

SENATE BILL No. 725

December 13, 1989, Introduced by Senators CROPSEY, N. SMITH, CARL, GEAKE, WELBORN, SHINKLE, BARCIA, POSTHUMUS and ENGLER and referred to the Committee on Finance.

A bill to amend sections 12 and 22 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 and the registration of retail dealers 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, 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,"

section 12 as amended by Act No. 482 of the Public Acts of 1980 and section 22 as amended by Act No. 437 of the Public Acts of 1982, being sections 207.112 and 207.122 of the Michigan Compiled Laws.

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

2 Section 1. Sections 12 and 22 of Act No. 150 of the Public
3 Acts of 1927, section 12 as amended by Act No. 482 of the Public
4 Acts of 1980 and section 22 as amended by Act No. 437 of the
5 Public Acts of 1982, being sections 207.112 and 207.122 of the
6 Michigan Compiled Laws, are amended to read as follows:

7 Sec. 12. (1) The purchaser of gasoline used for a purpose
8 other than the operation of a motor vehicle on the public roads,
9 streets, and highways of this state, and the state government and
10 the federal government using gasoline in a state or federally
11 owned motor vehicle, and a person operating a passenger vehicle
12 of a capacity of 5 or more under a municipal franchise, license,
13 permit, agreement, or grant, respectively, and a person operating
14 a passenger vehicle for the transportation of school students
15 under a certificate of public convenience and necessity issued by
16 the Michigan public service commission pursuant to section 5 of
17 article 2 of Act No. 254 of the Public Acts of 1933, being sec-
18 tion 476.5 of the Michigan Compiled Laws, and a political subdi-
19 vision of the state using gasoline in a vehicle owned by or
20 leased and operated by the political subdivision of the state and
21 community action agencies as described in ~~title 2 of the eco-~~
22 ~~nomic opportunity act of 1964, 42 U.S.C. 2781 to 2837~~ ACT
23 NO. 230 OF THE PUBLIC ACTS OF 1981, BEING SECTIONS 400.1101 TO
24 400.1120 OF THE MICHIGAN COMPILED LAWS, which are not a part or
25 division of a political subdivision of this state shall be enti-
26 tled to a refund of the tax on the gasoline, ~~and such community~~
27 ~~action agencies shall make the refund a state contributed~~

1 ~~non federal share to grants received by such community action~~
2 ~~agencies from the community services administration under title~~
3 ~~221 of the economic opportunity act of 1964, as amended, by~~
4 filing a verified claim with the revenue division of the depart-
5 ment of treasury upon forms prescribed and to be furnished by it,
6 within 1 year after the date of purchase, as shown by the
7 invoice. A claim mailed within the 1-year period, as evidenced
8 by the postmark, when received by the revenue division of the
9 department of treasury, shall be considered as filed within the
10 required time.

11 (2) An amount equal to the tax levied pursuant to section 2
12 shall be refunded to each person operating a passenger vehicle of
13 a capacity of 5 or more under a municipal franchise, license,
14 permit, agreement, or grant, respectively, and operated over reg-
15 ularly traveled routes expressly provided for in the municipal
16 licenses, permits, agreements, or grants and to each person oper-
17 ating a passenger vehicle for the transportation of school stu-
18 dents under a certificate of public convenience and necessity
19 issued by the Michigan public service commission. The retail
20 dealer shall furnish the purchaser with an invoice, showing the
21 amount of gasoline purchased, the date of purchase, and the
22 amount of tax on the purchase, and the dealer shall at the
23 request of the revenue division of the department of treasury
24 immediately supply the department with a copy of an invoice
25 issued by the dealer during a 1-year period preceding the
26 request. A claim for a refund shall have attached to the claim
27 the original invoice received by the purchaser and, when approved

1 by the revenue division of the department of treasury, shall be
2 paid out of the Michigan transportation fund upon the warrant of
3 the state treasurer. A claim for a refund shall not be assign-
4 able without the prior written consent of the revenue division of
5 the department of treasury. If the verified claim of the pur-
6 chaser, in form and content as prescribed by the department,
7 shall show or it shall otherwise appear that the amount of gaso-
8 line used by the purchaser for purposes on which the taxes under
9 Act No. 167 of the Public Acts of 1933, as amended, being sec-
10 tions 205.51 to 205.78 of the Michigan Compiled Laws, are deduct-
11 ible pursuant to section 4a(f) of Act No. 167 of the Public Acts
12 of 1933, as amended, being section 205.54a of the Michigan
13 Compiled Laws, is not the total amount included in the statement
14 of the transferee under section 4a(f) of Act No. 167 of the
15 Public Acts of 1933, as amended, the revenue division of the
16 department of treasury shall deduct from the amount of the refund
17 authorized by this section the rate of sales tax as is estab-
18 lished in Act No. 167 of the Public Acts of 1933, as amended,
19 applicable to the retail sales price paid by the transferee on
20 that portion of the gasoline not used for purposes described in
21 section 4a(f) of Act No. 167 of the Public Acts of 1933, as
22 amended, and shall transfer the sales tax so deducted to the
23 sales tax account of the revenue division of the department of
24 treasury.

25 (3) The purchaser of gasoline used for the operation of a
26 snowmobile as defined and regulated by Act No. 74 of the Public
27 Acts of 1968, as amended, being sections 257.1501 to 257.1518 of

1 the Michigan Compiled Laws, shall not be entitled to a refund
2 under this section.

3 (4) A TAX SHALL NOT BE IMPOSED OR COLLECTED UNDER THIS ACT
4 ON GASOLINE USED IN A MOTOR VEHICLE OWNED BY A FARMER AND USED IN
5 CONNECTION WITH THE FARMER'S FARMING OPERATION AND NOT USED FOR
6 HIRE.

7 Sec. 22. (1) A specific tax at a rate of cents per gallon
8 equal to the rate per gallon imposed under section 2(1) is
9 imposed upon all diesel motor fuel sold or used in producing or
10 generating power for propelling motor vehicles used upon the
11 public roads and highways in this state. The tax shall be paid
12 at those times, in the manner, and by those persons specified in
13 this act.

14 (2) There shall be allowed a discount of 6 cents per gallon
15 of the tax imposed pursuant to subsection (1) if the diesel motor
16 fuel is delivered into the fuel supply tanks of either a commer-
17 cial motor vehicle licensed under the motor carrier fuel tax act,
18 Act No. 119 of the Public Acts of 1980, being sections 207.211 to
19 ~~207.236~~ 207.235 of the Michigan Compiled Laws, or a commercial
20 motor vehicle for which a license is waived during the period
21 from ~~the effective date of Act No. 119 of the Public Acts of~~
22 ~~1980~~ MAY 14, 1980 until August 1, 1980. This subsection shall
23 ~~expire on~~ APPLY UNTIL the date on which the motor carrier fuel
24 tax act ~~expires or~~ is repealed.

25 (3) The tax on diesel motor fuel sold and delivered in this
26 state by the seller into the fuel supply tanks of motor vehicles
27 shall be collected by the seller from the purchaser and paid over

1 monthly to the department of treasury. The department may permit
2 any seller of diesel motor fuel to report and pay to the depart-
3 ment the tax on diesel motor fuel delivered into a storage facil-
4 ity of a user or a dealer which will be used in producing or gen-
5 erating power for propelling motor vehicles used upon the public
6 roads and highways in this state. Persons operating passenger
7 vehicles of a capacity of 10 or more under a certificate of
8 public convenience and necessity issued by the Michigan public
9 service commission, or under a municipal franchise, license,
10 permit, agreement, or grant, respectively, and operating over
11 regularly traveled routes expressly provided for in the certifi-
12 cate of convenience and necessity, or municipal license, permit,
13 agreement, or grant, shall be entitled to a refund of the tax
14 paid thereon, under the rules prescribed by the department of
15 treasury. Refunds provided for under this section to a state
16 certificated operator of an intercity motor bus, shall apply only
17 to those gallons of diesel motor fuel producing mileage traveled
18 by each intercity motor bus over regular routes or on charter
19 trips or portions of charter trips within this state. The tax on
20 diesel motor fuel delivered in this state into the storage of a
21 user or acquired by a user in any manner, other than by delivery
22 into the fuel supply tank of a motor vehicle by a duly licensed
23 dealer, shall upon ~~the~~ use ~~thereof~~ be paid monthly by the
24 user to the department of treasury. A tax is not imposed under
25 this act, nor shall a tax be collected by a dealer, on fuel used
26 in motor vehicles owned by or leased and operated by a political
27 subdivision of this state ~~—~~ or motor vehicles owned and

- 1 operated by this state or the federal government, OR ON A MOTOR
- 2 VEHICLE OWNED BY A FARMER AND USED IN CONNECTION WITH THE
- 3 FARMER'S FARMING OPERATION AND NOT USED FOR HIRE.