

IC 6-6-4.1

Chapter 4.1. Motor Carrier Fuel Tax

IC 6-6-4.1-1

Definitions

Sec. 1. As used in this chapter:

(a) "Carrier" means a person who operates or causes to be operated a commercial motor vehicle on any highway in Indiana.

(b) "Commercial motor vehicle" means a vehicle which is listed in section 2(a) of this chapter and which is not excluded from the application of this chapter under section 2(b) of this chapter.

(c) "Commissioner" means the commissioner of the Indiana department of state revenue.

(d) "Declared gross weight" means the weight at which a motor vehicle is registered with:

- (1) the bureau of motor vehicles; or
- (2) a state other than Indiana.

(e) "Department" means the Indiana department of state revenue.

(f) "Highway" means the entire width between the boundary lines of every publicly maintained way that is open in any part to the use of the public for purposes of vehicular travel.

(g) "Motor fuel" means gasoline (as defined in IC 6-6-1.1), special fuel (as defined in IC 6-6-2.5), and alternative fuel (as defined in IC 6-6-2.5).

(h) "Quarter" means calendar quarter.

(i) "Motor vehicle" has the meaning set forth in IC 6-6-1.1-103.

(j) "Recreational vehicle" means motor homes, pickup trucks with attached campers, and buses when used exclusively for personal pleasure. A vehicle is not a recreational vehicle if the vehicle is used in connection with a business.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.73-1986, SEC.16; P.L.96-1989, SEC.8; P.L.60-1990, SEC.3; P.L.277-1993(ss), SEC.45.

IC 6-6-4.1-2

Applicability of chapter

Sec. 2. (a) Except as provided in subsection (b), this chapter applies to each:

- (1) road tractor;
- (2) tractor truck;
- (3) truck having more than two (2) axles;
- (4) truck having a gross weight or a declared gross weight greater than twenty-six thousand (26,000) pounds; and
- (5) vehicle used in combination if the gross weight or the declared gross weight of the combination is greater than twenty-six thousand (26,000) pounds;

that is propelled by motor fuel.

(b) This chapter does not apply to the following:

- (1) A vehicle operated by:
 - (A) this state;

- (B) a political subdivision (as defined in IC 36-1-2-13);
 - (C) the United States; or
 - (D) an agency of states and the United States, or of two (2) or more states, in which this state participates.
- (2) A school bus (as defined by the laws of a state) operated by, for, or on behalf of a:
- (A) state;
 - (B) political subdivision (as defined in IC 36-1-2-13) of a state; or
 - (C) private or privately operated school.
- (3) A vehicle used in casual or charter bus operations.
- (4) Trucks, trailers, or semitrailers and tractors that are qualified to be registered and used as farm trucks, farm trailers, or farm semitrailers and tractors and that are registered as such by the bureau of motor vehicles under IC 9-18 or under a similar law of another state.
- (5) An intercity bus (as defined in IC 9-13-2-83).
- (6) A vehicle described in subsection (a)(1) through (a)(5) when the vehicle is displaying a dealer registration plate.
- (7) A recreational vehicle.
- (8) A pickup truck that:
- (A) is modified to include a third free rotating axle;
 - (B) has a gross weight not greater than twenty-six thousand (26,000) pounds; and
 - (C) is operated solely for personal use and not for commercial use.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.89-1983, SEC.1; P.L.77-1985, SEC.26; P.L.97-1987, SEC.37; P.L.8-1988, SEC.3; P.L.96-1989, SEC.9; P.L.60-1990, SEC.4; P.L.2-1991, SEC.42; P.L.24-2007, SEC.1; P.L.45-2011, SEC.1.

IC 6-6-4.1-3

Leased motor vehicles

Sec. 3. (a) Except as otherwise provided in this section, every commercial motor vehicle leased to a carrier is subject to this chapter to the same extent and in the same manner as commercial motor vehicles owned by the carrier.

(b) Except as provided in subsection (f), the department may consider a lessor of commercial motor vehicles to be a carrier with respect to the operation of the vehicles it leases to others if the lessor:

- (1) supplies or pays for the motor fuel consumed by the vehicles; or
- (2) makes rental or other charges calculated to include the cost of the motor fuel consumed by the vehicles.

(c) The department shall provide, by rules adopted under IC 4-22-2, for the presentation by a lessor to other carriers and to the public of evidence and identification of carrier status determined under this section.

(d) Any commercial motor vehicles leased from a lessor who is

considered a carrier under subsection (b) may be excluded from the lessee's reports and liabilities under this chapter.

(e) This section governs the primary liability under this chapter of lessors and lessees of commercial motor vehicles. If a lessor or lessee who is primarily liable fails, in whole or in part, to discharge the lessor's or lessee's liability, the lessor or lessee and the other lessor or lessee who is a party to the lease transaction are responsible for compliance with this chapter and are jointly and severally liable for payment of the tax. However, the aggregate taxes collected by the department may not exceed the amount of tax that would have resulted from the operation of the leased vehicle by the owner, plus any applicable costs and penalties.

(f) This subsection does not apply if the motor vehicle is leased to the same person under two (2) or more consecutive leases. If a motor vehicle is leased for less than thirty (30) days, the holder of an annual permit issued under section 12 of this chapter for the motor vehicle is liable for the motor carrier fuel tax.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.96-1989, SEC.10.

IC 6-6-4.1-4

Imposition of tax; rates; computation of amount of fuel consumed in Indiana

Sec. 4. (a) A tax is imposed on the consumption of motor fuel by a carrier in its operations on highways in Indiana. The rate of this tax is the same rate per gallon as the rate per gallon at which special fuel is taxed under IC 6-6-2.5. The tax shall be paid quarterly by the carrier to the department on or before the last day of the month immediately following the quarter.

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

(c) The amount of tax that a carrier shall pay for a particular quarter under this section equals the product of the tax rate in effect for that quarter, multiplied by the amount of motor fuel consumed by the carrier in its operation on highways in Indiana and upon which the carrier has not paid tax imposed under IC 6-6-1.1 or IC 6-6-2.5.

(d) Subject to section 4.8 of this chapter, a carrier is entitled to a proportional use credit against the tax imposed under this section for that portion of motor fuel used to propel equipment mounted on a motor vehicle having a common reservoir for locomotion on the highway and the operation of the equipment, as determined by rule of the commissioner. An application for a proportional use credit under this subsection shall be filed on a quarterly basis on a form prescribed by the department.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.90-1983,

SEC.1; P.L.77-1985, SEC.27; P.L.59-1985, SEC.16; P.L.97-1987, SEC.38; P.L.69-1991, SEC.12; P.L.277-1993(ss), SEC.46; P.L.85-1995, SEC.31; P.L.222-1999, SEC.3.

IC 6-6-4.1-4.5

Surtax on motor fuel consumed by carrier in Indiana highway operations

Sec. 4.5. (a) A surcharge tax is imposed on the consumption of motor fuel by a carrier in its operations on highways in Indiana. The rate of this surcharge tax is eleven cents (\$0.11) per gallon. The tax shall be paid quarterly by the carrier to the department on or before the last day of the month immediately following the quarter.

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

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

(d) Subject to section 4.8 of this chapter, a carrier is entitled to a proportional use credit against the tax imposed under this section for that portion of motor fuel used to propel equipment mounted on a motor vehicle having a common reservoir for locomotion on the highway and the operation of this equipment as determined by rule of the commissioner. An application for a proportional use credit under this subsection shall be filed on a quarterly basis on a form prescribed by the department.

As added by P.L.59-1985, SEC.17. Amended by P.L.8-1988, SEC.4; P.L.69-1991, SEC.13; P.L.85-1995, SEC.32; P.L.222-1999, SEC.4.

IC 6-6-4.1-4.7

Certification for proportional use credit

Sec. 4.7. (a) This section applies only to a claim for a proportional use credit under section 4(d) or 4.5(d) of this chapter for taxes first due and payable after July 31, 1999.

(b) A carrier must be certified by the department in order to qualify for a proportional use credit under section 4(d) or 4.5(d) of this chapter.

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

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

- (2) The address of the carrier's principal place of business.
- (3) A description of each of the carrier's vehicles that has a common fuel supply reservoir for both locomotion on a public highway and a commercial purpose.
- (4) The vehicle identification number for each vehicle described in subdivision (3).

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

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

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

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

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

As added by P.L.222-1999, SEC.5.

IC 6-6-4.1-4.8

Claim for proportional use credit

Sec. 4.8. (a) This section applies only to a claim for a proportional use credit under section 4(d) or 4.5(d) of this chapter for taxes first due and payable after July 31, 1999.

(b) In order to obtain a proportional use credit against taxes imposed under section 4 or 4.5 of this chapter, a carrier must file a claim with the department. The claim must be submitted on a form prescribed by the department and must be filed with the quarterly return for the taxable period for which the proportional use credit is claimed. A carrier is not entitled to a proportional use credit under section 4(d) or 4.5(d) of this chapter unless the carrier:

- (1) has paid in full the taxes to which the credit applies; and
- (2) has filed a claim for the credit on or before the due date of the corresponding quarterly return for the taxable period for which the proportional use credit is claimed.

A credit approved under this section shall, subject to this section, be refunded to the carrier without interest.

(c) The department shall determine the aggregate amount of proportional use credits claimed under section 4(d) or 4.5(d) of this chapter for each quarter. The department may approve the full amount of a proportional use credit claimed by a carrier if the aggregate amount of proportional use credits claimed for the quarter

and for the fiscal year do not exceed the limits set forth in subsection (d). If the aggregate amount of proportional use credits claimed in a quarter exceeds the limits set forth in subsection (d), the department shall pay the claims for that quarter on a pro rata basis.

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

(1) For the quarter ending September 30 of a year, an amount equal to one million three hundred seventy-five thousand dollars (\$1,375,000).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

As added by P.L.222-1999, SEC.6. Amended by P.L.176-2006, SEC.5.

IC 6-6-4.1-5

Disposition of tax revenue

Sec. 5. (a) The department shall deposit revenue collected under sections 4 and 12 of this chapter in the state highway fund (IC 8-23-9-54).

(b) The department shall deposit revenue collected under section 4.5 of this chapter as follows:

(1) Forty-five and one-half percent (45.5%) in the state highway

fund (IC 8-23-9-54).

(2) Forty-five and one-half percent (45.5%) in the motor vehicle highway account (IC 8-14-1).

(3) Nine percent (9%) in the motor carrier regulation fund administered by the department.

(c) The department shall deposit revenue collected under section 13 of this chapter as follows:

(1) Thirty-five percent (35%) in the motor vehicle highway account (IC 8-14-1).

(2) Sixty-five percent (65%) in the state highway fund (IC 8-23-9-54).

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.59-1985, SEC.18; P.L.8-1988, SEC.5; P.L.18-1990, SEC.23.

IC 6-6-4.1-6

Credits against tax

Sec. 6. (a) A carrier is entitled to a credit against the tax imposed under section 4 of this chapter if the carrier, or a lessor operating under the carrier's annual permit, has:

(1) paid the tax imposed under IC 6-6-1.1 or IC 6-6-2.5 on motor fuel purchased in Indiana;

(2) consumed the motor fuel outside Indiana; and

(3) paid a gasoline, special fuel, or road tax with respect to the fuel in one (1) or more other states or jurisdictions.

(b) The amount of credit for a quarter is equal to the tax paid under IC 6-6-1.1 and IC 6-6-2.5 on motor fuel that:

(1) was purchased in Indiana;

(2) was consumed outside Indiana; and

(3) with respect to which the carrier paid a gasoline, special fuel, or road tax to another state or jurisdiction.

(c) To qualify for the credit, the carrier shall submit any evidence required by the department of payment of the tax imposed under IC 6-6-1.1 or IC 6-6-2.5.

(d) A credit earned by a carrier in a particular quarter shall be applied against the carrier's tax liability under this chapter for that quarter before any credit carryover is applied against that liability under section 7 of this chapter.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.77-1985, SEC.28; P.L.277-1993(ss), SEC.47.

IC 6-6-4.1-7

Computation of credits; refunds; interest

Sec. 7. (a) As used in this section, the credit of a carrier for any quarter is the amount by which the credit to which the carrier is entitled under section 6 of this chapter for that quarter exceeds the tax liability of the carrier under section 4 of this chapter for that quarter.

(b) The credit for any quarter shall be allowed as a credit against the tax for which the carrier would otherwise be liable in the quarter in which the credit accrued.

(c) A carrier is entitled to the refund of any credit not previously used to offset a tax liability or for any erroneously paid tax or penalty. To obtain the refund, the carrier shall submit to the department a properly completed application in accordance with rules adopted by the department under IC 4-22-2. The application must be submitted within three (3) years after the end of:

- (1) the quarter in which the credit accrued; or
- (2) the calendar year that contains the taxable period in which the tax or penalty was erroneously paid.

Along with the application, the carrier shall submit any evidence required by the department and any reports required by the department under this chapter.

(d) The department shall pay interest on any part of a refund that is not made within ninety (90) days after the date on which all of the following have been completed:

- (1) The filing of:
 - (A) the properly completed application for refund; or
 - (B) the quarterly return on which a refund is claimed.
- (2) The submission of any evidence required by the department of payment of the tax imposed under IC 6-6-1.1 or IC 6-6-2.5.
- (3) The submission of reports required by the department under this chapter.
- (4) The furnishing of a surety bond, letter of credit, or cash deposit under section 8 of this chapter.

(e) The department shall pay interest at the rate established under IC 6-8.1-9 from the date of:

- (1) the refund application;
- (2) the due date of a timely filed quarterly return on which a refund is claimed; or
- (3) the filing date of a quarterly return on which a refund is claimed, if the quarterly refund is filed after the due date of the quarterly return;

to a date determined by the department that does not precede the date on which the refund is made by more than thirty (30) days.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.77-1985, SEC.29; P.L.97-1987, SEC.39; P.L.96-1989, SEC.11; P.L.69-1991, SEC.14; P.L.277-1993(ss), SEC.48.

IC 6-6-4.1-7.1

Class action for refund of tax; prerequisites

Sec. 7.1. A class action for the refund of a tax subject to this chapter may not be maintained in any court, including the Indiana tax court, on behalf of any person who has not complied with the requirements of section 7 of this chapter before the certification of a class. A refund of taxes to a member of a class in a class action is subject to the time limits set forth in section 7 of this chapter based on the time the class member filed the required claim for refund with the department.

As added by P.L.60-1990, SEC.5. Amended by P.L.1-1991, SEC.66.

IC 6-6-4.1-8

Bond, letter of credit, or cash deposit; furnishing; release from liability; retaining cash deposit

Sec. 8. (a) A carrier shall, at the request of the department and for cause, furnish a surety bond, letter of credit, or cash deposit to the department in order to ensure payment of the taxes imposed under this chapter and to permit the department to make a refund to the carrier under section 7 of this chapter. The bond, letter of credit, or cash deposit must be:

- (1) in an amount of not less than two (2) times the amount of tax due or refund requested under this chapter for the reporting period applicable to the carrier, as determined by the department;
- (2) payable to the state;
- (3) conditioned that the carrier will pay all taxes for which the carrier is or becomes liable under this chapter from the date of the bond, letter of credit, or cash deposit to thirty (30) days after either the carrier, the surety, or the financial institution notifies the department that the bond, letter of credit, or cash deposit has been cancelled; and
- (4) executed by a surety authorized under Indiana law in the case of a bond or by a financial institution approved by the commissioner in the case of a letter of credit.

(b) Sixty (60) days after making a written request for release to the commissioner, the surety of a bond furnished by a carrier is released from any liability to the state accruing on the bond after the sixty (60) day period. The release does not affect any liability accruing before the expiration of the sixty (60) day period.

(c) One hundred eighty (180) days after making a written request for release to the commissioner, the financial institution issuing the letter of credit for a carrier is released from any liability accruing on the letter of credit.

(d) The commissioner shall promptly notify the carrier furnishing the bond or letter of credit that a release has been requested. Unless the carrier furnishes a new bond within the sixty (60) day period or a new letter of credit within the one hundred eighty (180) day period, the commissioner shall cancel the carrier's annual permit.

(e) Sixty (60) days after making a written request for release to the commissioner, the cash deposit provided by a carrier is cancelled as security for any obligation accruing after the expiration of the sixty (60) day period. However, the administrator may retain all or part of the cash deposit for up to three (3) years and one (1) day as security for any obligation accruing before the effective date of the cancellation. Any part of the deposit that is not retained by the commissioner shall be released to the carrier. Before the expiration of the sixty (60) day period, the carrier must provide a bond or letter of credit or the commissioner shall cancel the carrier's annual permit.

(f) The department has cause for requiring security from a carrier under this section if:

- (1) a carrier fails to file timely reports required by this chapter;

- (2) a carrier fails to remit the tax imposed by this chapter; or
- (3) an audit of a carrier's operations under this chapter causes the department to reasonably believe that tax collection or remittance required by this chapter is in jeopardy.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.77-1985, SEC.30; P.L.97-1987, SEC.40; P.L.60-1990, SEC.6.

IC 6-6-4.1-9

Presumption of consumption rate

Sec. 9. If there are no records showing the number of miles actually operated per gallon of motor fuel and if section 11(c) of this chapter is inapplicable, it is presumed for purposes of this chapter that one (1) gallon of motor fuel is consumed for every four (4) miles traveled.

As added by Acts 1982, P.L.59, SEC.1.

IC 6-6-4.1-10 Version a

Quarterly reports; exemptions

Note: This version of section effective until 1-1-2012. See also following version of this section, effective 1-1-2012.

Sec. 10. (a) Except as provided in section 13 of this chapter, each carrier subject to the tax imposed under this chapter shall submit to the department such quarterly reports of the operations of commercial motor vehicles giving rise to the carrier's tax liability as the department may require. The carrier shall submit each quarterly report required under this subsection on or before the last day of the month immediately following that quarter.

(b) Subject to the restrictions of this subsection and subsection (c), the department may, by rules adopted under IC 4-22-2, exempt any carrier from the quarterly reporting requirements of this section. The department may exempt only a carrier who submits an annual affidavit attesting that:

- (1) all or substantially all of the mileage of the carrier in the previous calendar year was the result of operations in Indiana;
- (2) all or substantially all of the motor fuel used in the operations of the carrier in the previous calendar year was purchased in Indiana; or
- (3) the carrier is from a state that has a reciprocity agreement with the state of Indiana relating to motor fuel taxes.

(c) The department may exempt carriers under subsection (b) only if:

- (1) granting exemptions will not adversely affect the enforcement of this chapter; and
- (2) the carriers that apply for exemptions purchased an equitable amount of motor fuel in Indiana.

(d) Each carrier shall submit to the department any other reports required by the department.

As added by Acts 1982, P.L.59, SEC.1.

IC 6-6-4.1-10 Version b

Quarterly reports; exemptions

Note: This version of section effective 1-1-2012. See also preceding version of this section, effective until 1-1-2012.

Sec. 10. (a) Except as provided in section 13 of this chapter, each carrier subject to the tax imposed under this chapter shall submit to the department such quarterly reports of the operations of commercial motor vehicles giving rise to the carrier's tax liability as the department may require. The carrier shall submit each quarterly report required under this subsection on or before the last day of the month immediately following that quarter.

(b) Subject to the restrictions of this subsection and subsection (c), the department may, by rules adopted under IC 4-22-2, exempt any carrier from the quarterly reporting requirements of this section. The department may exempt only a carrier who submits an annual affidavit attesting that:

- (1) all or substantially all of the mileage of the carrier in the previous calendar year was the result of operations in Indiana;
- (2) all or substantially all of the motor fuel used in the operations of the carrier in the previous calendar year was purchased in Indiana; or
- (3) the carrier is from a state that has a reciprocity agreement with the state of Indiana relating to motor fuel taxes.

(c) The department may exempt carriers under subsection (b) only if:

- (1) granting exemptions will not adversely affect the enforcement of this chapter; and
- (2) the carriers that apply for exemptions purchased an equitable amount of motor fuel in Indiana.

(d) Each carrier shall submit to the department any other reports required by the department.

(e) All reports required to be filed under this chapter must be filed in an electronic format prescribed by the department.

(f) All taxes required to be remitted under this chapter must be remitted in an electronic format prescribed by the department.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.45-2011, SEC.2.

IC 6-6-4.1-11

Pooled services; joint reports; calculation of tax; contents of reports

Sec. 11. (a) In lieu of filing individual reports under section 10 of this chapter, two (2) or more carriers regularly engaged in the transportation of passengers on through buses and through tickets in pooled service may make joint reports of their operations in Indiana. The tax imposed by this chapter shall be calculated on the basis of the joint reports as though the carriers were a single carrier. The carriers making the reports are jointly and severally liable for the tax.

(b) Joint reports made under subsection (a) must show the total number of miles traveled in Indiana and the total number of gallons of motor fuel purchased in Indiana by the reporting carriers. Credits

or refunds to which the carriers making a joint return are entitled are not allowed as credits or refunds to any other carrier. Carriers filing joint reports shall permit all carriers engaged in pooled operations with them in Indiana to join them in filing joint reports.

(c) For purposes of this chapter, there is a rebuttable presumption that the vehicles of carriers filing joint reports consumed one (1) gallon of motor fuel for every six (6) miles traveled.

As added by Acts 1982, P.L.59, SEC.1.

IC 6-6-4.1-12

Annual permit, cab card, and emblem

Sec. 12. (a) Except as authorized under section 13 of this chapter, a carrier may operate a commercial motor vehicle upon the highways in Indiana only if the carrier has been issued an annual permit, cab card, and emblem under this section.

(b) The department shall issue:

(1) an annual permit; and

(2) a cab card and an emblem for each commercial motor vehicle that will be operated by the carrier upon the highways in Indiana;

to a carrier who applies for an annual permit and pays to the department an annual permit fee of twenty-five dollars (\$25) not later than September 1 of the year before the annual permit is effective under subsection (c).

(c) The annual permit, cab card, and emblem are effective from January 1 of each year through December 31 of the same year. The department may extend the expiration date of the annual permit, cab card, and emblem for no more than sixty (60) days. The annual permit, each cab card, and each emblem issued to a carrier remain the property of this state and may be suspended or revoked by the department for any violation of this chapter or of the rules concerning this chapter adopted by the department under IC 4-22-2.

(d) As evidence of compliance with this section, and for the purpose of enforcement, a carrier shall display on each commercial motor vehicle an emblem when the vehicle is being operated by the carrier in Indiana. The carrier shall affix the emblem to the vehicle in the location designated by the department. The carrier shall display in each vehicle the cab card issued by the department. The carrier shall retain the original annual permit at the address shown on the annual permit. During the month of December, the carrier shall display the cab card and emblem that are valid through December 31 or a full year cab card and emblem issued to the carrier for the ensuing twelve (12) months. If the department grants an extension of the expiration date, the carrier shall continue to display the cab card and emblem upon which the extension was granted.

(e) If a commercial motor vehicle is operated by more than one (1) carrier, as evidence of compliance with this section and for purposes of enforcement each carrier shall display in the commercial motor vehicle a reproduced copy of the carrier's annual permit when the vehicle is being operated by the carrier in Indiana.

(f) A person who fails to display an emblem required by this section on a commercial motor vehicle, does not have proof in the vehicle that the annual permit has been obtained, and operates that vehicle on an Indiana highway commits a Class C infraction. Each day of operation without an emblem constitutes a separate infraction. Notwithstanding IC 34-28-5-4, a judgment of not less than one hundred dollars (\$100) shall be entered for each Class C infraction under this subsection.

(g) A person who displays an altered, false, or fictitious cab card required by this section in a commercial motor vehicle, does not have proof in the vehicle that the annual permit has been obtained, and operates that vehicle on an Indiana highway commits a Class C infraction. Each day of operation with an altered, false, or fictitious cab card constitutes a separate infraction.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.77-1985, SEC.31; P.L.8-1988, SEC.6; P.L.60-1990, SEC.7; P.L.69-1991, SEC.15; P.L.1-1998, SEC.82; P.L.182-2009(ss), SEC.235.

IC 6-6-4.1-13

Special trip permits; repair and maintenance permits

Sec. 13. (a) A carrier may, in lieu of paying the tax imposed under this chapter that would otherwise result from the operation of a particular commercial motor vehicle, obtain from the department a trip permit authorizing the carrier to operate the commercial motor vehicle for a period of five (5) consecutive days. The department shall specify the beginning and ending days on the face of the permit. The fee for a trip permit for each commercial motor vehicle is fifty dollars (\$50). The report otherwise required under section 10 of this chapter is not required with respect to a vehicle for which a trip permit has been issued under this subsection.

(b) The department may issue a temporary written authorization if unforeseen or uncertain circumstances require operations by a carrier of a commercial motor vehicle for which neither a trip permit described in subsection (a) nor an annual permit described in section 12 of this chapter has been obtained. A temporary authorization may be issued only if the department finds that undue hardship would result if operation under a temporary authorization were prohibited. A carrier who receives a temporary authorization shall:

- (1) pay the trip permit fee at the time the temporary authorization is issued; or
- (2) subsequently apply for and obtain an annual permit.

(c) A carrier may obtain an International Fuel Tax Agreement (IFTA) repair and maintenance permit to:

- (1) travel from another state into Indiana to repair or maintain any of the carrier's motor vehicles, semitrailers (as defined in IC 9-13-2-164), or trailers (as defined in IC 9-13-2-184); and
- (2) return to the same state after the repair or maintenance is completed.

The permit allows the travel described in this section. In addition to any other fee established in this chapter, and instead of paying the

quarterly motor fuel tax imposed under this chapter, a carrier may pay an annual IFTA repair and maintenance fee of forty dollars (\$40) and receive an IFTA annual repair and maintenance permit. The IFTA annual repair and maintenance permit and fee applies to all of the motor vehicles operated by a carrier. The IFTA annual repair and maintenance permit is not transferable to another carrier. A carrier may not carry cargo or passengers under the IFTA annual repair and maintenance permit. All fees collected under this subsection shall be deposited in the motor carrier regulation fund (IC 8-2.1-23). The report otherwise required under section 10 of this chapter is not required with respect to a motor vehicle that is operated under an IFTA annual repair and maintenance permit.

(d) A carrier may obtain an International Registration Plan (IRP) repair and maintenance permit to:

- (1) travel from another state into Indiana to repair or maintain any of the carrier's motor vehicles, semitrailers (as defined in IC 9-13-2-164), or trailers (as defined in IC 9-13-2-184); and
- (2) return to the same state after the repair or maintenance is completed.

The permit allows the travel described in this section. In addition to any other fee established in this chapter, and instead of paying apportioned or temporary IRP fees under IC 9-18-2 or IC 9-18-7, a carrier may pay an annual IRP repair and maintenance fee of forty dollars (\$40) and receive an IRP annual repair and maintenance permit. The IRP annual repair and maintenance permit and fee applies to all of the motor vehicles operated by a carrier. The IRP annual repair and maintenance permit is not transferable to another carrier. A carrier may not carry cargo or passengers under the IRP annual repair and maintenance permit. All fees collected under this subsection shall be deposited in the motor carrier regulation fund (IC 8-2.1-23).

(e) A person may obtain a repair and maintenance permit to:

- (1) move an unregistered off-road vehicle from a quarry or mine to a maintenance or repair facility; and
- (2) return the unregistered off-road vehicle to its place of origin.

The fee for the permit is forty dollars (\$40). The permit is an annual permit and applies to all unregistered off-road vehicles from the same quarry or mine.

(f) A carrier may obtain a repair, maintenance, and relocation permit to:

- (1) move a yard tractor from a terminal or loading or spotting facility to:
 - (A) a maintenance or repair facility; or
 - (B) another terminal or loading or spotting facility; and
- (2) return the yard tractor to its place of origin.

The fee for the permit is forty dollars (\$40). The permit is an annual permit and applies to all yard tractors operated by the carrier. The permit is not transferable to another carrier. A carrier may not carry cargo or transport or draw a semitrailer or other vehicle under the permit. A carrier may operate a yard tractor under the permit instead

of paying the tax imposed under this chapter. A yard tractor that is being operated on a public highway under this subsection must display a license plate issued under IC 9-18-32. As used in this section, "yard tractor" has the meaning set forth under IC 9-13-2-201.

(g) The department shall establish procedures, by rules adopted under IC 4-22-2, for:

- (1) the issuance and use of trip permits, temporary authorizations, and repair and maintenance permits; and
- (2) the display in commercial motor vehicles of evidence of compliance with this chapter.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.77-1985, SEC.32; P.L.59-1985, SEC.19; P.L.46-1994, SEC.1; P.L.88-1998, SEC.1; P.L.150-2001, SEC.1; P.L.182-2009(ss), SEC.236.

IC 6-6-4.1-14

Reciprocity

Sec. 14. (a) The commissioner or, with the commissioner's approval, the reciprocity commission created by IC 9-28-4 may enter into and become a member of the International Fuel Tax Agreement or other reciprocal agreements with the appropriate official or officials from any other state or jurisdiction under which all or any part of the requirements of the Indiana Administrative Code are waived with respect to motor carriers that use in Indiana motor fuel upon which tax has been paid to the other state or jurisdiction. An agreement may be made under this subsection only with a state or jurisdiction that grants equivalent privileges with respect to motor fuel consumed in the other state or jurisdiction and on which a tax has been paid to this state.

(b) The commissioner or, with the commissioner's approval, the reciprocity commission created by IC 9-28-4 may enter into the International Registration Plan, the International Fuel Tax Agreement, or other reciprocal agreements with the appropriate official or officials of any other state or jurisdiction to exempt commercial motor vehicles licensed in the other state or jurisdiction from any of the requirements that would otherwise be imposed by this chapter, including the requirements for trip permits, temporary authorizations, repair and maintenance permits, and annual permits and the payment of fees for permits and authorizations. An agreement may be made under this subsection only with a state or jurisdiction that grants equivalent exemptions to motor vehicles licensed in Indiana.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.2-1991, SEC.43; P.L.46-1994, SEC.2; P.L.129-2001, SEC.11.

IC 6-6-4.1-14.5

Limitations

Sec. 14.5. (a) The International Fuel Tax Agreement and any other agreement authorized under IC 6-6, IC 6-8.1, or IC 9-28 shall be limited to the following matters:

- (1) Determining the base state for users.

- (2) Specifying records requirements for users.
- (3) Specifying audit procedures.
- (4) Exchanging information.
- (5) Defining persons eligible for tax licensing.
- (6) Defining qualified motor vehicles.
- (7) Determining if bonding is required.
- (8) Specifying reporting requirements and periods, including the following:
 - (A) Establishing uniform penalties and interest rates for late reporting.
 - (B) Determining methods for collecting and forwarding motor fuel taxes, special fuel taxes, and penalties to another state or jurisdiction.
- (9) Any other provisions designed to facilitate the administration of the agreement.

(b) The International Fuel Tax Agreement and any other agreement authorized under IC 6-6, IC 6-8.1, or IC 9-28 do not limit the authority of the general assembly to do any of the following:

- (1) Determine whether to impose a tax.
- (2) Determine tax rates.
- (3) Define tax exemptions or deductions.
- (4) Determine what constitutes a taxable event that results in the imposition of a tax.
- (5) Determine any other matters related to the powers described in subdivisions (1) through (4).

As added by P.L.129-2001, SEC.12.

IC 6-6-4.1-15

Enforcement

Sec. 15. The commissioner shall enforce this chapter. The state police department shall assist the commissioner in the enforcement of this chapter.

As added by Acts 1982, P.L.59, SEC.1.

IC 6-6-4.1-16

Agreements for cooperative audit of reports and returns

Sec. 16. The department may enter into the International Fuel Tax Agreement or any other agreements for:

- (1) furnishing information to and receiving information from other states, jurisdictions, or the International Fuel Tax Agreement clearinghouse, except as prohibited by IC 6-8.1-3-7; and
- (2) the cooperative audit of the reports and returns of carriers with the appropriate authorities of any other state or jurisdiction that imposes a tax similar to the tax imposed under this chapter.

An officer or employee of another state or jurisdiction who audits reports and returns under an agreement made under this chapter or IC 6-8.1-3-12 is considered an authorized agent of this state for the purpose of the audit. A cooperative audit conducted under an agreement made under this section has the same effect as an audit

conducted by the department.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.129-2001, SEC.13.

IC 6-6-4.1-17 Version a

Suspension or revocation of permit or temporary authorization; reinstatement

Note: This version of section effective until 1-1-2012. See also following version of this section, effective 1-1-2012.

Sec. 17. If a carrier:

- (1) fails to file a quarterly report required by this chapter;
- (2) fails to pay the tax imposed under section 4 or section 4.5 of this chapter;
- (3) files a report after the date established under this chapter; or
- (4) with respect to a listed tax (as defined in IC 6-8.1-1-1), fails to file all tax returns or information reports or to pay all taxes, penalties, and interest;

the commissioner may suspend or revoke any annual permit, trip permit, temporary authorization, or repair and maintenance permit issued to the carrier. The commissioner may reinstate a permit or temporary authorization if a carrier files all required returns and reports and pays all outstanding liabilities.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.77-1985, SEC.33; P.L.59-1985, SEC.20; P.L.46-1994, SEC.3.

IC 6-6-4.1-17 Version b

Suspension or revocation of permit or temporary authorization; reinstatement

Note: This version of section effective 1-1-2012. See also preceding version of this section, effective until 1-1-2012.

Sec. 17. If a carrier:

- (1) fails to file a quarterly report required by this chapter;
- (2) fails to pay the tax imposed under section 4 or section 4.5 of this chapter;
- (3) files a report after the date established under this chapter;
- (4) with respect to a listed tax (as defined in IC 6-8.1-1-1), fails to file all tax returns or information reports or to pay all taxes, penalties, and interest;
- (5) fails to file a form or report required under this chapter or the International Fuel Tax Agreement in an electronic format prescribed by the department; or
- (6) fails to remit taxes under section 10(f) of this chapter;

the commissioner may suspend or revoke any annual permit, trip permit, temporary authorization, or repair and maintenance permit issued to the carrier. The commissioner may reinstate a permit or temporary authorization if a carrier files all required returns and reports and pays all outstanding liabilities.

As added by Acts 1982, P.L.59, SEC.1. Amended by P.L.77-1985, SEC.33; P.L.59-1985, SEC.20; P.L.46-1994, SEC.3; P.L.45-2011, SEC.3.

IC 6-6-4.1-18

Violations; penalties

Sec. 18. (a) A person who knowingly makes a false statement or knowingly presents a fraudulent receipt for the sale of motor fuel for the purpose of:

- (1) obtaining;
- (2) attempting to obtain; or
- (3) assisting any other person to obtain or attempt to obtain;

a credit, refund, or reduction of liability for the tax imposed under this chapter commits a Class C infraction.

(b) A carrier who knowingly violates this chapter, except for a violation covered by section 17 of this chapter, commits a Class C infraction.

As added by Acts 1982, P.L.59, SEC.1.

IC 6-6-4.1-19

Impoundment of commercial motor vehicle; release of cargo

Sec. 19. (a) The department or the state police department may impound a carrier's commercial motor vehicle if:

- (1) the carrier has not obtained an annual permit, a trip permit, a temporary authorization, or a repair and maintenance permit (as required under sections 12 through 13 of this chapter) and the vehicle is operating on an Indiana highway;
- (2) there is not an emblem displayed on the vehicle as required by section 12 of this chapter, the driver does not have proof in the vehicle that the annual permit has been obtained, and the vehicle is operating on an Indiana highway; or
- (3) the cab card required under section 12 of this chapter is altered, false, or fictitious, the driver does not have proof in the vehicle that the annual permit has been obtained, and the vehicle is operating on an Indiana highway.

(b) To obtain possession of a vehicle impounded under this section, the carrier must first obtain:

- (1) the annual permit, trip permit, temporary authorization, or repair and maintenance permit;
- (2) a cab card; and
- (3) an emblem for the vehicle;

as required by this chapter.

(c) Any cargo in an impounded vehicle shall be released, if the cargo is to be loaded into another commercial motor vehicle that is in compliance with this chapter.

As added by P.L.97-1987, SEC.41. Amended by P.L.8-1988, SEC.7; P.L.46-1994, SEC.4.

IC 6-6-4.1-20

Failure to keep books and records; penalty

Sec. 20. A person subject to the taxes imposed under sections 4 through 4.5 of this chapter who fails to keep the books and records as required by IC 6-8.1-5 is subject to the penalty imposed under IC 6-8.1-10-4.

As added by P.L.97-1987, SEC.42.

IC 6-6-4.1-21

Failure to file report; civil penalty

Sec. 21. A person subject to the taxes imposed under sections 4 through 4.5 of this chapter who fails to file a quarterly report as required by section 10 of this chapter shall pay a civil penalty of three hundred dollars (\$300) for each report that is not filed.

As added by P.L.97-1987, SEC.43.

IC 6-6-4.1-22

Interest on nonpayment

Sec. 22. (a) If a person:

- (1) fails to file a return for taxes due under this chapter;
- (2) fails to pay the full amount of tax shown on the person's return by the due date for the return or the payment; or
- (3) incurs a deficiency upon a determination by the department;

the person is subject to interest on the nonpayment.

(b) The interest for a failure described in subsection (a) is the rate of interest calculated under the interest provisions of the International Fuel Tax Agreement entered into by the department under IC 6-8.1-3-14.

As added by P.L.60-1990, SEC.8. Amended by P.L.129-2001, SEC.14.

IC 6-6-4.1-23

Penalty

Sec. 23. (a) If a person:

- (1) fails to file a return for the tax due under this chapter on or by the due date for the return;
- (2) fails to pay the full amount of tax shown on the person's return on or by the due date for the payment; or
- (3) incurs, upon examination by the department, a deficiency that is due to negligence;

the person is subject to a penalty.

(b) The penalty for a failure described in subsection (a) is the penalty calculated under the penalty provisions of the International Fuel Tax Agreement entered into by the department under IC 6-8.1-3-14.

As added by P.L.60-1990, SEC.9. Amended by P.L.1-1991, SEC.67; P.L.129-2001, SEC.15.

IC 6-6-4.1-24

Proposed assessment; protest; hearing

Sec. 24. (a) If the department believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department. The amount of the assessment is:

- (1) considered a tax payment not made by the due date;

- (2) subject to sections 22 and 23 of this chapter; and
- (3) subject to IC 6-8.1-10 concerning the imposition of penalties and interest.

(b) The department shall issue notice and prescribe a period for payment and protest under the provisions of the International Fuel Tax Agreement entered into by the department pursuant to IC 6-8.1-3-14. The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made. If the person files a protest and requires a hearing on the protest, the department shall set the hearing at the department's earliest convenient time and shall notify the person by United States mail of the time, date, and location of the hearing. The department may hold the hearing at the location of the department's choice in Indiana.

As added by P.L.60-1990, SEC.10. Amended by P.L.129-2001, SEC.16.

IC 6-6-4.1-25

Registration or licensure of vehicle required to obtain annual motor carrier fuel tax permit or license; proof of issuance of permit or license

Sec. 25. This section applies whenever the owner is required by law to obtain an annual motor carrier fuel tax permit or a license under the International Fuel Tax Agreement under IC 6-8.1-3-14 from the department. The bureau of motor vehicles may not register or license a motor bus, truck, tractor, trailer, or semitrailer used or intended to be used by the owner for transportation of property until the owner furnishes the bureau of motor vehicles with reasonable proof that the owner has a permit or license issued by the department.

As added by P.L.69-1991, SEC.16. Amended by P.L.129-2001, SEC.17.

IC 6-6-4.1-26

Issuance of excess size or weight permit; proof of registration under this chapter or International Fuel Tax Agreement

Sec. 26. A special permit may not be issued under IC 9-20-6 to a carrier that is required to be registered under this chapter or under the International Fuel Tax Agreement under IC 6-8.1-3-14 until the carrier furnishes reasonable proof of registration:

- (1) under this chapter or under the International Fuel Tax Agreement under IC 6-8.1-3-14; and
- (2) under IC 9-18-2, if applicable.

As added by P.L.69-1991, SEC.17. Amended by P.L.1-1992, SEC.21; P.L.129-2001, SEC.18.

IC 6-6-4.1-27

Information sharing; confidential information

Sec. 27. (a) Notwithstanding IC 6-8.1-7 and IC 9-14-3-1, the department, the bureau of motor vehicles, and the Indiana department

of transportation shall share the information regarding motor carriers and motor vehicles that is reasonably necessary for the effective administration and enforcement of IC 6-6-4.1, IC 8-2.1, and IC 9.

(b) For purposes of this section, the department may not divulge information:

(1) regarding the motor carrier fuel taxes paid by specific motor carriers; or

(2) contained on quarterly tax reports of specific motor carriers.

The department may provide statistical information that does not identify the amount of tax paid by a specific carrier.

As added by P.L. 69-1991, SEC.18. Amended by P.L. 1-1992, SEC.22.