

Legislative Analysis



COMMERCIAL MOTOR CARRIER FUEL TAX RECIPROCITY

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<http://www.house.mi.gov/hfa>

House Bill 5378 as introduced
Sponsor: Rep. Dave Prestin

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

House Bill 5379 as introduced
Sponsor: Rep. Jenn Hill

Committee: Transportation, Mobility and Infrastructure
Complete to 2-19-24

SUMMARY:

House Bills 5378 and 5379 would amend the Motor Carrier Fuel Tax Act and 1960 PA 124, respectively, to authorize the Department of Treasury to negotiate a fuel tax reciprocity agreement with another state that allows commercial motor vehicles of either state that are transporting raw forest products (e.g., logs, pulpwood, Christmas trees, etc.) to a sawmill or factory to be operated within up to 50 air miles on either side of the states' shared border without being subject to certain fuel tax credentialing, reporting, and payment requirements that might otherwise apply (having paid applicable fuel taxes and fees to one of the two states).

Michigan and Wisconsin currently have such an agreement in place that applies within 30 air miles of the border. The bills would authorize the Department of Treasury to negotiate an amendment to extend the applicable distance to no more than 50 air miles.¹

House Bill 5379 would change the definition of the term *qualified fuel tax reciprocity agreement* in 1960 PA 124. Currently the term is used in that act to provide the Department of Treasury with sole authority to enter into *qualified fuel tax reciprocity agreements* with the proper authorities of other jurisdictions. The term now means a compact, agreement, or arrangement that, in exchange for reciprocal treatment for a motor carrier, or a class or category of motor carrier, from Michigan 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 Michigan for the purpose of carrying raw forest products to a sawmill or factory within 30 air miles of the border of Michigan 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)² 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.

The bill would change “within 30 air miles” (underlined above) to “within not more than 50 air miles.”

¹ Air miles are the same as nautical miles. While a statute (land) mile is 5,280 feet, air miles are equivalent to 6,076 feet. A distance of 30 air miles is about 34.5 statute miles, and a distance of 50 air miles is about 57.5 statute miles.

² <https://www.michigan.gov/taxes/business-taxes/ifta>

Currently, to effectuate the applicable exemptions under the agreement, the above definition of *qualified fuel tax reciprocity agreements* also applies to section 3 of the Motor Carrier Fuel Tax Act,³ and to section 5 of the Streamlined Sales and Use Tax Revenue Equalization Act.⁴ The amendment described above also would apply to those sections, in a way that would allow for both the continued application of a current 30-air-mile agreement and the implementation of any amended agreement with a distance of up to 50 air miles.

House Bills 5378 and 5379 also would amend the respective acts to change the metric weights that apply to commercial motor vehicles under an agreement. Currently, the term *qualified commercial motor vehicle* is now generally defined⁵ in both acts to mean a motor vehicle that is used, designed, or maintained for transportation of persons or property and meets one of the following:

- The vehicle has three or more axles regardless of weight.
- The vehicle has two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or *12,000 kilograms*.
- The vehicle is used in a combination of vehicles and the weight of that combination exceeds 26,000 pounds or *12,000 kilograms* gross vehicle weight or registered gross vehicle weight.

House Bills 5378 and 5379 would amend the respective acts to change the metric weights italicized above from 12,000 kilograms to *11,797 kilograms*, which would reflect the metric thresholds in the IFTA.

MCL 207.211 (HB 5378)

MCL 3.163 (HB 5379)

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 30.0 cents per gallon. Although collected by the Department of Treasury upstream from motor fuel suppliers, the motor fuel tax is included in the at-the-pump price paid by motorists at retail service stations in Michigan. The revenue is dedicated for transportation purposes in section 9 of Article IX of the state constitution.

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.⁶

³ <http://legislature.mi.gov/doc.aspx?mcl-207-213>

⁴ <http://legislature.mi.gov/doc.aspx?mcl-205-175>

⁵ The Motor Carrier Fuel Tax Act lists several exceptions from this general definition for purposes of that act, such as school buses and certain farm vehicles.

⁶ <https://www.iftach.org/>

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.

FISCAL IMPACT:

As described above, the bills would allow the Department of Treasury to negotiate fuel tax reciprocity agreements with other states specific to motor carriers carrying raw forest products within up to 50 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.

For FY 2023-24, estimated MTF revenue from all sources totals \$3.7 billion, of which revenue from the motor fuel tax on diesel, from both IFTA and in-state-only usage, totals \$269.5 million. It is reasonable to assume that the bulk of diesel motor fuel tax revenue is attributable to trucks and truck-trailer combinations operating on the major interstate corridors, such as I-94, I-75, and I-69.

Although the impact of the bills on state revenue cannot be readily quantified, it appears that the impact would be relatively minor. As of October 2021, there were 3,125 vehicles with Michigan log-truck registrations. A significant number of these vehicles are not currently required to participate in IFTA because they do not engage in interstate or cross-border commerce or do not exceed 26,000 pounds gross vehicle weight (either alone or in combination with another vehicle), or both.

Note that during the 2021-22 legislative session, three bills were enacted to address the issue of fuel tax reciprocity for trucks transporting raw forest products within 30 air miles of the border.⁷ In November 2022, under the authority of those acts, the Department of Treasury executed a qualified fuel tax reciprocity agreement with Wisconsin. As provided in the authorizing legislation, the agreement applied only to trucks transporting raw forest products within 30 air miles of the state border.

⁷ See <https://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-4976-558A926D.pdf>

As it is measured, the 30-air-mile limitation apparently excluded a major mill in Escanaba, Michigan, that is a destination for raw forest products from both Michigan and Wisconsin. By extending the distance limitation from 30 air miles to 50 air miles, the bills would include cross-border trucks transporting to the Escanaba mill in the scope of the authority of qualified fuel tax reciprocity agreements

Finally, note that HB 5379 is permissive in authorizing the Department of Treasury to negotiate fuel tax reciprocity agreements. The department is not required to enter into such agreements.

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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.