

HOUSE BILL No. 6750

November 25, 2008, Introduced by Rep. Donigan and referred to the Committee on Transportation.

A bill to amend 1980 PA 119, entitled "Motor carrier fuel tax act," by amending sections 2 and 5 (MCL 207.212 and 207.215), section 2 as amended by 2006 PA 346 and section 5 as amended by 1996 PA 584.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) A motor carrier licensed under this act shall pay
2 a road tax calculated on the amount of motor fuel consumed in
3 qualified commercial motor vehicles on the public roads or highways
4 within this state. ~~Except as otherwise provided under subsection~~
5 ~~(6), the~~ **THE** tax shall be at the rate of 15 cents per gallon on
6 motor fuel consumed on the public roads or highways within this
7 state. In addition, qualified commercial motor vehicles licensed
8 under this act that travel in interstate commerce will be subject

1 to the definition of taxable motor fuels and rates as defined by
2 the respective international fuel tax agreement member
3 jurisdictions. A return shall be filed, and the tax due paid,
4 quarterly to the department on or before the last day of January,
5 April, July, and October of each year on a form prescribed and
6 furnished by the department. Each quarterly return and tax payment
7 shall cover the liability for the annual quarter ending on the last
8 day of the preceding month.

9 (2) The amount of motor fuel consumed in the operation of a
10 motor carrier on public roads or highways within this state shall
11 be determined by dividing the miles traveled within Michigan by the
12 average miles per gallon of motor fuel. The average miles per
13 gallon of motor fuel shall be determined by dividing the miles
14 traveled within and outside of Michigan by the total amount of
15 motor fuel consumed within and outside of Michigan.

16 (3) In the absence of records showing the average number of
17 miles operated per gallon of motor fuel, it shall be presumed that
18 1 gallon of motor fuel is consumed for every 4 miles traveled.

19 (4) The quarterly tax return shall be accompanied by a
20 remittance covering any tax due.

21 (5) The commissioner, when he or she considers it necessary to
22 ensure payment of the tax or to provide a more efficient
23 administration of the tax, may require the filing of returns and
24 payment of the tax for other than quarterly periods.

25 ~~—— (6) The road tax required under this section shall be at a~~
26 ~~rate of 12 cents per gallon for diesel fuel that contains at least~~
27 ~~5% biodiesel. As used in this subsection, "biodiesel" means a fuel~~

1 ~~composed of mono alkyl esters of long chain fatty acids derived~~
2 ~~from vegetable oils or animal fats and, in accordance with~~
3 ~~standards specified by the American society for testing and~~
4 ~~materials, designated B100 and meeting the requirements of D-6751,~~
5 ~~as approved by the department of agriculture.~~

6 ~~—— (7) Beginning on September 1, 2006, the state treasurer shall~~
7 ~~annually determine, for the 12 month period ending May 1 and for~~
8 ~~any additional times that the treasurer may determine, the~~
9 ~~difference between the amount of motor fuel tax collected and the~~
10 ~~amount of motor fuel tax that would have been collected but for the~~
11 ~~differential rates on motor fuel in section 8 of the motor fuel tax~~
12 ~~act, 2000 PA 403, MCL 207.1008, and on motor fuel in subsection~~
13 ~~(6). Subsection (6) is no longer effective the earlier of 10 years~~
14 ~~after September 1, 2006 or the first day of the first month that is~~
15 ~~not less than 90 days after the state treasurer certifies that the~~
16 ~~total cumulative rate differential due to the differential rates in~~
17 ~~section 8 of the motor fuel tax act, 2000 PA 403, MCL 207.1008, and~~
18 ~~subsection (6) from September 1, 2006 is greater than~~
19 ~~\$2,500,000.00.~~

20 ~~—— (8) The legislature shall annually appropriate to the Michigan~~
21 ~~transportation fund created in 1951 PA 51, MCL 247.651 to 247.675,~~
22 ~~the amount determined as the rate differential certified by the~~
23 ~~state treasurer for the 12 month period ending on May 1 of the~~
24 ~~calendar year in which the fiscal year begins. Subsection (6) shall~~
25 ~~not be effective beginning January of any fiscal year for which the~~
26 ~~appropriation required under this subsection has not been made by~~
27 ~~the first day of the fiscal year.~~

1 Sec. 5. (1) A person required to be licensed by this act shall
2 not act as a motor carrier in this state unless the person is the
3 holder of an unrevoked license issued by the department or is the
4 holder of an unrevoked license issued under the international fuel
5 tax agreement by this state or another member jurisdiction of the
6 international fuel tax agreement. To procure a license, a motor
7 carrier shall file with the department a verified application upon
8 a form prescribed and to be furnished by the department. The
9 application shall contain the name and address of the motor carrier
10 and, if a partnership, limited liability company, or corporation,
11 the names and addresses of the persons constituting the firm,
12 partnership, association, joint stock company, limited liability
13 company, syndicate, or corporation, the name of its resident agent,
14 the location of its predominant place of business, both within and
15 outside of this state, and other pertinent information the
16 department may require.

17 (2) The department shall issue to each motor carrier 1 license
18 per person and 2 decals for each qualified commercial motor
19 vehicle. A decal shall be affixed respectively to the right-hand
20 side and left-hand side of the cab of every qualified commercial
21 motor vehicle while it is being operated in this state by each
22 person licensed under this act. A copy of the license shall be
23 carried in each cab while it is being operated.

24 (3) For cause, a motor carrier may be required to file with
25 the department a surety bond payable to the state, upon which the
26 applicant is the obligor, in the sum of 3 times the highest
27 estimated quarterly tax, or \$1,000.00, whichever is greater. This

1 surety bond shall be conditioned upon the applicant complying with
2 this act and with the rules promulgated pursuant to this act,
3 promptly filing true reports, and paying the taxes, interest, and
4 penalties required by this act. Each surety bond shall be approved
5 as to amount and sureties by the department. The department may
6 accept cash or securities instead of a surety bond.

7 (4) The commissioner may waive the bond requirement for a
8 motor carrier exempt from the reporting requirements of section 2
9 when the collection of taxes would not be impaired by lack of
10 security of a bond required by this section.

11 (5) The license and decals shall not be assignable or
12 transferable to another person and shall be valid only for the
13 person in whose name they are issued. However, upon application to
14 the department, a motor carrier, upon the sale, conveyance,
15 disposal, or replacement of a qualified commercial motor vehicle,
16 may transfer the license and decals for that qualified commercial
17 motor vehicle to another qualified commercial motor vehicle of the
18 motor carrier which is required to be licensed under this act. The
19 department shall issue replacement decals for the newly licensed
20 qualified commercial motor vehicle that authorizes the holder of
21 the qualified commercial motor vehicle license to use and consume
22 motor fuel in the qualified commercial motor vehicle upon the
23 public roads or highways of this state until the original license
24 would have expired. The department may require the payment of a fee
25 to cover the administrative costs of issuing a replacement license
26 or decals.

27 (6) Upon filing of the application and upon posting of any

1 bond as required, the department shall issue to the applicant a
2 license and decals that authorize the holder to operate qualified
3 commercial motor vehicles using and consuming motor fuels upon the
4 public roads or highways of this state until January 1 of the year
5 following the date of issuance.

6 (7) If a licensee ceases to engage in business within this
7 state, the licensee shall notify the department in writing within
8 ~~15~~16 days after discontinuance.