

Act No. 667
Public Acts of 2002
Approved by the Governor
December 25, 2002
Filed with the Secretary of State
December 26, 2002
EFFECTIVE DATE: April 1, 2003

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Reps. Stallworth, Gilbert, Hummel and Julian

ENROLLED HOUSE BILL No. 5734

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, 2, and 4 (MCL 207.211, 207.212, and 207.214), sections 1 and 4 as amended by 2000 PA 406 and section 2 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:
 - (i) A person who operates or causes to be operated a qualified commercial motor vehicle on a public road or highway in this state and at least 1 other state or Canadian province.
 - (ii) A person who operates or causes to be operated a qualified commercial motor vehicle on a public road or highway in this state and who is licensed under the international fuel tax agreement.
- (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", subject to subdivision (j), 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, a road tractor, truck, or truck tractor used exclusively in this state, 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, 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. 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. 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.

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

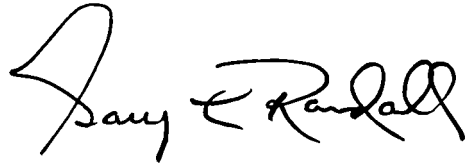
(4) A person, or an agent, employee, or representative of the person, who makes a false statement in any return under this act or who submits or provides an invoice or invoices in support of the false statement upon which alterations or changes exist in the date, name of seller or purchaser, number of 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 April 1, 2003.

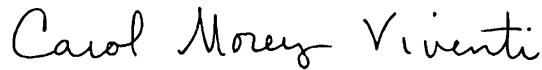
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 5735.

(b) House Bill No. 5736.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.