



House Bill 62
Senate Transportation, Commerce and Workforce Committee
March 12, 2019

Chairman McColley, Vice-Chairman Uecker, Ranking Member Antonio, and members of the Senate Transportation, Commerce and Workforce Committee, my name is Tom Balzer, President & CEO of the Ohio Trucking Association and the Ohio Association of Movers. Collectively, we represent over 1,000 trucking, moving, logistics, and warehouse companies and allied vendor members. I would like to thank you for this opportunity to allow me to present my testimony on House Bill 62.

The trucking industry accounts for every 1 in 15 jobs in Ohio, with over 18,600 trucking companies domiciled in the state. We transport 83% of the total manufactured tonnage in Ohio or about 582,322 tons per day, and 82.2% of Ohio communities depend exclusively on trucks to move their goods. We are essential to our state's thriving economy.

In 2016, the industry paid 37% of all taxes owed by Ohio motorists despite trucks representing only 10% of the vehicle miles traveled in the state. In 2018, a typical five-axle tractor paid \$5,900 in state highway user fees and taxes, plus an additional \$8,906 in federal highway user fees and taxes. The approximately 74 million trucks that drove on Ohio roadways last year traveled only 12.1 billion miles of the 118.6 billion miles driven by all motorists. In addition, unlike other motorists, trucks pay fuel tax and registration fees on an actual pro-rated basis in the states in which we operate; we pay fuel tax in the states we use the fuel, not where we buy the fuel.

The average Ohioan currently spends \$146.30 per year on fuel tax or \$12.19 per month. This is based on an average of 12,906 miles driven by Ohioans according to the U.S. Department of Transportation Federal Highway Administration (FHWA) and an average fuel efficiency of 24.7 miles per gallon according to the United States Environmental Protection Agency. In addition, according to the United States Department of Transportation (USDOT), the cost of maintenance due to poor road conditions averages \$516 per year nationally. Here in Ohio, that number ranges from \$397 in Dayton to \$651 in Cleveland.

Fuel tax is the most efficient form of collecting the fees used for infrastructure. It costs 1% to administer the Federal Fuel Tax. In Ohio, the Motor Fuel Tax Administrative Fund is limited to 0.275%. Nationally, tolling has administration costs that range between 35%-45%; the Ohio Turnpike is one of the most efficient at less than 25%.

The fuel tax is also protected from diversion of funds. Ohio Constitution Article XII Section 05a states: "No moneys derived from fees, excises, or license taxes relating to registration, operation, or use of vehicles on public highways, or to fuels used for propelling such vehicles, shall be expended for other than costs of administering such laws, statutory refunds and adjustments provided therein, payment of highway obligations, costs for construction, reconstruction, maintenance and repair of public highways and bridges and other statutory highway purposes, expense of state enforcement of traffic laws, and expenditures authorized for hospitalization of indigent persons injured in motor vehicle accidents on the public highways."

Our surrounding states have all made significant changes to their infrastructure funding while Ohio has done nothing. The average fuel tax of Ohio's surrounding states is 41.48 cents per gallon; and all of these states are also considering proposals to increase the fuel rate again this year or have indexing that will automatically increase the fuel tax. Kentucky is the only state with a fuel tax less than Ohio, but they also have other ways in which they tax such as a personal property tax on vehicles and a weight distance tax.

The impact to the trucking industry would be negligible as we already have processes and policies in place that account for these changes in fuel costs. The fuel surcharge is a fair, objective, and accepted method to deal with the changes in the fuel costs. The impact of a 7-9 cent raise in the fuel costs may adjust the surcharge by one percent. Furthermore, the sharing of fuel taxes among states and trucking companies basing their costing models off of the U.S. Energy Information Administration averages for either the entire United States or their operational region, such as in our case the Midwest, puts a state with the lowest fuel tax rates leaving money on the table.

I would like to address three items in this bill that are very vital to the trucking industry's future.

Ohio's regional heavy haul permit was created with the passage of HB 51 of the 130th General Assembly and account for less than 5% of the overall permit buys. Regional heavy haul permits allow vehicles to travel up to five destinations under one permit. The routes are approved by ODOT and fees are collected for each additional destination. Unfortunately, when created, the regional heavy haul permit was limited to trips under 150 miles. This arbitrary 150-mile limitation is particularly unfair to trucking companies located outside central Ohio that are forced to travel beyond 150 miles to get to the other side of the state.

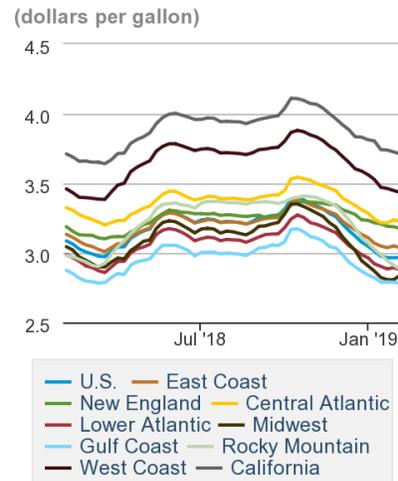
Please note, this is NOT a proposal to increase weight limits or traffic on local roads. Instead the amendment is designed to merely remove the arbitrary 150-mile limitation, and thus eliminate an unnecessary bureaucratic hurdle in the permitting process and eliminate burdensome regulations. The Ohio Trucking Association and Ohio Department of Transportation have worked closely on this proposal, including an increase in permit fees that will result in additional revenue by over 7 times the revenue lost by this change.

The second provides a definition of an independent contractor in the trucking industry for workers compensation, unemployment insurance, and wage and hour. This is necessary to provide a very clear definition of the independent contractor relationship for the trucking industry. For too long the industry has been subjected to a test of this relationship that has been erratically applied and in conflict with industry regulations. This is common sense approach to defining the relationship in a manner that is currently accepted industry wide. The included language was developed over years of debate with stakeholders and based on model legislation by the National Council of Insurance Legislators (NCOIL). Based on additional talks with stakeholders we would respectfully ask the committee to include the two following amendments:

Amendment #1

“(i) The individual owns the equipment that is used in performing the services for or on behalf of the carrier, or the individual leases the equipment under a bona fide lease agreement that is not a temporary replacement lease agreement. Any lease arrangement cannot be with the hiring entity.”

On-Highway Diesel Fuel Prices



Source: Energy Information Administration

Amendment #2

“This section does not apply when the services are being performed by an individual who is in the employment of a state or local government entity or federally-recognized Indian tribe as defined in Section 3306(c)(7) of the Federal Unemployment Tax Act (26 U.S.C. 3306(c)(7)) or a nonprofit organization as defined in Section 3306(c)(8) of the Federal Unemployment Tax Act (26 U.S.C. 3306(c)(8)).”

The third clears up a long-standing definitional confusion in the Ohio Revised Code. Ohio Revised Code § 5739.02 provides a laundry list of exemptions from sales tax and includes an exemption for basically all those items used in transporting tangible personal property.

5739.02(B)(32) provides an exemption to Ohio sales and use tax:

(B) The tax does not apply to the following:

(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

A refrigerated unit is attached to a motor vehicle and the fuel is incorporated into it for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire. But when carriers request a refund of fuel taxes paid on fuel used in refrigerated units the state applies sales tax to the refund. This amendment would clarify that fuel used for this purpose is not subject to sales tax. Interestingly enough the state does not charge sales tax on refrigerant used in refer units. This results in consumables used for the same purpose being taxed differently. Nor does the agency charge sales tax on oil, lubricants, or hydraulic fluid used by for hire carriers. This change would be consistent with other states and exemptions from sales tax on diesel fuel used by the railroad industry.

Mr. Chairman, this concludes my testimony, and I would be happy to answer any questions.