

Act No. 406
Public Acts of 2000
Approved by the Governor
January 5, 2001
Filed with the Secretary of State
January 8, 2001
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**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

Introduced by Senator McManus

ENROLLED SENATE BILL No. 1266

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 1 and 4 (MCL 207.211 and 207.214), as amended by 1996 PA 584.

The People of the State of Michigan enact:

Sec. 1. As used in this act:

- (a) "Axle" means any 2 or more load-carrying wheels mounted in a single transverse vertical plane.
- (b) "Commissioner" means the state commissioner of revenue.
- (c) "Department" means the revenue division of the department of treasury.
- (d) "Motor carrier" means a person who operates or causes to be operated a qualified commercial motor vehicle on a public road or highway in this state.
- (e) "Motor fuel" means diesel fuel as defined by the motor fuel tax act.
- (f) "Nonprofit private, parochial, denominational, or public school, college, or university" means an elementary, secondary, or postsecondary educational facility.
- (g) "Person" means a natural person, partnership, firm, association, joint stock company, limited liability company, limited liability partnership, syndicate, or corporation, and any receiver, trustee, conservator, or officer, other than a unit of government, having jurisdiction and control of property by virtue of law or by appointment of a court.
- (h) "Public roads or highways" means a road, street, or place maintained by this state or a political subdivision of this state and generally open to use by the public as a matter of right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel restricted for the purpose of construction, maintenance, repair, or reconstruction.
- (i) "Qualified commercial motor vehicle" means a motor vehicle used, designed, or maintained for transportation of persons or property and 1 of the following:
 - (i) Having 3 or more axles regardless of weight.
 - (ii) Having 2 axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 12,000 kilograms.
 - (iii) Is used in a combination of vehicles, if the weight of that combination exceeds 26,000 pounds or 12,000 kilograms gross vehicle or registered gross vehicle weight.

(j) "Qualified commercial motor vehicle" shall not include a recreational vehicle or a road tractor, truck, or truck tractor owned by a farmer and used in connection with the farmer's farming operation and not used for hire or a school bus, a bus defined and certificated under the motor bus transportation act, 1982 PA 432, MCL 474.101 to 474.141, or a bus operated by a public transit agency operating under any of the following:

(i) A county, city, township, or village as provided by law, or other authority incorporated under 1963 PA 55, MCL 124.351 to 124.359. Each authority and governmental agency incorporated under 1963 PA 55, MCL 124.351 to 124.359, has the exclusive jurisdiction to determine its own contemplated routes, hours of service, estimated transit vehicle miles, costs of public transportation services, and projected capital improvements or projects within its service area.

(ii) An authority incorporated under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, or that operates a transportation service pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(iii) A contract entered into pursuant to 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, or 1951 PA 35, MCL 124.1 to 124.13.

(iv) An authority incorporated under the public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479, or a nonprofit corporation organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, that provides transportation services.

(v) An authority financing public improvements to transportation systems under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(k) Qualified commercial motor vehicle includes a vehicle operated on a public road or highway owned by a farmer and used in connection with the farmer's farming operation if the vehicle bears out of state registration plates of a state that does not give similar treatment to vehicles from this state.

Sec. 4. (1) A person filing a return pursuant to section 2 who purchased motor fuel in this state upon which a tax was imposed and not refunded pursuant to the motor fuel tax act, shall be entitled to a credit against the tax imposed by this act equal to the tax paid when purchasing the motor fuel pursuant to 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 address of the seller, the license number or unit number of the commercial motor vehicle, and the date of sale.

(3) A motor carrier may credit against the tax imposed by this act on each quarterly return filed under this subsection an amount equal to 6 cents per gallon of the sales tax paid on diesel fuel purchased in this state during the preceding calendar quarter.

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

(5) 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 thereof 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 thereto, 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.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Ray E. Randall

Clerk of the House of Representatives.

Approved _____

Governor.