfer also includes a transaction
13 involving the transfer by any transportation means to, or purchase
14 for resale by, a refiner, pipeline terminal operator, or marine
15 terminal operator of alcohol to be used exclusively for blending
16 with gasoline. Notwithstanding anything to the contrary in this
17 definition, fuel transferred to, or purchased for resale by, a
18 refiner, pipeline terminal operator, or marine terminal operator
19 must be delivered to, or otherwise remain within, the bulk transfer
20 terminal system ~~prior to~~ **before** removal across the rack in order to
21 constitute a bulk transfer.

22 (e) "Bulk transfer terminal system" means the fuel
23 distribution system consisting of refineries, pipelines, marine
24 vessels, and terminals and includes fuel storage tanks and fuel
25 storage facilities that are part of a refinery, boat terminal
26 transfer, or terminal owned, operated, or controlled by a refiner,
27 marine terminal operator, or pipeline terminal operator.

28 (f) "Diesel fuel" means any liquid other than gasoline that is
29 capable of use as a fuel or a component of a fuel in a motor

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

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

17 (h) "Dyed kerosene" means kerosene that is dyed ~~in accordance~~
18 ~~with internal revenue service~~ **pursuant to Internal Revenue Service**
19 rules or pursuant to any other ~~internal revenue service~~ **Internal**
20 **Revenue Service** requirements, including invisible marker
21 requirements.

22 (i) "Excluded liquid" means that term as defined in 26 CFR
23 48.4081-1.

24 (j) "Export" means to purchase or receive fuel in this state
25 for immediate shipment and subsequent sale outside of this state.

26 (k) "Exporter" means a person that exports fuel and is
27 licensed under section 86 of the motor fuel tax act, 2000 PA 403,
28 MCL 207.1086.

29 (l) "Fuel" means gasoline and diesel fuel that is subject to

1 tax under this act, collectively, except when gasoline or diesel
2 fuel is referred to separately.

3 (m) "Gasoline" means and includes gasoline, alcohol, gasohol,
4 casing head or natural gasoline, benzol, benzine, naphtha,
5 methanol, transmix, any blendstock additive, or other product that
6 is sold for blending with gasoline or for use on the road, other
7 than products typically sold in containers of less than 5 gallons.
8 Gasoline also includes a liquid prepared, advertised, offered for
9 sale, sold for use as, or used in the generation of power for the
10 propulsion of a motor vehicle, airplane, or marine vessel,
11 including a product obtained by blending together any 1 or more
12 products of petroleum, with or without another product, and
13 regardless of the original character of the petroleum products
14 blended, if the product obtained by the blending is capable of use
15 in the generation of power for the propulsion of a motor vehicle,
16 airplane, or marine vessel. The blending of all of the above-named
17 products, regardless of their name or characteristics, ~~shall is~~
18 conclusively ~~be~~ presumed to have been done to produce fuel, unless
19 the product obtained by the blending is entirely incapable of use
20 as fuel. An additive or blendstock is presumed to be sold for
21 blending unless a certification is obtained for federal purposes
22 that the substance is for a use other than blending for gasoline.
23 Gasoline does not include diesel fuel, dyed diesel fuel, dyed
24 kerosene, or an excluded liquid.

25 (n) "Kerosene" means all grades of kerosene, including, but
26 not limited to, the 2 grades of kerosene, No. 1-K and No. 2-K,
27 commonly known as K-1 kerosene and K-2 kerosene, respectively,
28 described in American ~~society for testing and materials~~ **Society for**
29 **Testing and Materials** specification D-3699, in effect on January 1,

1 1999, and kerosene-type jet fuel described in American ~~society for~~
2 ~~testing and materials~~ **Society for Testing and Materials**
3 specification D-1655 and military specifications MIL-T-5624r and
4 MIL-T-83133d (grades jp-5 and jp-8), and any successor ~~internal~~
5 ~~revenue service~~ **Internal Revenue Service** rules or regulations, as
6 the specification for kerosene and kerosene-type jet fuel. Kerosene
7 does not include dyed kerosene or an excluded liquid.

8 (o) "Marine terminal operator" means a person that stores fuel
9 at a boat terminal transfer.

10 (p) "Pipeline terminal operator" means a person that stores
11 fuel in tanks and equipment used in receiving and storing fuel from
12 interstate and intrastate pipelines pending wholesale bulk
13 reshipment.

14 (q) "Purchase", "receipt", or "shipment" does not include a
15 two-party exchange, a bulk transfer, or a receipt of fuel as part
16 of a bulk transfer.

17 (r) "Rack" means a mechanism for delivering fuel from a
18 refiner, a pipeline terminal operator, or a marine terminal
19 operator into a railroad tank car, a transport truck, a tank wagon,
20 or the fuel supply tank of a marine vessel.

21 (s) "Refiner" means a person that meets all of the following
22 requirements:

23 (i) Manufactures or produces fuel at a refinery by any process
24 involving substantially more than the blending of fuel.

25 (ii) Is a taxable fuel registrant that is a refiner for
26 purposes of 26 CFR 48.4081-1.

27 (t) "Refinery" means a facility used by a refiner to produce
28 fuel from crude oil, unfinished oils, natural gas liquids, or other
29 hydrocarbons and from which fuel may be removed by pipeline or

1 marine vessel or at a rack.

2 (u) "Removal" or "removed" means a physical transfer other
3 than by evaporation, loss, or destruction of fuel from a refiner,
4 pipeline terminal operator, or marine terminal operator.

5 (v) "Supplier" means a supplier or permissive supplier
6 licensed under section 70 or 73 of the motor fuel tax act, 2000 PA
7 403, MCL 207.1070 and 207.1073.

8 (w) "Tank wagon" means a straight truck having 1 or more
9 compartments other than the fuel supply tank designed or used to
10 carry fuel.

11 (x) "Terminal" means a fuel storage and distribution facility
12 that meets all of the following requirements:

13 (i) Is registered as a qualified terminal by the ~~internal~~
14 ~~revenue service.~~ **Internal Revenue Service.**

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

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

17 (y) "Transport truck" means a semitrailer combination rig
18 designed or used for the purpose of transporting fuel over the
19 public roads or highways.

20 (z) "Transmix" means the mixed product that results from the
21 buffer or interface of 2 different products in a pipeline shipment,
22 or a mixture of 2 different products within a terminal operated by
23 a pipeline terminal operator, within a boat terminal transfer
24 operated by a marine terminal operator, or at a refinery that
25 results in an off-grade mixture.

26 (aa) "Two-party exchange" means a transaction, including a
27 book transfer, in which fuel is transferred from 1 supplier to
28 another supplier where all of the following occur:

29 (i) The transaction includes a transfer of fuel from the person

1 who holds the original inventory position for the fuel in fuel
2 storage tanks as reflected in the records of the refiner, pipeline
3 terminal operator, or marine terminal operator.

4 (ii) The exchange transaction is completed before removal
5 across the rack by the receiving supplier.

6 (iii) The refiner, pipeline terminal operator, or marine
7 terminal operator in its books and records treats the receiving
8 exchange party as the supplier that removes the fuel across a rack
9 for purposes of reporting the transaction to the department under
10 the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170.

11 Sec. 25. (1) All money received and collected under this act
12 must be deposited by the department in the state treasury to the
13 credit of the general fund, except as otherwise provided in this
14 section.

15 (2) Fifteen percent of the collections of the tax imposed at a
16 rate of 4% must be distributed to cities, villages, and townships
17 pursuant to the Glenn Steil state revenue sharing act of 1971, 1971
18 PA 140, MCL 141.901 to 141.921.

19 (3) Sixty percent of the collections of the tax imposed at a
20 rate of 4% must be deposited in the state school aid fund and
21 distributed as provided by law. In addition, all of the collections
22 of the tax imposed at the additional rate of 2% approved by the
23 electors on March 15, 1994 must be deposited in the state school
24 aid fund.

25 (4) Except as otherwise provided in this subsection, not less
26 than 27.9% of 25% of the collections of the general sales tax
27 imposed at a rate of 4% directly or indirectly on fuels sold to
28 propel motor vehicles upon highways, on the sale of motor vehicles,
29 and on the sale of the parts and accessories of motor vehicles by

1 new and used car businesses, used car businesses, accessory dealer
2 businesses, and gasoline station businesses as classified by the
3 department must be deposited each year into the comprehensive
4 transportation fund. For the fiscal year ending September 30, 2021
5 only, the amount deposited into the comprehensive transportation
6 fund under this subsection must be reduced by \$18,000,000.00 and
7 that \$18,000,000.00 must be deposited into the transportation
8 administration collection fund.

9 (5) Beginning October 1, 2016 and the first day of each
10 calendar quarter thereafter, an amount equal to the collections for
11 the calendar quarter that is 2 calendar quarters immediately
12 preceding the current calendar quarter of the tax imposed under
13 this act at the additional rate of 2% approved by the electors on
14 March 15, 1994 from the sale at retail of aviation fuel must be
15 distributed as follows:

16 (a) An amount equal to 35% of the collections of the tax
17 imposed at a rate of 2% on the sale at retail of aviation fuel must
18 be deposited in the state aeronautics fund and must be expended, on
19 appropriation, only for those purposes authorized in the
20 aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1
21 to 259.208.

22 (b) An amount equal to 65% of the collections of the tax
23 imposed at a rate of 2% on the sale at retail of aviation fuel must
24 be deposited in the qualified airport fund and must be expended, on
25 appropriation, only for those purposes authorized under section 35
26 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL
27 259.35.

28 (6) The department shall, on an annual basis, reconcile the
29 amounts distributed under subsection (5) during each fiscal year

1 with the amounts actually collected for a particular fiscal year
2 and shall make any necessary adjustments, positive or negative, to
3 the amounts to be distributed for the next successive calendar
4 quarter that begins January 1. The state treasurer or the state
5 treasurer's designee shall annually provide to the operator of each
6 qualified airport a report of the reconciliation performed under
7 this subsection. The reconciliation report is subject to the
8 confidentiality restrictions and penalties provided in section
9 28(1)(f) of 1941 PA 122, MCL 205.28.

10 (7) An amount equal to the collections of the tax imposed at a
11 rate of 4% under this act from the sale at retail of computer
12 software must be deposited in the Michigan health initiative fund
13 created in section 5911 of the public health code, 1978 PA 368, MCL
14 333.5911, and must be considered in addition to, and is not
15 intended as a replacement for any other money appropriated to the
16 department of health and human services. The funds deposited in the
17 Michigan health initiative fund on an annual basis must not be less
18 than \$9,000,000.00 or more than \$12,000,000.00.

19 (8) In addition to the money deposited in the state school aid
20 fund under subsection (3), an amount equal to the sum of the
21 following, as determined by the department, must be deposited into
22 the state school aid fund:

23 (a) All revenue lost to the state school aid fund as a result
24 of the ~~exemption~~**exemptions** under ~~section~~**sections** 4a(1)(u) **and**
25 **4gg.**

26 (b) All revenue lost to the state school aid fund as a result
27 of the exemption under section 4ee. A person that claims an
28 exemption under section 4ee shall report the sales price of the
29 data center equipment as defined in section 4ee and any other

1 information necessary to determine the amount of revenue lost to
2 the state school aid fund as a result of the exemption under
3 section 4ee annually on a form at the time and in a manner
4 prescribed by the department. The report required under this
5 subdivision must not include any remittance for tax, and does not
6 constitute a return or otherwise alleviate any obligations under
7 section 6.

8 (c) All revenue lost to the state school aid fund as a result
9 of the exclusion under section 1(1)(d)(xv).

10 (9) The balance in the state general fund shall be disbursed
11 only on an appropriation or appropriations by the legislature.

12 (10) As used in this section:

13 (a) "Aviation fuel" means fuel as that term is defined in
14 section 4 of the aeronautics code of the state of Michigan, 1945 PA
15 327, MCL 259.4.

16 (b) "Comprehensive transportation fund" means the
17 comprehensive transportation fund created in section 10b of 1951 PA
18 51, MCL 247.660b.

19 (c) "Qualified airport" means that term as defined in section
20 109 of the aeronautics code of the state of Michigan, 1945 PA 327,
21 MCL 259.109.

22 (d) "Qualified airport fund" means the qualified airport fund
23 created in section 34(2) of the aeronautics code of the state of
24 Michigan, 1945 PA 327, MCL 259.34.

25 (e) "State aeronautics fund" means the state aeronautics fund
26 created in section 34(1) of the aeronautics code of the state of
27 Michigan, 1945 PA 327, MCL 259.34.

28 (f) "State school aid fund" means the state school aid fund
29 established in section 11 of article IX of the state constitution

1 of 1963.

2 (g) "Transportation administration collection fund" means the
3 transportation administration collection fund created in section
4 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.

5 Enacting section 1. This amendatory act does not take effect
6 unless all of the following bills of the 102nd Legislature are
7 enacted into law:

8 (a) Senate Bill No. ____ or House Bill No. 6195 (request no.
9 06253'24 a).

10 (b) Senate Bill No. ____ or House Bill No. 6196 (request no.
11 06254'24).

12 (c) Senate Bill No. ____ or House Bill No. 6197 (request no.
13 06255'24).