



February 11, 1999

HOUSE BILL No. 1789

DIGEST OF HB 1789 (Updated February 9, 1999 3:35 pm - DI 92)

Citations Affected: IC 6-6; IC 6-8.1; noncode.

Synopsis: Motor carrier fuel taxes. Provides that a motor carrier is entitled to a credit against the motor carrier fuel tax for motor fuel used to propel equipment mounted on a motor vehicle that has a common reservoir for locomotion and for the operation of the equipment. Provides that the credit applies to motor fuel used to propel the equipment within Indiana and outside Indiana. Requires a motor carrier to obtain certification from the department of state revenue before the motor carrier may claim the credit. Requires a motor carrier to file a claim for the credit with the motor carrier's quarterly return. Provides that the department of state revenue may approve only \$3,500,000 of credits in a state fiscal year.

Effective: July 1, 1999.

Kruzan, Buell, Buck

January 26, 1999, read first time and referred to Committee on Ways and Means.
February 10, 1999, amended, reported — Do Pass.

HB 1789—LS 8182/DI 73+



C
O
P
Y

February 11, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1789

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-6-4.1-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A tax is imposed
3 on the consumption of motor fuel by a carrier in its operations on
4 highways in Indiana. The rate of this tax is the same rate per gallon as
5 the rate per gallon at which special fuel is taxed under IC 6-6-2.5. The
6 tax shall be paid quarterly by the carrier to the department on or before
7 the last day of the month immediately following the quarter.

8 (b) The amount of motor fuel consumed by a carrier in its operations
9 on highways in Indiana is the total amount of motor fuel consumed in
10 its entire operations within and without Indiana, multiplied by a
11 fraction. The numerator of the fraction is the total number of miles
12 traveled on highways in Indiana, and the denominator of the fraction is
13 the total number of miles traveled within and without Indiana.

14 (c) The amount of tax that a carrier shall pay for a particular quarter
15 under this section equals the product of the tax rate in effect for that
16 quarter, multiplied by the amount of motor fuel consumed by the
17 carrier in its operation on highways in Indiana and upon which the

HB 1789—LS 8182/DI 73+



C
O
P
Y

1 carrier has not paid tax imposed under IC 6-6-1.1 or IC 6-6-2.5.

2 (d) **Subject to section 4.8 of this chapter, a carrier is entitled to**
 3 **a proportional use credit against** the tax imposed under this section
 4 **does not apply to for** that portion of motor fuel used ~~in Indiana~~
 5 to propel equipment mounted on a motor vehicle having a common
 6 reservoir for locomotion on the highway and the operation of the
 7 equipment, as determined by rule of the commissioner. ~~The exemption~~
 8 **granted by An application for a proportional use credit under** this
 9 subsection shall be ~~taken filed~~ on a quarterly basis ~~in the on a~~ form of
 10 a ~~claim for refund~~ prescribed by the department.

11 SECTION 2. IC 6-6-4.1-4.5 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4.5. (a) A surcharge tax
 13 is imposed on the consumption of motor fuel by a carrier in its
 14 operations on highways in Indiana. The rate of this surcharge tax is
 15 eleven cents (\$0.11) per gallon. The tax shall be paid quarterly by the
 16 carrier to the department on or before the last day of the month
 17 immediately following the quarter.

18 (b) The amount of motor fuel consumed by a carrier in its operations
 19 on highways in Indiana is the total amount of motor fuel consumed in
 20 its entire operations within and without Indiana, multiplied by a
 21 fraction. The numerator of the fraction is the total number of miles
 22 traveled on highways in Indiana, and the denominator of the fraction is
 23 the total number of miles traveled within and without Indiana.

24 (c) The amount of tax that a carrier shall pay for a particular quarter
 25 under this section equals the product of the tax rate in effect for that
 26 quarter, multiplied by the amount of motor fuel consumed by the
 27 carrier in its operation on highways in Indiana.

28 (d) **Subject to section 4.8 of this chapter, a carrier is entitled to**
 29 **a proportional use credit against** the tax imposed under this section
 30 **does not apply to for** that portion of motor fuel used ~~in Indiana~~
 31 to propel equipment mounted on a motor vehicle having a common
 32 reservoir for locomotion on the highway and the operation of this
 33 equipment as determined by rule of the commissioner. ~~The exemption~~
 34 **granted by An application for a proportional use credit under** this
 35 subsection shall be ~~taken filed~~ on a quarterly basis ~~in the on a~~ form of
 36 a ~~claim for refund~~ prescribed by the department.

37 SECTION 3. IC 6-6-4.1-4.7 IS ADDED TO THE INDIANA CODE
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 39 1, 1999]: Sec. 4.7. (a) **This section applies only to a claim for a**
 40 **proportional use credit under section 4(d) or 4.5(d) of this chapter**
 41 **for taxes first due and payable after July 31, 1999.**

42 (b) A carrier must be certified by the department in order to



C
O
P
Y

1 qualify for a proportional use credit under section 4(d) or 4.5(d) of
2 this chapter.

3 (c) A carrier must apply to the department for certification
4 before April 1 of the first calendar year for which the proportional
5 use credit will be claimed. An application for certification must be
6 in writing upon forms prescribed by the department and must be
7 signed and verified by the carrier. The department must include on
8 all application forms suitable spaces for a listing of the following:

9 (1) The carrier's federal Social Security number or federal tax
10 identification number.

11 (2) The address of the carrier's principal place of business.

12 (3) A description of each of the carrier's vehicles that has a
13 common fuel supply reservoir for both locomotion on a public
14 highway and a commercial purpose.

15 (4) The vehicle identification number for each vehicle
16 described in subdivision (3).

17 (d) The department may certify that a carrier is qualified to
18 claim a proportional use credit under section 4(d) or 4.5(d) of this
19 chapter only upon payment by the carrier to the department of a
20 one (1) time fee of seven dollars (\$7). The carrier must pay the fee
21 at the time the application for certification is submitted to the
22 department. The department shall deposit the fee in the motor
23 carrier regulation fund established by IC 8-2.1-23-1.

24 (e) A carrier must notify the department, on forms prescribed
25 by the department, of any change of address by the carrier. The
26 carrier must provide the notice not more than ten (10) days after
27 the change of address. The department may revoke or suspend the
28 certification of a carrier that fails to comply with this subsection.

29 (f) All certificates issued under this section are personal and
30 may not be transferred.

31 (g) The department may require a carrier that has been issued
32 a certificate under this section to submit additional information
33 from time to time at reasonable intervals, as determined by the
34 department.

35 (h) The department may adopt rules under IC 4-22-2 to carry
36 out this section.

37 SECTION 4. IC 6-6-4.1-4.8 IS ADDED TO THE INDIANA CODE
38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
39 1, 1999]: Sec. 4.8. (a) This section applies only to a claim for a
40 proportional use credit under section 4(d) or 4.5(d) of this chapter
41 for taxes first due and payable after July 31, 1999.

42 (b) In order to obtain a proportional use credit against taxes

C
O
P
Y



1 imposed under section 4 or 4.5 of this chapter, a carrier must file
2 a claim with the department. The claim must be submitted on a
3 form prescribed by the department and must be filed with the
4 quarterly return for the taxable period for which the proportional
5 use credit is claimed. A carrier is not entitled to a proportional use
6 credit under section 4(d) or 4.5(d) of this chapter unless the carrier
7 has paid in full the taxes to which the credit applies. A credit
8 approved under this section shall, subject to this section, be
9 refunded to the carrier without interest.

10 (c) The department shall determine the aggregate amount of
11 proportional use credits claimed under section 4(d) or 4.5(d) of this
12 chapter for each quarter. The department may approve the full
13 amount of a proportional use credit claimed by a carrier if the
14 aggregate amount of proportional use credits claimed for the
15 quarter and for the fiscal year do not exceed the limits set forth in
16 subsection (d). If the aggregate amount of proportional use credits
17 claimed in a quarter exceeds the limits set forth in subsection (d),
18 the department shall pay the claims for that quarter on a pro rata
19 basis.

20 (d) The department may not approve more than three million
21 five hundred thousand dollars (\$3,500,000) of proportional use
22 credits under this section in a state fiscal year. In addition, the
23 amount of proportional use credits the department may approve
24 under this section for a quarter may not exceed the following:

25 (1) For the quarter ending September 30 of a year, an amount
26 equal to:

27 (A) one million three hundred seventy-five thousand
28 dollars (\$1,375,000); plus

29 (B) the greater of zero (0) or the result of:

30 (i) the limit determined for the previous quarter under
31 this subsection; minus

32 (ii) the aggregate amount of claims approved for the
33 previous quarter.

34 (2) For the quarter ending December 31 of a year, an amount
35 equal to:

36 (A) six hundred twenty-five thousand dollars (\$625,000);
37 plus

38 (B) the greater of zero (0) or the result of:

39 (i) the limit determined for the previous quarter under
40 this subsection; minus

41 (ii) the aggregate amount of claims approved for the
42 previous quarter.

C
O
P
Y

1 **(3) For the quarter ending March 31 of a year, an amount**
 2 **equal to:**

3 **(A) six hundred twenty-five thousand dollars (\$625,000);**
 4 **plus**

5 **(B) the greater of zero (0) or the result of:**

6 **(i) the limit determined for the previous quarter under**
 7 **this subsection; minus**

8 **(ii) the aggregate amount of claims approved for the**
 9 **previous quarter.**

10 **(4) For the quarter ending June 30 of a year, an amount equal**
 11 **to:**

12 **(A) eight hundred seventy-five thousand dollars**
 13 **(\$875,000); plus**

14 **(B) the greater of zero (0) or the result of:**

15 **(i) the limit determined for the previous quarter under**
 16 **this subsection; minus**

17 **(ii) the aggregate amount of claims approved for the**
 18 **previous quarter.**

19 SECTION 5. IC 6-8.1-4-4 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The department
 21 shall establish a registration center to service owners of commercial
 22 motor vehicles.

23 (b) The registration center is under the supervision of the
 24 department through the motor carrier services division.

25 (c) An owner or operator of a commercial motor vehicle may apply
 26 to the registration center for the following:

27 (1) Vehicle registration (IC 9-18).

28 (2) Motor carrier fuel tax annual permit.

29 **(3) Proportional use credit certificate (IC 6-6-4.1-4.7).**

30 ~~(4)~~ (4) Certificate of operating authority.

31 ~~(5)~~ (5) Oversize vehicle permit (IC 9-20-3).

32 ~~(6)~~ (6) Overweight vehicle permit (IC 9-20-4).

33 (d) Funding for the development and operation of the registration
 34 center shall be taken from the motor carrier regulation fund (IC
 35 8-2.1-23-1).

36 (e) The department shall recommend to the general assembly other
 37 functions that the registration center may perform.

38 SECTION 6. [EFFECTIVE JULY 1, 1999] **(a) Notwithstanding**
 39 **IC 6-6-4.1-4.7(c), as added by this act, a carrier that seeks to claim**
 40 **a proportional use credit under IC 6-6-4.1-4(d) or IC 6-6-4.1-4.5(d)**
 41 **for taxes first due and payable on October 31, 1999, or January 31,**
 42 **2000, must apply for certification under IC 6-6-4.1-4.7, as added by**



C
O
P
Y

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

this act, before October 1, 1999.

(b) This SECTION expires August 1, 2000.

SECTION 7. [EFFECTIVE JULY 1, 1999] (a) The percentage of a carrier's fuel consumption that is eligible under IC 6-6-4.1-4 and IC 6-6-4.1-4.5 for the proportional use exemption, as determined by a rule of the department of state revenue that is in effect on January 1, 1998, shall remain in effect until July 1, 2001, as the percentage of a carrier's fuel that is eligible for a proportional use credit under IC 6-6-4.1-4(d) and IC 6-6-4.1-4.5(d), both as amended by this act.

(b) If, after June 30, 2001, the commissioner of the department of state revenue determines on the basis of studies or other competent evidence that the percentages set forth in 45 IAC 13-4-7 do not accurately reflect actual fuel consumption that is eligible for the proportional use credit, the department may adopt rules to change those percentages or may establish by rule a different method of determining the percentage of a carrier's fuel consumption that is eligible under IC 6-6-4.1-4 or IC 6-6-4.1-4.5, both as amended by this act, for the proportional use credit. A rule adopted by the department under this SECTION that determines eligible fuel consumption based on the type of vehicle must allow a carrier to receive a greater proportional use credit upon a showing that the carrier's actual eligible fuel consumption exceeded the amount determined under the rule.

(c) This SECTION expires January 1, 2003.

C
O
P
Y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1789, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 20, delete "four" and insert "**three**".

Page 4, line 21, before "dollars" insert "**five hundred thousand**".

Page 4, line 21, delete "\$4,000,000" and insert "**(\$3,500,000)**".

Page 4, line 27, delete "five" and insert "**three**".

Page 4, line 27, after "hundred" insert "**seventy-five**".

Page 4, line 27, delete "\$1,500,000" and insert "**(\$1,375,000)**".

Page 4, line 36, delete "seven" and insert "**six**".

Page 4, line 36, delete "fifty" and insert "**twenty-five**".

Page 4, line 36, delete "\$750,000" and insert "**(\$625,000)**".

Page 5, line 2, delete "seven" and insert "**six**".

Page 5, line 2, delete "fifty" and insert "**twenty-five**".

Page 5, line 2, delete "\$750,000" and insert "**(\$625,000)**".

Page 5, line 10, delete "one million" and insert "**eight hundred seventy-five thousand**".

Page 5, line 10, delete "\$1,000,000" and insert "**(\$875,000)**".

and when so amended that said bill do pass.

(Reference is to HB 1789 as introduced.)

BAUER, Chair

Committee Vote: yeas 25, nays 0.

C
O
P
Y

