

## CHAPTER 168D

## MOTOR CARRIER FUEL TAX

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**168D.01 DEFINITIONS.**

Subdivision 1. **Scope.** As used in this chapter, the following terms have the meanings given them in this section.

Subd. 2. **Cancellation.** "Cancellation" means the voluntary termination of a license and its provisions.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of public safety of the state of Minnesota, acting directly or through duly authorized agents.

Subd. 4. **Jurisdiction.** "Jurisdiction" means a state of the United States, the District of Columbia, a province or territory of Canada, and any other member jurisdiction of the International Fuel Tax Agreement (IFTA) compact as approved by Congress in the Intermodal Surface Transportation Efficiency Act (ISTEA).

Subd. 5. **Motor carrier.** "Motor carrier" means an individual, corporation, partnership, association, trust, or other entity, however organized, operating one or more qualified motor vehicles as a part of its interstate business operations.

Subd. 6. **Motor fuel.** "Motor fuel" means an agent, regardless of its composition or properties, used to propel a qualified motor vehicle.

Subd. 7. **Operation.** "Operation" means operation of qualified motor vehicles whether loaded or empty, whether for compensation or not for compensation, and whether owned by or leased to the motor carrier who operates them or causes them to be operated in two or more jurisdictions.

Subd. 8. **Qualified motor vehicle.** (a) "Qualified motor vehicle" means a motor vehicle that is used, designed, or maintained to transport persons or property and that:

(1) has two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds;

(2) has three or more axles regardless of weight; or

(3) is used in combination, when the weight of the combination exceeds 26,000 pounds gross vehicle or registered gross vehicle weight.

(b) Qualified motor vehicle does not include a recreational vehicle or any vehicle exempt from registration under section 168.012, subdivision 1, paragraph (a), clause (1).

Subd. 9. **Revocation.** "Revocation" means the withdrawal of a license and privileges by the commissioner of public safety.

Subd. 10. **Suspension.** "Suspension" means the temporary removal of privileges granted to the licensee by the commissioner of public safety.

**History:** 2002 c 371 art 2 s 2

**168D.02 FUEL TAX COMPACT.**

Subdivision 1. **Authority.** (a) The commissioner of public safety may enter into an agreement or arrangement with the duly authorized representative of another jurisdiction or make an independent declaration granting to motor carriers of qualified motor vehicles properly registered or licensed in another member jurisdiction benefits,

privileges, and exemptions from paying, wholly or partially, fuel taxes, fees, or other charges imposed for operating the vehicles under the laws of Minnesota. The agreement, arrangement, or declaration may impose terms and conditions consistent with federal and state laws and regulations.

(b) The commissioner of public safety may ratify and effectuate an international fuel tax agreement or other fuel tax agreement in accordance with state and federal authorities. The commissioner's authority includes collecting fuel taxes due, issuing fuel licenses, issuing refunds, conducting audits, assessing penalties and interest, issuing fuel trip permits, issuing decals, and suspending or denying licensing.

(c) Based on these powers, the commissioner and the state of Minnesota have entered into a formal agreement with other states of the United States, the District of Columbia, provinces and territories of Canada, and any other member jurisdiction of the International Fuel Tax Agreement (IFTA) compact as approved by Congress in the Intermodal Surface Transportation Efficiency Act (ISTEA) to assess and collect fuel tax in a uniform and consistent manner across jurisdictions.

Subd. 2. **Reciprocity.** (a) As a member of the IFTA compact, the state of Minnesota recognizes and affirms the provisions set forth in that agreement.

(b) Under the provisions of this agreement, the state of Minnesota shall provide an open exchange of information between member jurisdictions and the IFTA clearing-house but reserves the right to stipulate the level of security and privacy of the information in transmission and storage to protect the privacy rights of its citizens according to chapters 13 through 13D.

(c) An agreement or arrangement must be in writing and provide that when a qualified motor vehicle properly licensed for fuel in the state of Minnesota is operated on highways of another member jurisdiction, it must receive exemptions, benefits, and privileges of a similar kind or to a similar degree as are extended to a qualified motor vehicle properly licensed for fuel in that member jurisdiction while it is being operated in the state of Minnesota.

(d) A declaration must be in writing and must contemplate and provide for mutual benefits, reciprocal privileges, or equitable treatment of the motor carrier of a qualified motor vehicle registered for fuel in Minnesota and the other member jurisdictions. In the judgment of the commissioner of public safety, an agreement, arrangement, or declaration must be in the best interest of Minnesota and its citizens and must be fair and equitable regarding the benefits that the agreement brings to the economy of Minnesota.

**History:** 2002 c. 371 art 2 s 3

### 168D.03 COMPLIANCE WITH MINNESOTA LAWS.

Agreements, arrangements, and declarations made under authority of this chapter must contain a provision specifying that no fuel license, or exemption issued or accruing under the license, excuses the motor carrier of a qualified motor vehicle from compliance with Minnesota laws.

**History:** 2002 c. 371 art 2 s 4

### 168D.04 TAXING AUTHORITY.

Subdivision 1. **Agreement terms.** (a) Under the provisions of an agreement entered into according to section 168D.02, each member shall retain its sovereign authority to determine tax rates and exemptions and to exercise other substantive tax authority.

(b) In accordance with federal and state law, the agreement must provide for:

- (1) determining the base jurisdiction for users;
- (2) users' records requirements;
- (3) audit procedures;
- (4) exchanging information;
- (5) eligibility of persons for tax licensing;

- (6) defining qualified motor vehicles;
  - (7) determining if bonding is required;
  - (8) specifying reporting requirements and periods, including defining uniform penalty and interest rates for late reporting;
  - (9) determining methods for collecting and forwarding motor fuel taxes and penalties to another jurisdiction;
  - (10) display of identification indicating compliance with the agreement; and
  - (11) other provisions to facilitate the administration of the agreement.
- (c) Each jurisdiction shall audit the records of persons based in the jurisdiction to determine if the motor fuel taxes due each jurisdiction are properly reported and paid.

Subd. 2. **Fuel road tax imposed.** (a) Every motor carrier shall pay a road tax calculated on the amount of motor fuel consumed in the motor carrier's operations on highways within Minnesota. The tax rate is imposed at the rate and conditions specified in chapter 296A.

(b) The amount of motor fuel consumed in the operations of a motor carrier on highways within Minnesota is determined by dividing the miles traveled within Minnesota by the average miles per gallon.

(c) The average miles per gallon for a motor carrier's qualified motor vehicles is determined by dividing the total miles traveled by the total motor fuel consumed.

**History:** 2002 c 371 art 2 s 5

#### 168D.05 MOTOR CARRIER FUEL LICENSE.

Subdivision 1. **Requirement.** A motor carrier registered under section 168.187, operating a qualified motor vehicle upon the highways of Minnesota, and not qualifying for exemption under this chapter, may not operate the vehicle unless and until issued a fuel license under this chapter or until the motor carrier has obtained a temporary fuel permit.

Subd. 2. **Fee payment.** A license may be issued to a person qualifying as a motor carrier who applies and pays to the commissioner the license fees required by this chapter.

Subd. 3. **License period.** A license is valid for a calendar year unless surrendered by the motor carrier or canceled, suspended, or revoked by the commissioner. All licenses expire on December 31 of each calendar year and may be renewed by applying to the commissioner and paying the licensing fee.

Subd. 4. **License copy in vehicle.** The motor carrier is required to make legible copies of the license and one copy must be carried in each qualified motor vehicle while it is being operated in Minnesota and in all member jurisdictions.

Subd. 5. **Applicability of laws.** Each licensee shall acknowledge and agree upon license application to be bound by the obligations and duties of licensed motor carriers under the laws, rules, and regulations adopted by the member jurisdictions to administer the International Fuel Tax Agreement. Failure to adhere to these obligations and duties may result in cancellation, suspension, or revocation of the license.

**History:** 2002 c 371 art 2 s 6

#### 168D.06 FUEL LICENSE FEES.

License fees paid to the commissioner under the International Fuel Tax Agreement must be deposited in the highway user tax distribution fund. The commissioner shall charge an annual fuel license fee of \$15, and an annual application filing fee of \$13 for quarterly reporting of fuel tax.

**History:** 2002 c 371 art 2 s 7

#### 168D.07 FUEL DECAL FEE.

The commissioner shall issue a decal or other identification to indicate compliance with the International Fuel Tax Agreement. The commissioner shall establish a charge

to cover the cost of issuing the decal or other identification according to section 16A.1285, subdivision 4a. Decal or other identification charges paid to the commissioner under this subdivision must be deposited in the highway user tax distribution fund.

**History:** 2002 c 371 art 2 s 8

#### 168D.08 MOTOR CARRIER FUEL TAX RETURNS.

Every motor carrier subject to the fuel tax shall, on or before the last day of April, July, October, and January, file with the commissioner, in the format and manner prescribed, tax returns of operations during the previous three months.

**History:** 2002 c 371 art 2 s 9

#### 168D.09 CREDIT OR REFUND.

Under this section, the commissioner shall allow a credit or refund to a motor carrier for taxes paid to any member jurisdiction that imposes a tax upon motor fuel purchased or obtained in Minnesota and member jurisdictions and used on the highways of Minnesota and other member jurisdictions. Every motor carrier claiming a refund under this section shall file a claim in the format and manner prescribed by the commissioner or take the credit on a subsequent tax return.

**History:** 2002 c 371 art 2 s 10

#### 168D.10 MOTOR CARRIER RECORDS.

Subdivision 1. **Maintenance.** Every motor carrier shall maintain records to substantiate information reported on the required tax returns. The records must be kept in a format prescribed by the commissioner.

Subd. 2. **Preservation.** Records must be preserved for four years from the tax return due date or filing date, whichever is later. Preservation of the records must be in a manner that ensures their security, integrity, and availability for inspection by the commissioner or a representative of a member jurisdiction.

Subd. 3. **Destruction.** Destruction of records may not be completed until the statutory period is met or upon written consent from the commissioner. A request for early destruction of records must be made in writing to the commissioner identifying the necessity and reasons for the request.

**History:** 2002 c 371 art 2 s 11

#### 168D.11 AUDITING AND REPORTING.

Subdivision 1. **Authority and obligation.** The commissioner has the right and obligation to audit the records of persons based in Minnesota to determine if the motor fuel taxes due each jurisdiction are properly reported and paid, with authority to assess proper tax liability with applicable penalty and interest.

Subd. 2. **Reporting to other jurisdictions.** Minnesota, along with all other member jurisdictions, shall forward the findings of any fuel tax audits performed to each jurisdiction in which the person has taxable use of motor fuels. The commissioner may forward to officers of another member jurisdiction any information in the commissioner's possession relating to the manufacture, receipt, sale, use, transportation, or shipment of motor fuels by any person. The commissioner may disclose to officers of another member jurisdiction the location of offices, motor vehicles, and other real and personal property of users of motor fuels.

Subd. 3. **Cooperative audit.** (a) The commissioner of public safety may make arrangements with, and may enter into agreements with, the appropriate authorities of other Minnesota state agencies and other member jurisdictions having statutes similar to Laws 2002, chapter 371, for the cooperative audit of motor carriers' reports and returns.

(b) In performing a cooperative audit, in whole or in part, the officers and employees of the other Minnesota state agencies or member jurisdictions are consid-

cred authorized agents of Minnesota for audit purposes, and their audits have the same force and effect as audits conducted by Minnesota auditors.

**History:** 2002 c 371 art 2 s 12

#### **168D.12 MOTOR CARRIER TEMPORARY FUEL PERMIT.**

A motor carrier may obtain a trip permit that authorizes an unlicensed motor carrier to operate a qualified motor vehicle in Minnesota for five consecutive days beginning and ending on the dates specified on the face of the permit. The fee for the permit is \$25. The permit must be issued in lieu of a license if in the course of operations a motor carrier operates on Minnesota highways.

**History:** 2002 c 371 art 2 s 13

#### **168D.13 ACTION TO AVOID OR EVADE FUEL TAX.**

Subdivision 1. **Determination and assessment.** If the commissioner ascertains that a motor carrier acts to obstruct or make ineffectual proceedings to assess or collect the road taxes due, the commissioner may immediately make an assessment of tax estimated to be due, whether or not any report is then due by law.

Subd. 2. **Assessment notice and collection; impoundment.** (a) The commissioner may then proceed under this assessment to collect the tax, or compel security for the taxes owing, and shall give notice of the commissioner's finding under subdivision 1 to the motor carrier, together with a demand for an immediate payment of the tax.

(b) The commissioner is also authorized to impound qualified motor vehicles of motor carriers in violation of this subdivision. The vehicle must be released either upon paying all taxes, penalties, and interest that may be due or depositing a bond or security to assure the payment of taxes, penalties, and interest.

**History:** 2002 c 371 art 2 s 14

#### **168D.14 ENFORCEMENT POWERS.**

Subdivision 1. **Commissioner of public safety.** The commissioner is authorized and directed to enforce this chapter. In addition, the commissioner of public safety is authorized and directed to use the Minnesota State Patrol to assist in the enforcement of this chapter.

Subd. 2. **Commissioner of transportation.** The commissioner of transportation is authorized and directed to enforce sections 168D.05 and 168D.12 as provided in section 221.221.

Subd. 3. **State Patrol.** The officers of the Minnesota State Patrol, in addition to all other powers granted to them by Minnesota Statutes, have the power of making arrests, service of process, and appearing in court in all matters and things relating to this chapter and its administration and enforcement.

**History:** 2002 c 371 art 2 s 15

#### **168D.15 DELINQUENT FILING OR PAYMENT.**

If a motor carrier licensed under this section is delinquent in either filing or paying the International Fuel Tax Agreement (IFTA) report or billing for more than 30 days, or paying the international registration plan billing under section 168.187 for more than 30 days, the motor carrier, after ten days' written notice, is subject to suspension of the apportioned license plates and the IFTA license.

**History:** 2002 c 371 art 2 s 16

#### **168D.16 TRANSFERRING FUNDS TO PAY DELINQUENT FEE.**

If a motor carrier licensed under this chapter is delinquent in either filing or paying the International Fuel Tax Agreement (IFTA) report or billing for more than 30 days, or paying the international registration plan billing under section 168.187 for more than 30 days, the commissioner shall authorize any credit in either the IFTA

account or the international registration plan account to be used to offset the liability in either the IFTA account or the international registration plan account.

**History:** 2002 c 371 art 2 s 17

## 168D.17 EXEMPTIONS.

This chapter does not apply to recreational equipment as defined in section 168.011.

**History:** 2002 c 371 art 2 s 18

## 168D.18 RULES.

The commissioner may adopt rules relating to the administration and enforcement of this chapter.

**History:** 2002 c 371 art 2 s 19