

SUBSTITUTE FOR
HOUSE BILL NO. 4616

A bill to amend 1980 PA 119, entitled
"Motor carrier fuel tax act,"
by amending sections 1, 2, 2a, 4, 5, 6a, 8, 9, and 10 (MCL 207.211,
207.212, 207.212a, 207.214, 207.215, 207.216a, 207.218, 207.219,
and 207.220), section 1 as amended by 2002 PA 667, sections 2 and 4
as amended by 2006 PA 346, section 2a as added by 1994 PA 353,
section 5 as amended and section 6a as added by 1996 PA 584, and
section 8 as amended by 2006 PA 449.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (A) "ALTERNATIVE FUEL" MEANS THAT TERM AS DEFINED IN SECTION
3 151 OF THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1151.

4 (B) "ALTERNATIVE FUEL DEALER" MEANS THAT TERM AS DEFINED IN
5 SECTION 151 OF THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1151.

1 (C) ~~(a)~~—"Axle" means any 2 or more load-carrying wheels
2 mounted in a single transverse vertical plane.

3 (D) ~~(b)~~—"Commissioner" means the state commissioner of
4 revenue.

5 (E) ~~(c)~~—"Department" means the revenue division of the
6 department of treasury.

7 (F) **"GALLON EQUIVALENT" MEANS THAT TERM AS DEFINED IN SECTION**
8 **151 OF THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1151.**

9 (G) ~~(d)~~—"Motor carrier" means:

10 (i) A person who operates or causes to be operated a qualified
11 commercial motor vehicle on a public road or highway in this state
12 and at least 1 other state or Canadian province.

13 (ii) A person who operates or causes to be operated a
14 qualified commercial motor vehicle on a public road or highway in
15 this state and who is licensed under the international fuel tax
16 agreement.

17 (H) ~~(e)~~—"Motor fuel" means diesel fuel as defined ~~by~~ **IN**
18 **SECTION 2 OF** the motor fuel tax act, 2000 PA 403, MCL 207.1002.
19 **BEGINNING ON OCTOBER 1, 2015, MOTOR FUEL INCLUDES GASOLINE AS THAT**
20 **TERM IS DEFINED IN SECTION 3 OF THE MOTOR FUEL TAX ACT, 2000 PA**
21 **403, MCL 207.1003.**

22 (I) ~~(f)~~—"Nonprofit private, parochial, denominational, or
23 public school, college, or university" means an elementary,
24 secondary, or postsecondary educational facility.

25 (J) ~~(g)~~—"Person" means a natural person, partnership, firm,
26 association, joint stock company, limited liability company,
27 limited liability partnership, syndicate, or corporation, and any

1 receiver, trustee, conservator, or officer, other than a unit of
2 government, having jurisdiction and control of property by virtue
3 of law or by appointment of a court.

4 (K) ~~(h)~~—"Public roads or highways" means a road, street, or
5 place maintained by this state or a political subdivision of this
6 state and generally open to use by the public as a matter of right
7 for the purpose of vehicular travel, notwithstanding that they may
8 be temporarily closed or travel restricted for the purpose of
9 construction, maintenance, repair, or reconstruction.

10 (I) ~~(i)~~—"Qualified commercial motor vehicle", subject to
11 subdivision ~~(j)~~, **(M)**, means a motor vehicle used, designed, or
12 maintained for transportation of persons or property and 1 of the
13 following:

14 (i) Having 3 or more axles regardless of weight.

15 (ii) Having 2 axles and a gross vehicle weight or registered
16 gross vehicle weight exceeding 26,000 pounds or 12,000 kilograms.

17 (iii) Is used in a combination of vehicles, if the weight of
18 that combination exceeds 26,000 pounds or 12,000 kilograms gross
19 vehicle or registered gross vehicle weight.

20 **(M)** ~~(j)~~—"Qualified commercial motor vehicle" ~~shall~~ **DOES** not
21 include a recreational vehicle, a road tractor, truck, or truck
22 tractor used exclusively in this state, a road tractor, truck, or
23 truck tractor owned by a farmer and used in connection with the
24 farmer's farming operation and not used for hire, a school bus, a
25 bus defined and certificated under the motor bus transportation
26 act, 1982 PA 432, MCL 474.101 to 474.141, or a bus operated by a
27 public transit agency operating under any of the following:

1 (i) A county, city, township, or village as provided by law,
2 or other authority incorporated under 1963 PA 55, MCL 124.351 to
3 124.359. Each authority and governmental agency incorporated under
4 1963 PA 55, MCL 124.351 to 124.359, has the exclusive jurisdiction
5 to determine its own contemplated routes, hours of service,
6 estimated transit vehicle miles, costs of public transportation
7 services, and projected capital improvements or projects within its
8 service area.

9 (ii) An authority incorporated under the metropolitan
10 transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to
11 124.426, or that operates a transportation service pursuant to an
12 interlocal agreement under the urban cooperation act of 1967, 1967
13 (Ex Sess) PA 7, MCL 124.501 to 124.512.

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

16 (iv) An authority incorporated under the public transportation
17 authority act, 1986 PA 196, MCL 124.451 to 124.479, or a nonprofit
18 corporation organized under the nonprofit corporation act, 1982 PA
19 162, MCL 450.2101 to 450.3192, that provides transportation
20 services.

21 (v) An authority financing public improvements to
22 transportation systems under the revenue bond act of 1933, 1933 PA
23 94, MCL 141.101 to 141.140.

24 **(N)** ~~(K)~~ Qualified commercial motor vehicle includes a vehicle
25 operated on a public road or highway owned by a farmer and used in
26 connection with the farmer's farming operation if the vehicle bears
27 out of state registration plates of a state that does not give

1 similar treatment to vehicles from this state.

2 Sec. 2. (1) A motor carrier licensed under this act shall pay
3 a road tax calculated on the amount of motor fuel **AND ALTERNATIVE**
4 **FUEL** consumed in qualified commercial motor vehicles on the public
5 roads or highways within this state. Except as otherwise provided
6 under subsection (6), the tax shall be at the rate of 15 cents per
7 gallon on motor fuel consumed on the public roads or highways
8 within this state. In addition, qualified commercial motor vehicles
9 licensed under this act that travel in interstate commerce ~~will be~~
10 **ARE** subject to the definition of taxable motor fuels **AND**
11 **ALTERNATIVE FUELS** and rates as defined by the respective
12 international fuel tax agreement member jurisdictions. A **MOTOR**
13 **CARRIER LICENSED UNDER THIS ACT SHALL FILE A** return ~~shall be filed,~~
14 and **PAY** the tax due ~~paid,~~ quarterly to the department on or before
15 the last day of January, April, July, and October of each year on a
16 form prescribed and furnished by the department. Each quarterly
17 return and tax payment shall cover the liability for the annual
18 quarter ending on the last day of the preceding month.

19 (2) The amount of motor fuel **OR ALTERNATIVE FUEL** consumed in
20 the operation of a motor carrier on public roads or highways within
21 this state shall be determined by dividing the miles traveled
22 within ~~Michigan~~ **THIS STATE** by the average miles per gallon of motor
23 fuel **OR APPLICABLE GALLON EQUIVALENT OF ALTERNATIVE FUEL**. The
24 average miles per gallon of motor fuel **OR PER-GALLON EQUIVALENT OF**
25 **ALTERNATIVE FUEL, AS APPLICABLE,** shall be determined by dividing
26 the miles traveled within and outside of ~~Michigan~~ **THIS STATE** by the
27 total amount of motor fuel **OR ALTERNATIVE FUEL** consumed within and

1 outside of Michigan. **THIS STATE.**

2 (3) In the absence of records showing the average number of
3 miles operated per gallon of motor fuel **OR PER-GALLON EQUIVALENT OF**
4 **ALTERNATIVE FUEL, AS APPLICABLE,** it shall be ~~IS~~ presumed that 1
5 gallon of motor fuel **OR APPLICABLE GALLON EQUIVALENT OF ALTERNATIVE**
6 **FUEL** is consumed for every 4 miles traveled.

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

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

13 ~~—— (6) The road tax required under this section shall be at a~~
14 ~~rate of 12 cents per gallon for diesel fuel that contains at least~~
15 ~~5% biodiesel. As used in this subsection, "biodiesel" means a fuel~~
16 ~~composed of mono-alkyl esters of long chain fatty acids derived~~
17 ~~from vegetable oils or animal fats and, in accordance with~~
18 ~~standards specified by the American society for testing and~~
19 ~~materials, designated B100 and meeting the requirements of D-6751,~~
20 ~~as approved by the department of agriculture.~~

21 ~~—— (7) Beginning on September 1, 2006, the state treasurer shall~~
22 ~~annually determine, for the 12 month period ending May 1 and for~~
23 ~~any additional times that the treasurer may determine, the~~
24 ~~difference between the amount of motor fuel tax collected and the~~
25 ~~amount of motor fuel tax that would have been collected but for the~~
26 ~~differential rates on motor fuel in section 8 of the motor fuel tax~~
27 ~~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.~~

(6) BEGINNING OCTOBER 1, 2015 AND ANNUALLY THEREAFTER, THE PER-GALLON OR PER-GALLON EQUIVALENT RATE OF TAX UNDER THIS ACT FOR MOTOR FUEL OR ALTERNATIVE FUEL CONSUMED ON THE PUBLIC ROADS OR HIGHWAYS OF THIS STATE IS 1 OF THE FOLLOWING:

(A) FOR MOTOR FUEL, THE APPLICABLE RATE PRESCRIBED UNDER SECTION 8(1) OF THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1008, FOR THE SAME PERIOD.

(B) FOR ALTERNATIVE FUEL, THE RATE PRESCRIBED UNDER SECTION 152 OF THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1152, FOR THE SAME PERIOD.

Sec. 2a. (1) The department, on behalf of this state, may enter into a reciprocal agreement providing for the imposition of a

1 motor fuel **OR ALTERNATIVE FUEL** tax on an apportionment or
2 allocation basis with the proper authority of a state, a
3 commonwealth, the District of Columbia, a state or province of a
4 foreign country, or a territory or possession either of the United
5 States or of a foreign country. ~~Pursuant to~~ **UNDER** this subsection,
6 the department shall enter into the international fuel tax
7 agreement.

8 (2) The department may promulgate rules to implement and
9 enforce the provisions of the international fuel tax agreement.
10 Rules promulgated under this subsection shall be promulgated
11 ~~pursuant to~~ **UNDER** the administrative procedures act of 1969, ~~Act~~
12 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328~~
13 ~~of the Michigan Compiled Laws. 1969 PA 306, MCL 24.201 TO 24.328.~~

14 (3) ~~Pursuant to the requirements of~~ **AS REQUIRED BY** the
15 intermodal surface transportation efficiency act of 1991, Public
16 Law 102-240, 105 Stat. ~~Stat.~~ **STAT** 1914, if the department entered into
17 the international fuel tax agreement, and if the provisions set
18 forth in that agreement are different from this act, then the
19 provisions of the agreement shall control.

20 (4) This section constitutes complete authority for the
21 imposition of motor fuel **OR ALTERNATIVE FUEL** taxes upon an
22 apportionment or allocation basis.

23 Sec. 4. (1) A person filing a return under section 2 who
24 purchased motor fuel **OR ALTERNATIVE FUEL** in this state upon which a
25 tax was imposed and not refunded under the motor fuel tax act, 2000
26 PA 403, MCL 207.1001 to 207.1170, ~~shall be~~ **IS** entitled to a credit
27 against the tax imposed by this act equal to the tax paid when

1 purchasing the motor fuel **OR ALTERNATIVE FUEL** under the motor fuel
2 tax act, **2000 PA 403, MCL 207.1001 TO 207.1170**. The excess of a
3 credit allowed by this subsection over tax liabilities imposed by
4 this act shall be refunded to the taxpayer.

5 (2) In order to secure credit under subsection (1) for motor
6 fuel **OR ALTERNATIVE FUEL** purchased in this state, the motor carrier
7 shall secure a receipt showing the seller's name, the number of
8 gallons of motor fuel **OR APPLICABLE GALLON EQUIVALENTS OF**
9 **ALTERNATIVE FUEL**, the type of motor fuel **OR ALTERNATIVE FUEL**, the
10 tax rate charged, the address of the seller, the license number or
11 unit number of the commercial motor vehicle, and the date of sale.

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

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

26 Sec. 5. (1) A person required to be licensed by this act shall
27 not act as a motor carrier in this state unless the person is the

1 holder of an unrevoked license issued by the department or is the
2 holder of an unrevoked license issued under the international fuel
3 tax agreement by this state or another member jurisdiction of the
4 international fuel tax agreement. To procure a license, a motor
5 carrier shall file with the department a verified application upon
6 a form prescribed and to be furnished by the department. The
7 application shall contain the name and address of the motor carrier
8 and, if a partnership, limited liability company, or corporation,
9 the names and addresses of the persons constituting the firm,
10 partnership, association, joint stock company, limited liability
11 company, syndicate, or corporation, the name of its resident agent,
12 the location of its predominant place of business, both within and
13 outside of this state, and other pertinent information the
14 department may require.

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

22 (3) For cause, a motor carrier may be required to file with
23 the department a surety bond payable to ~~the~~**THIS** state, upon which
24 the applicant is the obligor, in the sum of 3 times the highest
25 estimated quarterly tax, or \$1,000.00, whichever is greater. This
26 surety bond shall be conditioned upon the applicant complying with
27 this act and with the rules promulgated ~~pursuant to~~**UNDER** this act,

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

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

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

25 (6) Upon filing of the application and upon posting of any
26 bond as required, the department shall issue to the applicant a
27 license and decals that authorize the holder to operate qualified

1 commercial motor vehicles using and consuming motor fuels **OR**
2 **ALTERNATIVE FUELS** upon the public roads or highways of this state
3 until January 1 of the year following the date of issuance.

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

7 Sec. 6a. (1) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (3), THE** tax
8 imposed by this act shall be administered ~~pursuant to Act No. 122~~
9 ~~of the Public Acts of 1941.~~ **UNDER 1941 PA 122, MCL 205.1 TO 205.31.**
10 In case of conflict between ~~Act No. 122 of the Public Acts of 1941~~
11 **1941 PA 122, MCL 205.1 TO 205.31,** and this act, this act shall
12 prevail.

13 (2) Tax due **TO** other member jurisdictions of the international
14 fuel tax agreement **THAT IS** incurred by ~~persons~~ **A PERSON** while
15 operating on a current, suspended, or revoked license issued by the
16 department under the international fuel tax agreement ~~shall be~~ **IS**
17 considered tax imposed by this act and a tax debt due **TO** this
18 state.

19 (3) **FOR MOTOR FUEL OR ALTERNATIVE FUEL PURCHASED ON OR AFTER**
20 **OCTOBER 1, 2015, A REFUND CLAIM INVOLVING THE PAYMENT OF A TAX THAT**
21 **WAS PAID UNDER THIS ACT OR IN CONNECTION WITH A RETURN FILED UNDER**
22 **THIS ACT MAY NOT BE FILED MORE THAN 18 MONTHS AFTER THE DATE THE**
23 **MOTOR FUEL OR ALTERNATIVE FUEL WAS PURCHASED.**

24 Sec. 8. (1) Every qualified commercial motor vehicle leased to
25 a motor carrier ~~shall be~~ **IS** subject to this act ~~,~~ to the same
26 extent and in the same manner as **A** qualified commercial motor
27 ~~vehicles~~ **VEHICLE** owned by a motor carrier.

1 (2) A lessor of qualified commercial motor vehicles may be
2 considered a motor carrier with respect to qualified commercial
3 motor vehicles leased to others, if the lessor supplies or pays for
4 the motor fuel **OR ALTERNATIVE FUEL** consumed by the vehicles or
5 bills rental or other charges calculated to include the cost of
6 motor fuel **OR ALTERNATIVE FUEL**. A lessee motor carrier may exclude
7 a qualified commercial motor vehicle leased from others from the
8 reports and liabilities required by this act if that qualified
9 commercial motor vehicle has been leased from a lessor who is a
10 motor carrier ~~pursuant to~~**UNDER** this act and the lease agreement
11 provides for the lessor to pay the cost of motor fuel **OR**
12 **ALTERNATIVE FUEL** and motor fuel **OR ALTERNATIVE FUEL** taxes.

13 (3) Upon application by ~~the~~**A** licensed motor carrier, the
14 department may authorize a licensed motor carrier leasing qualified
15 commercial motor vehicles from 2 or more lessors to file
16 consolidated reports for these lessors.

17 (4) This section ~~shall govern~~**GOVERNS** the primary liability
18 under this act of lessors and lessees of qualified commercial motor
19 vehicles. For tax liabilities incurred before April 1, 2005, if a
20 lessor or lessee primarily liable fails, in whole or in part, to
21 discharge his or her liability, the failing party and the other
22 lessor or lessee party to the transaction ~~shall be~~**ARE** jointly and
23 severally responsible and liable for compliance with this act and
24 for the payment of tax due. However, the aggregate of taxes
25 collected from a lessor and lessee by this state under this act
26 shall not exceed the total amount of taxes due and costs and
27 penalties imposed.

1 (5) For tax liabilities arising after April 1, 2005, if a
2 lease agreement identifies a party responsible for the payment of
3 taxes, the nonresponsible party under the lease shall obtain a copy
4 of the responsible party's valid international fuel tax agreement
5 registration and keep the copy on file. If the nonresponsible party
6 does not obtain a copy of the responsible party's valid
7 international fuel tax agreement registration and the responsible
8 party fails in whole or in part to discharge his or her liability,
9 then the responsible and nonresponsible parties ~~shall be~~ **ARE**
10 jointly and severally responsible and liable for compliance with
11 this act and payment of tax due. If the lease agreement does not
12 identify the party responsible for payment of fuel taxes under this
13 act, then both parties ~~shall be~~ **ARE** jointly and severally
14 responsible and liable for compliance with this act and payment of
15 tax due. However, the aggregate of taxes collected from a lessor
16 and lessee by this state under this act shall not exceed the total
17 amount of taxes due and costs and penalties imposed. If the
18 nonresponsible party under the lease maintains a copy of the
19 responsible party's valid international fuel tax agreement
20 registration on file, the nonresponsible party ~~shall have~~ **HAS** no
21 responsibility or liability for compliance with this act or payment
22 of any taxes, costs, or penalties due under this act relating to
23 the motor fuel **OR ALTERNATIVE FUEL** consumed under the lease.

24 Sec. 9. The department may examine the books, **INVOICES,**
25 **RECEIPTS,** records, and papers of a motor carrier, ~~or~~ fuel supplier,
26 ~~which~~ **OR ALTERNATIVE FUEL DEALER THAT** pertain to the motor fuel **OR**
27 **ALTERNATIVE FUEL** received, used, purchased, shipped, or delivered

1 to verify the truth and accuracy of any statement, report, or
2 return.

3 Sec. 10. Each motor carrier shall maintain and keep, for a
4 period of at least 4 years, suitable books, records, and accounts
5 of all motor fuel **AND ALTERNATIVE FUEL** purchased, sold, dispensed,
6 or used, together with all invoices, delivery tickets, bills of
7 lading, and other pertinent records and papers as ~~may be~~ required
8 by the department for the administration of this act.

9 Enacting section 1. This amendatory act takes effect October
10 1, 2015.

11 Enacting section 2. This amendatory act does not take effect
12 unless all of the following bills of the 98th Legislature are
13 enacted into law:

14 (a) House Bill No. 4614.

15 (b) House Bill No. 4615.