

# HOUSE BILL No. 4500

April 20, 1999, Introduced by Reps. Switalski, Bogardus, Woodward, Martinez, Lemmons, Jacobs, Brater, Quarles, Minore, Jellema and Byl and referred to the Committee on Tax Policy.

A bill to amend 1927 PA 150, entitled

"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,"

by amending sections 8 and 22 (MCL 207.108 and 207.122), section 8 as amended by 1997 PA 83 and section 22 as amended by 1998 PA 29.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1        Sec. 8. (1) For the purpose of determining the amount of  
2 the specific tax imposed by this act, every supplier shall, on or

1 before the twentieth day of each month, except when the twentieth  
2 day of any month falls on a Saturday, Sunday, or legal holiday,  
3 then on the next regular business day, file with the department  
4 of treasury, on forms prescribed and furnished by the department,  
5 a verified statement, showing the number of gallons of gasoline  
6 or diesel motor fuel received, as shown by the terminal operator  
7 issued shipping paper or the customs declaration if entered into  
8 the United States, by the supplier in this state, or for export  
9 to this state, during the preceding calendar month; the date of  
10 purchase; the name of the manufacturer or person from whom pur-  
11 chased by the supplier; the date of receipt of the shipment of  
12 gasoline or diesel motor fuel; the terminal of origin; the state  
13 of destination of each shipment as represented to the supplier by  
14 the purchaser or the purchaser's agent, or if shipped on account  
15 of the supplier as shown in the supplier's records conforming  
16 with shipping papers in such form as the department may provide;  
17 the quantity of each of the purchases or shipments; the name and  
18 federal employer identification number of the carrier; the number  
19 of the car in which the purchases or shipments were shipped, if  
20 shipped by rail, or the name and owner of the boat, ship, barge,  
21 or vessel, if shipped by water; the owner of the automobile or  
22 truck used in transporting the gasoline or diesel motor fuel  
23 within this state, when the gasoline or diesel motor fuel was  
24 purchased from the manufacturer; the quantity of gasoline or  
25 diesel motor fuel received by the supplier and sold tax exempt to  
26 each wholesale distributor and each other purchaser; and the  
27 exemption certificate number of each wholesale distributor to

1 which the supplier sold tax exempt gasoline or diesel motor  
2 fuel. If the supplier manufactures or produces within this state  
3 the gasoline or diesel motor fuel in his, her, or its possession  
4 in the state, the report required shall in lieu of the foregoing  
5 information set forth the following: All gasoline or diesel  
6 motor fuel manufactured, stored, used, distributed, and sold  
7 within this state during the preceding calendar month, and date  
8 of each sale, use, or distribution; the quantity of each sale;  
9 the name and address of each purchaser; the name of the carrier;  
10 the number of the car in which the purchases or shipments were  
11 shipped, if shipped by rail; or the name and owner of the boat,  
12 ship, barge, or vessel, if shipped by water; the owner and  
13 license number of the automobile or truck used in transporting  
14 the gasoline or diesel motor fuel; the name and address of the  
15 owner of the means of transportation employed in the delivery of  
16 the gasoline or diesel motor fuel so sold or distributed within  
17 this state, and any other information pertaining to receipts,  
18 manufacture, use, distribution, or sales of gasoline or diesel  
19 motor fuel as the department requires. ~~Each supplier, at~~ AT  
20 the time of filing a report, EACH SUPPLIER shall compute the  
21 amount of tax payable on gallons received by that supplier during  
22 the reporting period at the applicable rate of tax per gallon,  
23 and shall pay to the department at the time of filing the report  
24 the full amount of the tax. A supplier shall not claim a deduc-  
25 tion from taxable gallons for gallons actually purchased by the  
26 customer notwithstanding that the supplier has issued a  
27 correction, credit, or rebilling to a customer adjusting tax

1 liability. In computing the number of taxable gallons, each  
2 licensed supplier shall be entitled to a deduction equal to the  
3 number of gallons of taxable gasoline and diesel motor fuel sold  
4 other than gasoline sold to a retailer by the supplier as to  
5 which the amount of tax paid by the supplier has become uncol-  
6 lectible from a wholesale distributor, a retail dealer, or an end  
7 consumer with whom the supplier has a sales or other contractual  
8 relationship. The department shall establish the evidence  
9 ~~which~~ THAT a supplier must provide in support of the uncollect-  
10 ible account deduction. ~~Such~~ THE regulations shall not require  
11 that the supplier specifically identify each sale giving rise to  
12 the deduction for uncollectible accounts. However, ~~such~~ THE  
13 regulations shall provide that the deduction is supported by sta-  
14 tistical evidence and is consistent with the tax treatment for  
15 bad debts under section 166 of the internal revenue code.  
16 ~~However, in the case of diesel motor fuel the amount of tax pay-~~  
17 ~~able shall be reduced by the amount of discount allowed under~~  
18 ~~section 22 for each gallon sold by the supplier.~~ A supplier who  
19 uses or sells combustible gas used in the generation of power for  
20 the propulsion of a motor vehicle, airplane, or motorboat shall  
21 file the monthly return required by this section.

22 (2) The tax imposed by this act ~~which~~ THAT is measured by  
23 gallons received by a supplier at the time of withdrawal from a  
24 terminal or imported from without the United States shall operate  
25 in the same manner as the tax imposed by section 4081 of the  
26 internal revenue code. In computing the tax all gasoline or  
27 diesel motor fuel while in process of transfer from tank steamers

1 at boat terminal transfers and while held in storage, pending  
2 wholesale bulk distribution by land transportation, or in tanks  
3 and equipment used in receiving and storing gasoline or diesel  
4 motor fuel from interstate pipelines pending wholesale bulk  
5 reshipment, shall be exempt from the payment of the tax.

6 (3) In computing the tax, a deduction of 2% of the quantity  
7 of gasoline received by the supplier before October 1, 1997 and  
8 1.5% received by the supplier after September 31, 1997, shall be  
9 deducted by the supplier to allow for the cost of remitting the  
10 tax. At the time of filing the report and paying the tax, the  
11 supplier shall submit satisfactory evidence to the department  
12 with respect to sales to wholesale distributors that the amount  
13 of tax represented by the deduction was paid or credited to the  
14 wholesale distributor that purchased the gasoline from the  
15 supplier. The amount of the deduction shall be paid or credited  
16 by each wholesale distributor to the purchaser at each subsequent  
17 sale to a wholesale distributor. When a wholesale distributor or  
18 supplier sells gasoline to a retail dealer, the wholesale dis-  
19 tributor or supplier shall pay or credit to the retail dealer the  
20 1/3 of the deduction on quantities sold to that retail dealer.

21 (4) The supplier and the terminal operator shall be entitled  
22 to rely for all purposes of this act on the representation by the  
23 exporter or the exporter's agent as to the exporter's intended  
24 state of destination, and the exporter and his or her agent, not  
25 the supplier or terminal operator, shall be exclusively liable  
26 for any tax otherwise due to the state as a result of a diversion  
27 of the cargo from the represented destination state.

1       (5) The commissioner may require a taxpayer to remit taxes  
2 by electronic funds transfer if the taxpayer is subject to tax  
3 under this act.

4       Sec. 22. ~~-(1) There shall be allowed a discount of 6 cents~~  
5 ~~per gallon of the tax imposed on diesel motor fuel pursuant to~~  
6 ~~section 2(1) if the diesel motor fuel is delivered into the fuel~~  
7 ~~supply tanks of a commercial motor vehicle licensed under the~~  
8 ~~motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234.~~

9       (1) ~~-(2)-~~ The tax on diesel motor fuel sold and delivered in  
10 this state by the retailer into the fuel supply tanks of motor  
11 vehicles shall be collected by the supplier and paid over monthly  
12 to the department. ~~except that the retail dealer shall pay over~~  
13 ~~monthly to the department 6 cents of the tax imposed under~~  
14 ~~section 2 for each gallon sold for delivery into or supplied into~~  
15 ~~the fuel supply tanks of a motor vehicle that is not a commercial~~  
16 ~~motor vehicle licensed under the motor carrier fuel tax act, 1980~~  
17 ~~PA 119, MCL 207.211 to 207.234, and eligible for discount allowed~~  
18 ~~under subsection (1).~~ Each diesel motor fuel retailer shall  
19 invoice sales of diesel motor fuel as prescribed by the  
20 department. Persons operating passenger vehicles of a capacity  
21 of 10 or more under a certificate of public convenience and  
22 necessity issued by the Michigan public service commission, or  
23 under a municipal franchise, license, permit, agreement, or  
24 grant, respectively, and operating over regularly traveled routes  
25 expressly provided for in the certificate of convenience and  
26 necessity, or municipal license, permit, agreement, or grant,  
27 shall be entitled to a refund of the tax paid in the manner

1 provided in section 12. Refunds provided for under this section  
2 to a state certificated operator of an intercity motor bus, shall  
3 apply only to those gallons of diesel motor fuel producing mile-  
4 age traveled by each intercity motor bus over regular routes or  
5 on charter trips or portions of charter trips within this state.  
6 The tax shall apply to diesel motor fuel delivered in this state  
7 into the storage of a user or acquired by a user in any manner.

8       (2) ~~-(3)-~~ An end use purchaser who has paid the tax on  
9 diesel motor fuel may claim a refund of the tax paid on diesel  
10 motor fuel used by the purchaser while operating a motor vehicle  
11 at a plant or jobsite while not on the public roads and highways  
12 of this state. The department may determine the formulae, meth-  
13 odology, and documentation necessary to implement this  
14 subsection.

15       (3) ~~-(4)-~~ A tax is not imposed or collected under this act  
16 on diesel motor fuel used in motor vehicles owned by or leased  
17 and operated by a political subdivision of this state, or motor  
18 vehicles owned and operated by this state or the federal  
19 government.

20       (4) ~~-(5)-~~ A tax is not imposed or collected under this act  
21 on diesel motor fuel purchased for use in school buses owned by  
22 or leased and operated by nonprofit private, parochial, or denom-  
23 inational schools, colleges, and universities and used in the  
24 transportation of students to and from school, or to and from  
25 school functions authorized by the administration of the eligible  
26 institution.

1       (5) ~~—(6)—~~ A tax is not imposed or collected under this act  
2 by a supplier of diesel motor fuel if the fuel is purchased by an  
3 end user for any of the following purposes or for resale to an  
4 end user for any of the following purposes:

- 5       (a) For off-highway use.
- 6       (b) For use as a home heating oil.
- 7       (c) For export in compliance with section 3.
- 8       (d) For use as other than motor fuel.
- 9       (e) For use in trains.