

Act No. 346
Public Acts of 2006
Approved by the Governor
September 1, 2006
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September 1, 2006
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STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006

Introduced by Senator Gilbert

ENROLLED SENATE BILL No. 1362

AN ACT to amend 1980 PA 119, entitled "An act to prescribe a privilege tax for the use of public roads and highways of this state by motor carriers by imposing a specific tax upon the use of motor fuel within this state; to provide for certain credits against this tax and certain mechanisms for paying, collecting, and enforcing this tax; to provide for the licensing of motor carriers and for exemptions from licensure; to require the keeping and providing for the examination of certain reports; to provide review procedures for the assessment of the tax and revocation of a license; to impose certain duties upon and confer certain powers to certain state departments and agencies; to prescribe certain penalties for the violation of this act; and to make appropriations," by amending sections 2 and 4 (MCL 207.212 and 207.214), as amended by 2002 PA 667.

The People of the State of Michigan enact:

Sec. 2. (1) A motor carrier licensed under this act shall pay a road tax calculated on the amount of motor fuel consumed in qualified commercial motor vehicles on the public roads or highways within this state. Except as otherwise provided under subsection (6), the tax shall be at the rate of 15 cents per gallon on motor fuel consumed on the public roads or highways within this state. In addition, qualified commercial motor vehicles licensed under this act that travel in interstate commerce will be subject to the definition of taxable motor fuels and rates as defined by the respective international fuel tax agreement member jurisdictions. A return shall be filed, and the tax due paid, quarterly to the department on or before the last day of January, April, July, and October of each year on a form prescribed and furnished by the department. Each quarterly return and tax payment shall cover the liability for the annual quarter ending on the last day of the preceding month.

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

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

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

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

(6) The road tax required under this section shall be at a rate of 12 cents per gallon for diesel fuel that contains at least 5% biodiesel. As used in this subsection, "biodiesel" means a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats and, in accordance with standards specified by the American society for testing and materials, designated B100 and meeting the requirements of D-6751, as approved by the department of agriculture.

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

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

Sec. 4. (1) A person filing a return under section 2 who purchased motor fuel in this state upon which a tax was imposed and not refunded under the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, shall be entitled to a credit against the tax imposed by this act equal to the tax paid when purchasing the motor fuel under the motor fuel tax act. The excess of a credit allowed by this subsection over tax liabilities imposed by this act shall be refunded to the taxpayer.

(2) In order to secure credit under subsection (1) for motor fuel purchased in this state the motor carrier shall secure a receipt showing the seller's name, the number of gallons of motor fuel, the type of motor fuel, the tax rate charged, the address of the seller, the license number or unit number of the commercial motor vehicle, and the date of sale.

(3) A refund, when approved by the department, shall be payable from the revenue received under this act.

(4) A person, or an agent, employee, or representative of the person, who makes a false statement in any return under this act or who submits or provides an invoice or invoices in support of the false statement upon which alterations or changes exist in the date, name of seller or purchaser, number of gallons, identity of the qualified commercial motor vehicle into which fuel was delivered or the amount of tax that was paid, or who knowingly presents any return or invoice containing a false statement, or who collects or causes to be paid a refund without being entitled to the refund, forfeits the full amount of the claim and is guilty of a misdemeanor, punishable by a fine of not more than \$5,000.00 or imprisonment for not more than 1 year, or both.

Enacting section 1. This amendatory act takes effect September 1, 2006.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor