

HOUSE BILL 1769

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 3; Title 67, Chapter 4; Title 67, Chapter 6 and Chapter 602 of the Public Acts of 2007, relative to taxation of diesel.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-3-202(c), is amended by deleting the subsection and substituting instead the following language:

(c) Except when used by a commercial carrier to produce power for a means of transportation, as defined in the Transportation Fuel Equity Act, compiled in part 14 of this chapter, diesel fuel that is indelibly dyed in accordance with internal revenue service regulations and is legal for exempt use only shall not be considered subject to the diesel tax imposed under this section.

SECTION 2. Tennessee Code Annotated, Section 67-3-418, is amended by deleting the first sentence in its entirety and substituting instead the following language:

When an end user uses undyed diesel fuel as heating oil or for other non-highway purposes, the end user may apply for a refund of the diesel tax imposed by § 67-3-202. The end user shall not be entitled to a refund, if the end user is a commercial carrier who used the undyed diesel fuel to produce power for a means of transportation or if any other provision of law precludes the end user from applying for a refund.

SECTION 3. Tennessee Code Annotated, Title 67, Chapter 3, is amended by adding Sections 4 through 10 as a new part 14.

SECTION 4. This part shall be known and may be cited as the "Transportation Fuel Equity Act."

SECTION 5. The use of diesel fuel by commercial carriers has significant and unique impacts on the state, and the nature of the transportation industry raises significant challenges in the administration and enforcement of fuel taxes; therefore, this general assembly enacts this part to uniformly tax all persons engaging in the activity of using diesel fuels to transport passengers or goods for a fee.

SECTION 6. Unless specifically defined in this part, all terms used in this part have the same meaning as they have elsewhere in this chapter. As used in this part:

(1) "Commercial carrier" means any individual, person, entity, or organization that contracts to transport passengers or goods for a fee, regardless of the mode of transportation;

(2) "Diesel tax" means the tax imposed by § 67-3-202;

(3) "Dyed diesel" means any diesel fuel that is indelibly dyed in accordance with internal revenue service regulations; and

(4) "Means of transportation" means any vehicle or other device employed by a commercial carrier for the purpose of transporting passengers or goods for a fee, including but not limited to, motor vehicles, trains, marine vessels, and aircraft.

SECTION 7. All diesel fuel, whether undyed or dyed, that is used in this state by a commercial carrier to produce power for a means of transportation is subject to the diesel tax. This section prevails over any other provision of this chapter.

SECTION 8.

(a) Each commercial carrier who uses dyed diesel within this state shall register with the department and file a quarterly report on forms prescribed by the department, showing the total number of gallons of dyed diesel used within this state and any other information as may be reasonably required by the commissioner. The report shall include information on activities occurring during the preceding calendar quarter reporting period and shall be due on the twentieth day of the month following the close of the calendar quarter reporting period for which the report is submitted.

(b) The full amount of the diesel tax imposed by this state on dyed diesel shall be paid at the same time that the commercial carrier transmits the report and no later than the quarterly due date set forth in subsection (a).

SECTION 9. The amount of diesel tax payable to this state on dyed diesel pursuant to this part is determined by multiplying the rate of the diesel tax by the number of gallons of dyed diesel used in this state by the commercial carrier.

SECTION 10. All moneys collected pursuant to this part shall be deposited by the commissioner in the separate account known as the transportation equity trust fund. The funds in this account shall be used by the department of transportation for railways, aeronautics, and waterways related programs and activities. This section prevails over any other provision of this chapter.

SECTION 11. Section 129 of Chapter 602 of the Public Acts of 2007, is amended by deleting amendatory § 67-4-2306 in its entirety and redesignating the remaining amendatory sections accordingly.

SECTION 12. Section 131 of Chapter 602 of the Public Acts of 2007, is amended in amendatory § 67-4-2503 by adding the following language at the end of the section:

Sales of dyed diesel fuel taxed per gallon by § 67-3-202 are exempt from the tax imposed by this part.

SECTION 13. Section 155 of Chapter 602 of the Public Acts of 2007, is amended in amendatory § 67-6-386 by deleting subsections (b), (c), and (d) in their entirety.

SECTION 14. Section 157 of Chapter 602 of the Public Acts of 2007, is amended by deleting the language “, and by inserting the language ‘and Section 67-4-2306’ between the word ‘chapter’ and the word ‘from’ in subdivision (2)”.

SECTION 15. Section 160 of Chapter 602 of the Public Acts of 2007, is amended by inserting the language “or” between the language “for use outside this state,” and “is a

commercial air carrier” in subsection (a) and is further amended by deleting the following language in subsection (a):

or is a common carrier that actually uses diesel fuel in the operation of locomotives or railcars for the carriage of persons or property in interstate commerce

and is further amended by inserting the language “, ” between the words “time” and “if” in the third sentence of subsection (a).

SECTION 16. Section 160 of Chapter 602 of the Public Acts of 2007, is further amended by deleting subsection (d) in its entirety.

SECTION 17. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to any dyed diesel fuel used on or after the effective date of this act.