

MOTOR CARRIER FEE AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: John W. Hickman

This act modifies the Motor Vehicles Code and the Revenue and Taxation Code by providing dedicated credits to the State Tax Commission to provide for electronic credentialing of motor carriers for compliance with vehicle registration and special fuel tax provisions. This act increases the temporary registration permit fees that are paid by motor carriers by \$5 for a single unit and by \$10 for multiple units. This act establishes the fee for a special fuel user trip permit at \$25 which was previously set at \$20 by the State Tax Commission. This act allows the fee increases to be used as dedicated credits to the State Tax Commission. This act takes effect on July 1, 2003.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

41-1a-301, as last amended by Chapters 8 and 322, Laws of Utah 1998

59-13-301, as last amended by Chapter 232, Laws of Utah 2001

59-13-303, as last amended by Chapter 128, Laws of Utah 2002

ENACTS:

41-1a-303, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **41-1a-301** is amended to read:

41-1a-301. Apportioned registration and licensing of interstate vehicles.

(1) (a) An owner or operator of a fleet of commercial vehicles based in this state and operating in two or more jurisdictions may register commercial vehicles for operation under the International Registration Plan or the Uniform Vehicle Registration Proration and Reciprocity Agreement by filing an application with the division.

(b) The application shall include information that identifies the vehicle owner, the vehicle, the miles traveled in each jurisdiction, and other information pertinent to the registration of apportioned vehicles.

(c) Vehicles operated exclusively in this state may not be apportioned.

(2) (a) If no operations were conducted during the preceding year, the application shall contain a statement of the proposed operations and an estimate of annual mileage for each jurisdiction.

(b) The division may adjust the estimate if the division is not satisfied with its correctness.

(c) At renewal, the registrant shall use the actual mileage from the preceding year in computing fees due each jurisdiction.

(3) The registration fee for apportioned vehicles shall be determined as follows:

(a) divide the in-jurisdiction miles by the total miles generated during the preceding year;

(b) total the fees for each vehicle based on the fees prescribed in Section 41-1a-1206;

and

(c) multiply the sum obtained under Subsection (3)(b) by the quotient obtained under Subsection (3)(a).

(4) Trailers or semitrailers of apportioned fleets may be listed separately as "trailer fleets" with the fees paid according to the total distance those trailers were towed in all jurisdictions during the preceding year mileage reporting period.

(5) (a) (i) When the proper fees have been paid and the property tax or in lieu fee has been cleared under Section 41-1a-206 or 41-1a-207, a registration card, annual decal, and where necessary, license plate, will be issued for each unit listed on the application.

(ii) An original registration must be carried in each vehicle at all times.

(b) Original registration cards for trailers or semitrailers may be carried in the power unit.

(c) (i) In lieu of a permanent registration card or license plate, the division may issue one temporary permit authorizing operation of new or unlicensed vehicles until the permanent registration is completed.

(ii) Once a temporary permit is issued, the registration process may not be cancelled. Registration must be completed and the fees and any property tax or in lieu fee due must be paid for the vehicle for which the permit was issued.

(iii) Temporary permits may not be issued for renewals.

(d) (i) The division shall issue one distinctive license plate that displays the letters APP for apportioned vehicles.

(ii) The plate shall be displayed on the front of an apportioned truck tractor or power unit or on the rear of any apportioned vehicle.

(iii) Distinctive decals displaying the word "apportioned" and the month and year of expiration shall be issued for each apportioned vehicle.

(e) A nonrefundable administrative fee, determined by the [~~Tax~~] commission pursuant to Section 63-38-3.2, shall be charged for each temporary permit, registration, or both.

(6) Vehicles that are apportionally registered are fully registered for intrastate and interstate movements, providing the proper interstate and intrastate authority has been secured.

(7) (a) Vehicles added to an apportioned fleet after the beginning of the registration year shall be registered by applying the quotient under Subsection (3)(a) for the original application to the fees due for the remainder of the registration year.

(b) (i) The owner shall maintain and submit complete annual mileage for each vehicle in each jurisdiction, showing all miles operated by the lessor and lessee.

(ii) The fiscal mileage reporting period begins July 1, and continues through June 30 of the year immediately preceding the calendar year in which the registration year begins.

(c) (i) An owner-operator, who is a lessor, may be the registrant and the vehicle may be registered in the name of the owner-operator.

(ii) The identification plates and registration card shall be the property of the lessor and may reflect both the owner-operator's name and that of the carrier as lessee.

(iii) The allocation of fees shall be according to the operational records of the owner-operator.

(d) (i) The lessee may be the registrant of a leased vehicle at the option of the lessor.

(ii) If a lessee is the registrant of a leased vehicle, both the lessor's and lessee's name shall appear on the registration.

(iii) The allocation of fees shall be according to the records of the carrier.

(8) (a) Any registrant whose application for apportioned registration has been accepted shall preserve the records on which the application is based for a period of three years after the close of the registration year.

(b) The records shall be made available to the division upon request for audit as to accuracy of computations, payments, and assessments for deficiencies, or allowances for credits.

(c) An assessment for deficiency or claim for credit may not be made for any period for which records are no longer required.

(d) Interest in the amount prescribed by Section 59-1-402 shall be assessed or paid from the date due until paid on deficiencies found due after audit.

(e) Registrants with deficiencies are subject to the penalties under Section 59-1-401.

(f) The division may enter into agreements with other International Registration Plan jurisdictions for joint audits.

(9) ~~[AH]~~ (a) Except as provided in Subsection (9)(b), all state fees collected under this section shall be deposited in the Transportation Fund.

(b) The following fees may be used by the commission as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303:

(i) \$5 of each temporary registration permit fee paid under Subsection (12)(a)(i) for a single unit; and

(ii) \$10 of each temporary registration permit fee paid under Subsection (12)(a)(ii) for multiple units.

(10) If registration is for less than a full year, fees for apportioned registration shall be assessed according to Section 41-1a-1207.

(a) (i) If the registrant is replacing a vehicle for one withdrawn from the fleet and the new vehicle is of the same weight category as the replaced vehicle, the registrant must file a supplemental application.

(ii) A registration card that transfers the license plate to the new vehicle shall be issued.

(iii) When a replacement vehicle is of greater weight than the replaced vehicle, additional registration fees are due.

(b) If a vehicle is withdrawn from an apportioned fleet during the period for which it is registered, the registrant shall notify the division and surrender the registration card and license plate of the withdrawn vehicle.

(11) (a) An out-of-state carrier with an apportionally registered vehicle who has not presented a certificate of property tax or in lieu fee as required by Section 41-1a-206 or 41-1a-207, shall pay, at the time of registration, a proportional part of an equalized highway use tax computed as follows:

(i) Multiply the number of vehicles or combination vehicles registered in each weight class by the equivalent tax figure from the following tables:

Vehicle or Combination

Registered Weight	Age of Vehicle	Equivalent Tax
12,000 pounds or less	12 or more years	\$10
12,000 pounds or less	9 or more years but less than 12 years	\$50
12,000 pounds or less	6 or more years but less than 9 years	\$80
12,000 pounds or less	3 or more years but less than 6 years	\$110
12,000 pounds or less	Less than 3 years	\$150

Vehicle or Combination Registered Weight	Equivalent Tax
12,001 - 18,000 pounds	\$150
18,001 - 34,000 pounds	200
34,001 - 48,000 pounds	300
48,001 - 64,000 pounds	450
64,001 pounds and over	600

(ii) Multiply the equivalent tax value for the total fleet determined under Subsection (11)(a)(i) by the fraction computed under Subsection (3) for the apportioned fleet for the registration year.

(b) Fees shall be assessed as provided in Section 41-1a-1207.

(12) (a) Commercial vehicles meeting the registration requirements of another

jurisdiction may, as an alternative to full or apportioned registration, secure a temporary registration permit for a period not to exceed 96 hours or until they leave the state, whichever is less, for a fee of [~~\$20~~]:

(i) ~~\$25~~ for a single unit; and [~~\$40~~]

(ii) ~~\$50~~ for multiple units.

(b) A state temporary permit or registration fee is not required from nonresident owners or operators of vehicles or combination of vehicles having a gross laden weight of 26,000 pounds or less for each single unit or combination.

Section 2. Section **41-1a-303** is enacted to read:

41-1a-303. Cooperation for electronic credentialing.

The commission shall cooperate with the Department of Transportation and federal agencies to assist in providing electronic credentialing of motor carriers to facilitate implementation, compliance, and enforcement of vehicle registration, special fuel tax payment, and other registration or taxation provisions including the provisions of the International Registration Plan and the International Fuel Tax Agreement.

Section 3. Section **59-13-301** is amended to read:

59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer and credited to Transportation Fund -- Reduction of tax in limited circumstances.

(1) (a) Except as provided in Subsections (2), (3), and (11) and Section 59-13-304, a tax is imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:

(i) removal of undyed diesel fuel from any refinery;

(ii) removal of undyed diesel fuel from any terminal;

(iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or warehousing;

(iv) sale of undyed diesel fuel to any person who is not registered as a supplier under this part unless the tax has been collected under this section;

(v) any untaxed special fuel blended with undyed diesel fuel; or

(vi) use of untaxed special fuel, other than a clean special fuel.

(b) The tax imposed under this section shall only be imposed once upon any special fuel.

(2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

(i) is sold or used for any purpose other than to operate or propel a motor vehicle upon the public highways of the state, but this exemption applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the commission that the special fuel was used for purposes other than to operate a motor vehicle upon the public highways of the state; or

(ii) is sold to this state or any of its political subdivisions.

(b) No special fuel tax is imposed on undyed diesel fuel which:

(i) is sold to the United States government or any of its instrumentalities or to this state or any of its political subdivisions;

(ii) is exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) is used in a vehicle off-highway;

(iv) is used to operate a power take-off unit of a vehicle;

(v) is used for off-highway agricultural uses;

(vi) is used in a separately fueled engine on a vehicle that does not propel the vehicle upon the highways of the state; or

(vii) is used in machinery and equipment not registered and not required to be registered for highway use.

(3) No tax is imposed or collected on special fuel if it is:

(a) purchased for business use in machinery and equipment not registered and not required to be registered for highway use; and

(b) used pursuant to the conditions of a state implementation plan approved under Title 19, Chapter 2, Air Conservation Act.

(4) Upon request of a buyer meeting the requirements under Subsection (3), the Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

(5) The special fuel tax shall be paid by the supplier.

(6) (a) The special fuel tax shall be paid by every user who is required by Sections 59-13-303 and 59-13-305 to obtain a special fuel permit and file special fuel tax reports.

(b) The user shall receive a refundable credit for special fuel taxes paid on purchases which are delivered into vehicles and for which special fuel tax liability is reported.

(7) (a) ~~[AH]~~ Except as provided under Subsections (7)(b) and (c), all revenue received by the commission from taxes and license fees under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the special fuel tax.

(c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303 may be used by the commission as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303.

(8) The commission may either collect no tax on special fuel exported from the state or, upon application, refund the tax paid.

(9) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased special fuel from a supplier or from a retail dealer of special fuel and has paid the tax on the special fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund in a manner prescribed by the commission.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (9)(a).

(10) (a) The purchaser shall pay the tax on diesel fuel purchased for uses under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as provided in ~~[Subsections]~~ Subsection (9) and this Subsection (10).

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund for off-highway and

nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

(c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural uses shall be made in accordance with the tax return procedures under Section 59-13-202.

(11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is reduced to the extent provided in Subsection (11)(b) if:

(i) the Navajo Nation imposes a tax on the special fuel;

(ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (11) for the administration of the reduction of tax.

(b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that difference is greater than \$0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

(ii) The difference described in Subsection (11)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the special fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the special fuel.

(c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on the special fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (11).

(e) The agreement required under Subsection (11)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (11); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of suppliers, distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on special fuel, any change in the amount of the reduction of taxes under this Subsection (11) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

(B) meeting the requirements of Subsection (11)(f)(ii).

(ii) The notice described in Subsection (11)(f)(i) shall state:

(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on special fuel;

(B) the effective date of the rate change of the tax described in Subsection (11)(f)(ii)(A);
and

(C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

(g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not permitted under this Subsection (11) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

(h) If there is a conflict between this Subsection (11) and the agreement required by Subsection (11)(a), this Subsection (11) governs.

Section 4. Section **59-13-303** is amended to read:

59-13-303. Bond requirements -- Special fuel permits -- Application -- Revocation of permits under certain circumstances.

(1) The commission may require a user to furnish a bond.

(2) (a) Except as provided in Subsection (2)(b), each user shall, prior to the use of the fuel in a qualified motor vehicle, apply to the commission on forms prescribed by the commission for a special fuel permit. When the application is approved by the commission, a single special fuel permit shall be issued to the user.

(b) In place of the special fuel permit issued under Subsection (2)(a), a user may purchase a special fuel trip permit. A special fuel trip permit is valid for 96 hours or until the qualified vehicle leaves the state, whichever occurs first.

(c) The fee for the special fuel user trip permit is \$25.

(3) A special fuel permit number shall be assigned to each licensed user and is nontransferable and valid until surrendered by the user for nonuse or until revoked by the commission.

(4) The special fuel user permit expires December 31 of each year. Special fuel permits for the calendar year shall be honored until February 28 of the following year. An application shall be filed with the commission each year for a new special fuel permit for vehicles operated

by a licensed user.

(5) (a) The special fuel vehicle permit shall be kept in the passenger compartment of each vehicle, or as otherwise authorized by the commission.

(b) A user that does not comply with the requirements of this section may be required to purchase a special fuel trip permit.

(6) The commission may revoke the special fuel permit issued under this section from any person refusing or neglecting to comply with this part.

(7) Any user reporting Utah special fuel tax liability under Part 5, Interstate Agreements, is exempted from the permit requirements of this section.

Section 5. Effective date.

This act takes effect on July 1, 2003.