

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 5734

(As passed the House, December 3, 2002)

(As amended by the Senate, December 13, 2002)

A bill to amend 1980 PA 119, entitled  
"Motor carrier fuel tax act,"  
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:**

1       Sec. 1. As used in this act:

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

4       (b) "Commissioner" means the state commissioner of revenue.

5       (c) "Department" means the revenue division of the depart-  
6 ment of treasury.

7       (d) "Motor carrier" means: ~~a~~

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1           (i) A person who operates or causes to be operated a  
2 qualified commercial motor vehicle on a public road or highway in  
3 this state AND AT LEAST 1 OTHER STATE OR CANADIAN PROVINCE.

4           (ii) A PERSON WHO OPERATES OR CAUSES TO BE OPERATED A QUALI-  
5 FIED COMMERCIAL MOTOR VEHICLE ON A PUBLIC ROAD OR HIGHWAY IN THIS  
6 STATE AND WHO IS LICENSED UNDER THE INTERNATIONAL FUEL TAX  
7 AGREEMENT.

8           (e) "Motor fuel" means diesel fuel as defined by the motor  
9 fuel tax act.

10          (f) "Nonprofit private, parochial, denominational, or public  
11 school, college, or university" means an elementary, secondary,  
12 or postsecondary educational facility.

13          (g) "Person" means a natural person, partnership, firm,  
14 association, joint stock company, limited liability company,  
15 limited liability partnership, syndicate, or corporation, and any  
16 receiver, trustee, conservator, or officer, other than a unit of  
17 government, having jurisdiction and control of property by virtue  
18 of law or by appointment of a court.

19          (h) "Public roads or highways" means a road, street, or  
20 place maintained by this state or a political subdivision of this  
21 state and generally open to use by the public as a matter of  
22 right for the purpose of vehicular travel, notwithstanding that  
23 they may be temporarily closed or travel restricted for the pur-  
24 pose of construction, maintenance, repair, or reconstruction.

25          (i) "Qualified commercial motor vehicle", SUBJECT TO SUBDI-  
26 VISION (J), means a motor vehicle used, designed, or maintained

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1 for transportation of persons or property and 1 of the  
2 following:

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

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

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

10 (j) "Qualified commercial motor vehicle" shall not include a  
11 recreational vehicle, ~~or~~ A ROAD TRACTOR, TRUCK, OR TRUCK TRAC-  
12 TOR USED EXCLUSIVELY IN THIS STATE, a road tractor, truck, or  
13 truck tractor owned by a farmer and used in connection with the  
14 farmer's farming operation and not used for hire, ~~or~~ a school  
15 bus, a bus defined and certificated under the motor bus transpor-  
16 tation act, 1982 PA 432, MCL 474.101 to 474.141, or a bus oper-  
17 ated by a public transit agency operating under any of the  
18 following:

19 (i) A county, city, township, or village as provided by law,  
20 or other authority incorporated under 1963 PA 55, MCL 124.351 to  
21 124.359. Each authority and governmental agency incorporated  
22 under 1963 PA 55, MCL 124.351 to 124.359, has the exclusive  
23 jurisdiction to determine its own contemplated routes, hours of  
24 service, estimated transit vehicle miles, costs of public trans-  
25 portation services, and projected capital improvements or  
26 projects within its service area.

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1           (ii) An authority incorporated under the metropolitan  
2 transportation authorities act of 1967, 1967 PA 204, MCL 124.401  
3 to 124.426, or that operates a transportation service pursuant to  
4 an interlocal agreement under the urban cooperation act of 1967,  
5 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

6           (iii) A contract entered into pursuant to 1967 (Ex Sess) PA  
7 8, MCL 124.531 to 124.536, or 1951 PA 35, MCL 124.1 to 124.13.

8           (iv) An authority incorporated under the public transporta-  
9 tion authority act, 1986 PA 196, MCL 124.451 to 124.479, or a  
10 nonprofit corporation organized under the nonprofit corporation  
11 act, 1982 PA 162, MCL 450.2101 to 450.3192, that provides trans-  
12 portation services.

13           (v) An authority financing public improvements to transpor-  
14 tation systems under the revenue bond act of 1933, 1933 PA 94,  
15 MCL 141.101 to 141.140.

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

21           Sec. 2. (1) A motor carrier licensed under this act shall  
22 pay a road tax calculated on the amount of motor fuel consumed in  
23 qualified commercial motor vehicles on the public roads or high-  
24 ways within this state. The tax shall be at the rate of ~~21~~ 15  
25 cents per gallon on motor fuel consumed on the public roads or  
26 highways within this state. In addition, qualified commercial  
27 motor vehicles licensed under this act that travel in interstate

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1 commerce will be subject to the definition of taxable motor fuels  
2 and rates as defined by the respective international fuel tax  
3 agreement member jurisdictions. A return shall be filed, and the  
4 tax due paid, quarterly to the department on or before the last  
5 day of January, April, July, and October of each year on a form  
6 prescribed and furnished by the department. Each quarterly  
7 return and tax payment shall cover the liability for the annual  
8 quarter ending on the last day of the preceding month.

9 (2) The amount of motor fuel consumed in the operation of a  
10 motor carrier on public roads or highways within this state shall  
11 be determined by dividing the miles traveled within Michigan by  
12 the average miles per gallon of motor fuel. The average miles  
13 per gallon of motor fuel shall be determined by dividing the  
14 miles traveled within and outside of Michigan by the total amount  
15 of motor fuel consumed within and outside of Michigan.

16 (3) In the absence of records showing the average number of  
17 miles operated per gallon of motor fuel, it shall be presumed  
18 that 1 gallon of motor fuel is consumed for every 4 miles  
19 traveled.

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

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

26 Sec. 4. (1) A person filing a return pursuant to section 2  
27 who purchased motor fuel in this state upon which a tax was

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1 imposed and not refunded pursuant to the motor fuel tax act,  
2 shall be entitled to a credit against the tax imposed by this act  
3 equal to the tax paid when purchasing the motor fuel pursuant to  
4 the motor fuel tax act. The excess of a credit allowed by this  
5 subsection over tax liabilities imposed by this act shall be  
6 refunded to the taxpayer.

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

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

18 (3) ~~-(4)~~ A refund, when approved by the department, shall  
19 be payable from the revenue received under this act.

20 (4) ~~-(5)~~ A person, or an agent, employee, or representative  
21 of the person, who makes a false statement in any return under  
22 this act or who submits or provides an invoice or invoices in  
23 support ~~thereof~~ OF THE FALSE STATEMENT upon which alterations  
24 or changes exist in the date, name of seller or purchaser, number  
25 of gallons, identity of the qualified commercial motor vehicle  
26 into which fuel was delivered or the amount of tax that was paid,  
27 or who knowingly presents any return or invoice containing a

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1 false statement, or who collects or causes to be paid a refund  
2 without being entitled ~~thereto~~ TO THE REFUND, forfeits the full  
3 amount of the claim and is guilty of a misdemeanor, punishable by  
4 a fine of not more than \$5,000.00 or imprisonment for not more  
5 than 1 year, or both.

Enacting section 1. This amendatory act takes effect April 1, 2003.

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

9 (a) House Bill No. 5735.

10 (b) House Bill No. 5736.