

HOUSE BILL No. 4616

May 14, 2015, Introduced by Reps. McCready, Leutheuser, Inman and Potvin and referred to the Committee on Roads and Economic Development.

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:

Sec. 1. As used in this act:

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

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

(C) ~~(a)~~ "Axle" means any 2 or more load-carrying wheels

1 mounted in a single transverse vertical plane.

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

4 (E) "DIESEL GALLON EQUIVALENT" MEANS THAT TERM AS DEFINED IN
5 SECTION 151 OF THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1151.

6 (F) ~~(e)~~—"Department" means the revenue division of the
7 department of treasury.

8 (G) ~~(d)~~—"Motor carrier" means:

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

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

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

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

24 (J) ~~(g)~~—"Person" means a natural person, partnership, firm,
25 association, joint stock company, limited liability company,
26 limited liability partnership, syndicate, or corporation, and any
27 receiver, trustee, conservator, or officer, other than a unit of

1 government, having jurisdiction and control of property by virtue
2 of law or by appointment of a court.

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

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

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

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

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

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

27 (i) A county, city, township, or village as provided by law,

1 or other authority incorporated under 1963 PA 55, MCL 124.351 to
2 124.359. Each authority and governmental agency incorporated under
3 1963 PA 55, MCL 124.351 to 124.359, has the exclusive jurisdiction
4 to determine its own contemplated routes, hours of service,
5 estimated transit vehicle miles, costs of public transportation
6 services, and projected capital improvements or projects within its
7 service area.

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

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

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

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

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

1 Sec. 2. (1) A motor carrier licensed under this act shall pay
2 a road tax calculated on the amount of motor fuel **AND ALTERNATIVE**
3 **FUEL** consumed in qualified commercial motor vehicles on the public
4 roads or highways within this state. Except as otherwise provided
5 under subsection (6), the tax shall be at the rate ~~of 15 cents per~~
6 ~~gallon on~~ **PRESCRIBED UNDER SECTION 8(1)(B) OF THE MOTOR FUEL TAX**
7 **ACT, 2000 PA 403, MCL 207.1008, FOR** motor fuel consumed on the
8 public roads or highways within this state. In addition, qualified
9 commercial motor vehicles licensed under this act that travel in
10 interstate commerce ~~will be~~ **ARE** subject to the definition of
11 taxable motor fuels **AND ALTERNATIVE FUELS** and rates as defined by
12 the respective international fuel tax agreement member
13 jurisdictions. A **MOTOR CARRIER LICENSED UNDER THIS ACT SHALL FILE A**
14 return ~~shall be filed,~~ and **PAY** the tax due ~~paid,~~ quarterly to the
15 department on or before the last day of January, April, July, and
16 October of each year on a form prescribed and furnished by the
17 department. Each quarterly return and tax payment shall cover the
18 liability for the annual quarter ending on the last day of the
19 preceding month.

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

1 total amount of motor fuel **OR ALTERNATIVE FUEL** consumed within and
2 outside of ~~Michigan~~. **THIS STATE.**

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

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

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

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

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

1 ~~act, 2000 PA 403, MCL 207.1008, and on motor fuel in subsection~~
2 ~~(6). Subsection (6) is no longer effective the earlier of 10 years~~
3 ~~after September 1, 2006 or the first day of the first month that is~~
4 ~~not less than 90 days after the state treasurer certifies that the~~
5 ~~total cumulative rate differential due to the differential rates in~~
6 ~~section 8 of the motor fuel tax act, 2000 PA 403, MCL 207.1008, and~~
7 ~~subsection (6) from September 1, 2006 is greater than~~
8 ~~\$2,500,000.00.~~

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

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

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

24 **(B) FOR ALTERNATIVE FUEL, THE RATE PRESCRIBED UNDER SECTION**
25 **152 OF THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1152, FOR THE**
26 **SAME PERIOD.**

27 **Sec. 2a. (1) The department, on behalf of this state, may**

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

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

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

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

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

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

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

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

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

27 Sec. 5. (1) A person required to be licensed by this act shall

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

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

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

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

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

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

26 (6) Upon filing of the application and upon posting of any
27 bond as required, the department shall issue to the applicant a

1 license and decals that authorize the holder to operate qualified
2 commercial motor vehicles using and consuming motor fuels **OR**
3 **ALTERNATIVE FUELS** upon the public roads or highways of this state
4 until January 1 of the year following the date of issuance.

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

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

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

20 (3) **A REFUND CLAIM INVOLVING THE PAYMENT OF A TAX THAT WAS**
21 **PAID UNDER THIS ACT OR IN CONNECTION WITH A RETURN FILED UNDER THIS**
22 **ACT MAY NOT BE FILED MORE THAN 18 MONTHS AFTER THE DATE THE MOTOR**
23 **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.

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

Sec. 9. The department may examine the books, **INVOICES**, **RECEIPTS**, records, and papers of a motor carrier, ~~or~~ fuel supplier, ~~which~~ **OR ALTERNATIVE FUEL DEALER THAT** pertain to the motor fuel **OR 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) Senate Bill No.____ or House Bill No. 4615 (request no.
15 03001'15).

16 (b) Senate Bill No.____ or House Bill No. 4614 (request no.
17 03005'15).