

QUALIFIED FUEL TAX RECIPROCITY AGREEMENTS

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House Bills 4976, 4977, and 4978 as introduced

Sponsor: Rep. Gregory Markkanen

Committee: Transportation

Revised 9-28-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bills 4976, 4977, and 4978 would respectively amend the Streamlined Sales and Use Tax Revenue Equalization Act, 1960 PA 124 (which created the Michigan Highway Reciprocity Board), and the Motor Carrier Fuel Tax Act, to provide for qualified fuel tax reciprocity agreements between Michigan and certain other states.

House Bill 4977 would amend 1960 PA 124 to allow the Department of Treasury to enter into *qualified fuel tax reciprocity agreements* with the proper authorities of other *jurisdictions* (either individually or with a group of jurisdictions) if the Department of Treasury considers the agreements proper or expedient and in the interests of the people of Michigan. The bill would provide the Department of Treasury with the sole authority to enter into qualified fuel tax reciprocity agreements.

Qualified fuel tax reciprocity agreement would mean a *fuel tax reciprocity agreement* that provides reciprocal treatment only for *motor carriers* carrying *raw forest products* within 30 air miles of the border of this state.

Fuel tax reciprocity agreement would mean a compact, agreement, or arrangement that, in exchange for reciprocal treatment for a motor carrier, or a class or category of motor carrier, from this state in another jurisdiction, allows a motor carrier, or a class or category of motor carrier, from the other jurisdiction to operate or cause to be operated a *qualified commercial motor vehicle* on a public highway in this state without doing any of the following:

- Carrying, obtaining, or displaying a license, decal, permit, or other credentials otherwise required by the *International Fuel Tax Agreement* (IFTA) or the Motor Carrier Fuel Tax Act.
- Paying, reporting, or filing returns for, taxes imposed by or subject to the International Fuel Tax Agreement, the Motor Carrier Fuel Tax Act, or section 5 of the Streamlined Sales and Use Tax Revenue Equalization Act.

Motor carrier and *qualified commercial motor vehicle* would mean those terms as defined in the Motor Carrier Fuel Tax Act.

Raw forest products would mean logs, pilings, posts, poles, cordwood products, wood chips, sawdust, pulpwood, intermediary lumber, fuel wood, and Christmas trees, not altered by a manufacturing process off the land, sawmill, or factory from which they are taken.

International Fuel Tax Agreement would mean the agreement described in section 2a of the Motor Carrier Fuel Tax Act.

Jurisdiction would mean other states of the United States, the District of Columbia, territories and possessions of the United States, foreign countries, or political subdivisions of foreign countries. For purposes of a fuel tax reciprocity agreement, ***jurisdiction*** would include only those states of the United States that are members of the IFTA.

MCL 3.161 and MCL 3.163

House Bill 4976 would amend the Streamlined Sales and Use Tax Revenue Equalization Act to provide that section 5 of the act does not apply to an interstate motor carrier to the extent that the interstate motor carrier is exempt from the requirements of this section under a ***qualified fuel tax reciprocity agreement*** as defined in HB 4977.

MCL 205.175

House Bill 4978 would amend the Motor Carrier Act to provide that the act does not apply to a qualified commercial motor vehicle owned by, or leased and operated by, a motor carrier to the extent that the motor carrier is exempt from the requirements of the act under a ***qualified fuel tax reciprocity agreement*** as defined in HB 4977. In addition, the IFTA would not apply to such a qualified commercial motor vehicle.

MCL 207.213

House Bills 4976 and 4978 are tie-barred to House Bill 4977, which means that neither bill could take effect unless House Bill 4977 were also enacted.

BACKGROUND:

The Motor Fuel Tax Act imposes a tax on motor fuels used in motor vehicles on the public roads and highways of the state. The current tax rate for both gasoline and diesel motor fuel is 26.3 cents per gallon. Although collected by the Department of Treasury upstream from motor fuel suppliers as defined in the Motor Fuel Tax Act, the motor fuel tax is included in the at-the-pump price paid by motorists at retail service stations in Michigan.

The intent of the Motor Fuel Tax Act is “to require persons who operate a motor vehicle on the public roads or highways of this state to pay for the privilege of using those roads and highways.” Revenue from the taxes imposed by the act is dedicated for transportation purposes in section 9 of Article IX of the Michigan Constitution of 1963.

The Motor Carrier Fuel Tax Act imposes a tax for diesel motor fuel consumed in Michigan equivalent to the Motor Fuel Tax Act for interstate and cross-border motor carriers who may, or may not, actually purchase fuel in Michigan. Section 2a of the Motor Carrier Fuel Tax Act authorizes the Department of Treasury to enter into reciprocity agreements with

other states (and Canadian provinces) for the imposition of motor fuel taxes. This apportionment of state and provincial motor fuel taxes is put into effect through the IFTA.¹

Because Michigan also imposes a 6% sales tax on motor fuel purchases, section 5 of the Streamlined Sales and Use Tax Revenue Equalization Act provides for the imposition of a specific per-gallon tax on diesel motor fuel consumed in Michigan by interstate and cross-border motor carriers. This tax is a variable tax rate calculated from the 6% sales tax as applied to the average retail price of diesel motor fuel. This tax is also apportioned to states and Canadian provinces based on miles driven in each jurisdiction through IFTA.

As a result of the Motor Carrier Fuel Tax Act and section 5 of the Streamlined Sales and Use Tax Revenue Equalization Act, interstate and cross-border motor carriers effectively all pay the same tax rate for fuel consumed in Michigan (based on mileage driven in Michigan) whether or not they actually purchase fuel in Michigan.

Under current law, revenue from the Motor Fuel Tax Act and Motor Carrier Fuel Tax Act, and from section 5 of the Streamlined Sales and Use Tax Revenue Equalization Act, is credited to the Michigan Transportation Fund (MTF). After certain deductions for collection, administration, and certain statutory or categorical programs, MTF revenue is distributed in accordance with the provisions of 1951 PA 51 to other state transportation funds and to local road agencies as follows:

- 10.0% to the Comprehensive Transportation Fund (CTF) for public transportation purposes.
- Of the MTF balance (after the CTF distribution):
 - 39.1% to the State Trunkline Fund (STF) for preservation of the state trunkline highway system and administration of the Michigan Department of Transportation (MDOT).
 - 39.1% to county road commissions for preservation of county road systems.
 - 21.8% to city and villages for city and village street preservation programs.

Highway Reciprocity Board

The Highway Reciprocity Board, as established in 1960 PA 124, consisted in the secretary of state, the state highway commissioner, and the chairman of the Michigan public service commission. The act gave authority to the board to “enter into and make such reciprocal compacts, agreements or arrangements as the board deems proper or expedient [...] with the proper authorities of other jurisdictions [...] concerning the fees, charges, taxation, operation and regulation of trucks, tractors, trailers, automobiles, buses, and all other automotive equipment engaged in international, interstate or intrastate commerce upon and over the public highways.”

1960 PA 124 was enacted prior to Michigan’s 1963 constitution. Section 2 of Article V of that constitution generally required that all executive and administrative functions of the executive branch of state government be allocated among and within not more than 20 principal departments. This provision limited the authority of independent boards,

¹ <https://www.iftach.org/>

agencies, and commissions. In effect, all state agencies had to be housed within a state department, and the constitution limited the number of state departments to 20.

Executive Order 2007-15 abolished the Highway Reciprocity Board and transferred all of the “authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds of the Highway Reciprocity Board” to the Department of State, effective July 15, 2007.²

It is not clear when the Highway Reciprocity Board last met. Its functions were largely made irrelevant after Michigan joined the International Registration Plan (IRP) in 1985 and the IFTA in the 1996.

The IRP is a cooperative program of registration reciprocity for certain types of vehicles operating in two or more member jurisdictions, i.e. vehicles engaged in interstate, inter-province, or cross-border commerce among states and Canadian provinces. The IRP provides for apportioning vehicle registration taxes among those states and provinces based on miles driven in each jurisdiction. Vehicles subject to the IRP include the truck-trailer combinations frequently seen on interstate or cross-border commercial corridors such as I-94, I-69, and I-75.

FISCAL IMPACT:

As described above, the bill package would allow the Department of Treasury to negotiate fuel tax reciprocity agreements with other states specific to motor carriers carrying raw forest products within 30 miles of this state. This class of motor carriers would be exempt from reporting normally required of cross-border or interstate motor carriers under the IFTA. We have not determined whether these provisions have a fiscal impact on state costs or revenue at this time. This analysis will be expanded after committee testimony.

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

² https://www.michigan.gov/formergovernors/0,4584,7-212-96477_57648_21975-167757--,00.html