



**House  
Legislative  
Analysis  
Section**

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**DIESEL TAX INCREASE**

**House Bill 5733**

**Sponsor: Rep. Judson Gilbert II**

**House Bill 5734**

**Sponsor: Rep. Keith Stallworth**

**House Bill 5735**

**Sponsor: Rep. Doug Hart**

**House Bill 5736**

**Sponsor: Rep. Larry Julian**

**Committee: Transportation**

**Complete to 2-25-02**

**A SUMMARY OF HOUSE BILLS 5733 - 5736 AS INTRODUCED 2-21-02**

The bills would amend various acts to increase the diesel fuel tax from 15 cents per gallon to 19 cents per gallon; create the commercial highway fund, and dedicate the revenue from the tax increase to the commercial highway fund and the critical bridge fund. The bills are tie-barred to each other so that none could become law unless the others also were enacted. A more detailed explanation of each bill follows.

House Bill 5735 would amend the Motor Fuel Tax Act (MCL 207.1008 et al.) to specify that a tax would be imposed on diesel fuel that is imported into or sold, delivered or used in this state, at a rate of 15 cents per gallon through September 30, 2002, and 19 cents per gallon beginning October 1, 2002.

Further, the bill specifies that a tax at a rate of 15 cents per gallon through September 30, 2002, and 19 cents per gallon beginning October 1, 2002, would be imposed upon all liquified petroleum gas used in the state.

The bill also would eliminate the provisions that govern the manner in which the diesel fuel tax is collected and paid. Currently under the law there are two categories of tax collectors (those who sell or deliver to a supplier, importer, vendor, retail dealer, or marine retail dealer; and, those who deliver fuel into the bulk storage tank of a motor carrier), and both collect 9 cents of tax per gallon. Then, these collectors collect and remit to the Revenue Division of the Department of Treasury an additional 6 cents of tax per gallon, if in addition, the person to whom he sells does any of three things: i) uses the diesel fuel in a motor vehicle that is not issued a decal under the Motor Carrier Fuel Tax Act; sells or delivers into the fuel supply tank of a motor vehicle that is not licensed under the Motor Carrier Fuel Tax Act; or, delivers undyed diesel fuel into a storage tank of a person who is not licensed under either the Motor Fuel Tax Act or the Motor Carrier Fuel Tax Act. The act specifies that 15 cents of tax per gallon is collected and remitted by all others who import, sell, distribute, deliver, or use diesel fuel. Under House Bill 5735, all of these provisions would be eliminated.

House Bills 5733-5736 (2-25-02)

The bill would prohibit a person from delivering diesel fuel into the fuel supply tank of an end user's motor vehicle, or making a bulk delivery of diesel fuel to an unlicensed end user, unless licensed as a retail "marine" diesel dealer under the act. The bill would create a \$50 retail marine diesel dealer license fee, and require that retail marine diesel dealers file quarterly reports as they remit the tax to the Department of Treasury, on or before the 20<sup>th</sup> day of the month following the close of each reporting period. Currently under this provision of the law, all who deliver diesel fuel must be licensed as retail diesel dealers, not only marine diesel dealers.

Finally, the bill would repeal Section 91 of the Motor Fuel Tax Act, which concerns the regulation of fuel vendors. The section that would be eliminated creates a license for all who distribute motor fuel at wholesale, or diesel fuel at retail. More specifically, this section sets a \$50 annual fuel vendor's license fee, and requires vendors to file quarterly and annual reports, as well as to keep records of transactions for five years.

House Bill 5734 would amend the Motor Carrier Fuel Tax Act (MCL 207.211 et al.) to require that a motor carrier licensed under the act pay a road tax calculated on the amount of motor fuel consumed in qualified commercial motor vehicles on public roads or highways, and that beginning October 1, 2002, the tax be at the rate of 19 cents per gallon. Currently the act sets a rate of 21 cents per gallon, but allows a 6 cent per gallon credit against the 21 cent tax imposed. Under the bill, the 6 cents per gallon credit (filed on each quarterly return) would be eliminated.

The bill also would change the definition of "motor carrier" to mean (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 one 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. Currently "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.

In addition, the bill would change the definition of "qualified commercial motor vehicle." Currently under the law a "qualified commercial motor vehicle does not include a recreational vehicle, a road tractor, truck or truck tractor owner 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, or a bus operated by a public transit agency (in any of five specified ways). However, a qualified commercial motor vehicle includes a farmer's vehicle 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. House Bill 5734 would retain all of these provisions and specify in addition that "qualified commercial motor vehicle" would not include "a road tractor, truck, or truck tractor used exclusively in this state."

House Bill 5733 would amend Public Act 51 of 1951, the Michigan Transportation Fund Act (MCL 247.660 et al.) to specify that 85 percent of the revenue from 4 cents of the tax levied under section 8(1)(b) of the Motor Fuel Tax Act [concerning diesel fuel], and 85 percent of the revenue from 4 cents of the tax levied under section 2(1) of the Motor Carrier Fuel Tax Act

[concerning the tax imposed on fuel used by qualified commercial motor vehicles], be dedicated to the state Trunk Line Fund for subsequent deposit in the Commercial Highway Fund. Further, the bill would require that 15 percent of the revenue from the 4 cents be dedicated to the Trunk Line Fund for subsequent deposit to the Critical Bridge Fund.

Under the bill, revenues that were transferred to the Critical Bridge Fund could be used only on federal aid highway bridges as defined under section 101(a)(5) of Title 23 of the U.S. Code. Further, on or before January 1 each year, the advisory committee created under the Michigan Administrative Code (R 247.154) would be required to affirm in writing to the department that the revenue transferred to the Critical Bridge Fund during the preceding year was spent only for purposes authorized.

The bill also specifies that a Commercial Highway Fund would be created within the State Trunk Line Fund, for the purpose of receiving funds allocated from the MTF and the State Trunk Line Fund. Funds received could be expended only for the construction, reconstruction, rehabilitation, restoration, or the resurfacing of state trunk line highways and bridges belonging to the national highway system (as described in section 103(b) of Title 23 of the U.S. Code). Further, on or before January 1 each year, the department would be required to affirm in writing to the State Transportation Commission that the revenue transferred to the Commercial Highway Fund during the preceding year was spent only for purposes authorized.

Currently the law specifies four categories of acceptable investment protocols open to the State Transportation Commission when it is issuing bonds or notes. House Bill 5733 would add a fifth acceptable investment protocol, allowing the commission to enter into interest rate exchanges or swaps, hedges, or similar agreements with respect to its bonds or notes, in the same manner and subject to the same limitations and conditions provided for a municipality in section 317 of the Revised Municipal Finance Act.

Finally, the bill also would delete an administrative expenses phase-out provision of the act, a provision that was scheduled to phase out the allocation of some revenue from the MTF to other state agencies. Currently the law specifies that beginning with the fiscal year ending September 30, 2001 and the next two succeeding fiscal years thereafter, funds appropriated for these administrative expenses for all state agencies and departments, other than the Department of Transportation, the commission, the Department of Environmental Quality expedited permit processing program for road agencies, the Department of State, and the attorney general shall be phased out until further funds are no longer appropriated for this purpose. Under House Bill 5733, this provision would be eliminated.

House Bill 5736 would amend the Use Tax Act (MCL 205.92 et al.) to impose a diesel fuel use tax on interstate motor carriers.

More specifically, the bill would add definitions for "interstate motor carrier," "qualified commercial motor vehicle," "diesel fuel," and "interstate fleet motor carrier." "Interstate fleet motor carrier" would be defined to mean a person engaged in the business of carrying persons or property, other than themselves, their employees, or their own property, for hire across state lines, whose fleet mileage was driven at least 10 percent outside of this state in the immediately preceding tax year. "Interstate motor carrier" would mean 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 one other state or Canadian province. "Qualified commercial motor vehicle" would mean that term as defined in subdivisions (i), (j), and (k) of Section 1 of the Motor Carrier Fuel Tax Act. "Diesel fuel" would mean that term as defined in subsection (2)(p) of the Motor Fuel Tax Act.

Currently the law levies a specific tax for the privilege of using, storing, or consuming tangible personal property at a rate equal to 6 percent of the price of the property or applicable services. House Bill 5726 would amend the act to specify that beginning October 1, 2002, the term "price" as it is used in the Use Tax Act would mean, with respect to diesel fuel used by interstate motor carriers in a qualified commercial motor vehicle, the statewide average retail price of a gallon of self-serve diesel fuel as determined and certified quarterly by the department, rounded up to the nearest 1/10 of a cent. Under the bill, this use tax on diesel fuel used by interstate motor carriers would be collected under the International Fuel Tax Agreement.

However, under the law, the use tax does not apply to property sold if during the transaction a tax is paid under the General Sales Tax Act. Consequently, House Bill 5736 specifies that beginning October 1, 2002, in lieu of this exclusion, an interstate motor carrier would be entitled to a credit under the Use Tax Act of 6 percent of the price of diesel fuel purchased in the state, and used in a qualified commercial motor vehicle. Under the bill the credit would be claimed on the returns filed under the International Fuel Tax Agreement.

Analyst: J. Hunault

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■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.