

SENATE BILL NO. 984

March 24, 2022, Introduced by Senator ANANICH and referred to the Committee on Transportation and Infrastructure.

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 2021 PA 108, and by adding section 4ii.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 **Sec. 4ii. (1) Beginning on the effective date of the**
2 **amendatory act that added this section through March 31, 2023, the**
3 **sale of eligible fuel is exempt from the tax imposed by this act.**
4 **(2) As used in this section, "eligible fuel" means any fuel**

1 **subject to the tax levied under the motor fuel tax act, 2000 PA**
2 **403, MCL 207.1001 to 207.1170.**

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

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

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

15 (3) Beginning April 1, 2016 **and until the effective date of**
16 **the amendatory act that added section 4ii, and beginning April 1,**
17 **2023,** at the time of purchase or shipment in this state from a
18 refiner, pipeline terminal operator, or marine terminal operator, a
19 purchaser or receiver of fuel other than an exporter or supplier
20 for immediate export, as evidenced by the terminal's shipping
21 papers or bill of lading, shall prepay a portion of the tax imposed
22 by this act at the rates provided in this section to the refiner,
23 pipeline terminal operator, or marine terminal operator for the
24 purchase or receipt of fuel. If the purchase or receipt of fuel is
25 made outside this state for shipment into and subsequent sale
26 within this state, the purchaser or receiver, other than a refiner,
27 pipeline terminal operator, or marine terminal operator as part of
28 a bulk transfer, shall make the prepayment required by this section
29 directly to the department. Prepayments for gasoline ~~shall~~**must** be

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

13 (4) The rates of prepayment applied pursuant to subsections
14 (2) and (3) shall be determined every month by the department. The
15 department shall publish notice of the rates of prepayment
16 applicable to gasoline and diesel fuel pursuant to subsections (2)
17 and (3) not later than the tenth day of the month immediately
18 preceding the month in which the rate is effective.

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

1 the sale or transfer is a sale at retail. The credit ~~shall~~**must** not
 2 be reduced because of actual shrinkage. A taxpayer that does not,
 3 in the ordinary course of business, sell gasoline in each month of
 4 the year may, with the approval of the department, base the initial
 5 prepayment deduction in each tax year on prepayments made in a
 6 month other than the immediately preceding month. The difference in
 7 actual prepayments ~~shall~~**must** be reconciled on the annual return ~~in~~
 8 ~~accordance with~~**pursuant to** procedures prescribed by the
 9 department.

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

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

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

20 (7) A refiner, pipeline terminal operator, or marine terminal
 21 operator that fails to remit prepayments made by a purchaser or
 22 receiver of fuel is subject to the penalties provided by 1941 PA
 23 122, MCL 205.1 to 205.31.

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

28 (9) The purchaser or receiver of fuel that makes prepayments
 29 is not subject to further liability for the amount of the

1 prepayment if the refiner, pipeline terminal operator, or marine
2 terminal operator fails to remit the prepayment.

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

28 (11) As used in this section:

29 (a) "Alcohol" means fuel grade ethanol or a mixture of fuel

1 grade ethanol and another product.

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

3 (i) Any petroleum product component of fuel, such as naphtha,
4 reformate, or toluene.

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

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

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

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

1 marine terminal operator, or pipeline terminal operator.

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

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

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

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

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

29 (k) "Exporter" means a person that exports fuel and is

1 licensed under section 86 of the motor fuel tax act, 2000 PA 403,
2 MCL 207.1086.

3 (l) "Fuel" means gasoline and diesel fuel that is subject to
4 tax under this act, collectively, except when gasoline or diesel
5 fuel is referred to separately.

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

28 (n) "Kerosene" means all grades of kerosene, including, but
29 not limited to, the 2 grades of kerosene, No. 1-K and No. 2-K,

1 commonly known as K-1 kerosene and K-2 kerosene, respectively,
2 described in American ~~society for testing and materials~~ **Society for**
3 **Testing and Materials** specification D-3699, in effect on January 1,
4 1999, and kerosene-type jet fuel described in American ~~society for~~
5 ~~testing and materials~~ **Society for Testing and Materials**
6 specification D-1655 and military specifications MIL-T-5624r and
7 MIL-T-83133d (grades jp-5 and jp-8), and any successor ~~internal~~
8 ~~revenue service~~ **Internal Revenue Service** rules or regulations, as
9 the specification for kerosene and kerosene-type jet fuel. Kerosene
10 does not include dyed kerosene or an excluded liquid.

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

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

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

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

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

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

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

1 (t) "Refinery" means a facility used by a refiner to produce
2 fuel from crude oil, unfinished oils, natural gas liquids, or other
3 hydrocarbons and from which fuel may be removed by pipeline or
4 marine vessel or at a rack.

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

8 (v) "Supplier" means a supplier or permissive supplier
9 licensed under section 70 or 73 of the motor fuel tax act, 2000 PA
10 403, MCL 207.1070 and 207.1073.

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

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

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

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

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

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

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

29 (aa) "Two-party exchange" means a transaction, including a

1 book transfer, in which fuel is transferred from 1 supplier to
2 another supplier where all of the following occur:

3 (i) The transaction includes a transfer of fuel from the person
4 who holds the original inventory position for the fuel in fuel
5 storage tanks as reflected in the records of the refiner, pipeline
6 terminal operator, or marine terminal operator.

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

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

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

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

22 (3) Sixty percent of the collections of the tax imposed at a
23 rate of 4% must be deposited in the state school aid fund
24 established in section 11 of article IX of the state constitution
25 of 1963 and distributed as provided by law. In addition, all of the
26 collections of the tax imposed at the additional rate of 2%
27 approved by the electors on March 15, 1994 must be deposited in the
28 state school aid fund.

29 (4) Except as otherwise provided in this subsection, not less

1 than 27.9% of 25% of the collections of the general sales tax
2 imposed at a rate of 4% directly or indirectly on fuels sold to
3 propel motor vehicles upon highways, on the sale of motor vehicles,
4 and on the sale of the parts and accessories of motor vehicles by
5 new and used car businesses, used car businesses, accessory dealer
6 businesses, and gasoline station businesses as classified by the
7 department must be deposited each year into the comprehensive
8 transportation fund. For the fiscal year ending September 30, 2021
9 only, the amount deposited into the comprehensive transportation
10 fund under this subsection must be reduced by \$18,000,000.00 and
11 that \$18,000,000.00 must be deposited into the transportation
12 administration collection fund.

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

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

26 (b) An amount equal to 65% of the collections of the tax
27 imposed at a rate of 2% on the sale at retail of aviation fuel must
28 be deposited in the qualified airport fund and must be expended, on
29 appropriation, only for those purposes authorized under section 35

1 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL
2 259.35.

3 (6) The department shall, on an annual basis, reconcile the
4 amounts distributed under subsection (5) during each fiscal year
5 with the amounts actually collected for a particular fiscal year
6 and shall make any necessary adjustments, positive or negative, to
7 the amounts to be distributed for the next successive calendar
8 quarter that begins January 1. The state treasurer or his or her
9 designee shall annually provide to the operator of each qualified
10 airport a report of the reconciliation performed under this
11 subsection. The reconciliation report is subject to the
12 confidentiality restrictions and penalties provided in section
13 28(1)(f) of 1941 PA 122, MCL 205.28.

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

23 (8) An amount equal to all revenue lost to the state school
24 aid fund as a result of the exemptions under sections 4a(1)(u), ~~and~~
25 4ee, **and 4ii**, as determined by the department, must be deposited
26 into the state school aid fund established in section 11 of article
27 IX of the state constitution of 1963. Money deposited into the
28 state school aid fund under this subsection must not include and
29 must be considered in addition to money deposited in the state

1 school aid fund under subsection (3). A person that claims an
2 exemption under section 4ee shall report the sales price of the
3 data center equipment as defined in section 4ee and any other
4 information necessary to determine the amount of revenue lost to
5 the state school aid fund as a result of the exemption under
6 section 4ee annually on a form at the time and in a manner
7 prescribed by the department. The report required under this
8 subsection must not include any remittance for tax, and does not
9 constitute a return or otherwise alleviate any obligations under
10 section 6.

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

13 (10) As used in this section:

14 (a) "Aviation fuel" means fuel as that term is defined in
15 section 4 of the aeronautics code of the state of Michigan, 1945 PA
16 327, MCL 259.4.

17 (b) "Comprehensive transportation fund" means the
18 comprehensive transportation fund created in section 10b of 1951 PA
19 51, MCL 247.660b.

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

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

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

29 (f) "Transportation administration collection fund" means the

- 1 transportation administration collection fund created in section
- 2 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.