

HOUSE BILL No. 1789

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-6-4.1; IC 6-8.1-4-4.

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 \$4,000,000 of credits in a state fiscal year.

Effective: July 1, 1999.

Kruzan, Buell, Crooks

January 26, 1999, read first time and referred to Committee on Ways and Means.

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Introduced

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

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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**

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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

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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 four million
 21 dollars (\$4,000,000) of proportional use credits under this section
 22 in a state fiscal year. In addition, the amount of proportional use
 23 credits the department may approve under this section for a
 24 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 five hundred thousand dollars (\$1,500,000);
 28 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) seven hundred fifty thousand dollars (\$750,000); plus

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

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

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

42 (3) For the quarter ending March 31 of a year, an amount

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1 equal to:

2 (A) seven hundred fifty thousand dollars (\$750,000); plus

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

4 (i) the limit determined for the previous quarter under
5 this subsection; minus

6 (ii) the aggregate amount of claims approved for the
7 previous quarter.

8 (4) For the quarter ending June 30 of a year, an amount equal
9 to:

10 (A) one million dollars (\$1,000,000); plus

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

12 (i) the limit determined for the previous quarter under
13 this subsection; minus

14 (ii) the aggregate amount of claims approved for the
15 previous quarter.

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

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

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

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

25 (2) Motor carrier fuel tax annual permit.

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

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

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

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

30 (d) Funding for the development and operation of the registration
31 center shall be taken from the motor carrier regulation fund (IC
32 8-2.1-23-1).

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

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

41 (b) **This SECTION expires August 1, 2000.**

42 SECTION 7. [EFFECTIVE JULY 1, 1999] (a) **The percentage of**

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

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

22 (c) This SECTION expires January 1, 2003.

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