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**OLR Bill Analysis**

**HB 6688 (as amended by House "B")\***

***Emergency Certification***

***AN ACT CONCERNING A HIGHWAY USE FEE.***

**SUMMARY**

Beginning January 1, 2023, this bill imposes a highway use tax (HUT) on every "carrier" for the privilege of operating, or causing to be operated, certain heavy, multi-unit motor vehicles on any highway (i.e., public road) in the state.

The HUT is calculated based on a vehicle's weight and the number of miles driven in the state. The bill establishes per-mile tax rates that increase based on vehicle gross weight, ranging from (1) 2.5 cents per mile for vehicles weighing 26,000-28,000 pounds (lbs.) to (2) 17.5 cents per mile for vehicles weighing more than 80,000 lbs. Revenue from the tax is directed to the Special Transportation Fund (STF) (see BACKGROUND).

Under the bill, carriers must file returns and remit the tax to the Department of Revenue Services (DRS) on a monthly basis. The bill requires carriers to obtain HUT permits from DRS and establishes procedures for suspending or revoking them. It also applies to the HUT various collection, enforcement, and appeals process provisions that apply to other taxes under existing law.

The bill authorizes the DRS commissioner to adopt implementing regulations for the HUT and prohibits tax credits from being applied against the HUT.

\*House Amendment "B" exempts certain motor vehicles transporting milk.

EFFECTIVE DATE: Upon passage and applicable to calendar months beginning on or after January 1, 2023.

## TAX BASE AND RATES

### ***Carriers and Eligible Vehicles (§ 1(a) & 1(j))***

The HUT applies to carriers operating “eligible motor vehicles,” which are those (1) with a gross weight of 26,000 lbs. or more and (2) in classes 8 through 13 of the Federal Highway Administration’s (FHWA) vehicle classification system (see Table 1 below). The bill exempts from the HUT (1) the United States, the federal government, and the state or any of its political subdivisions and (2) motor vehicles carrying or transporting milk or dairy products to or from a dairy farm that holds a license to ship milk.

Under the bill, “gross weight” is the light weight of a vehicle plus the weight of its load. (“Light weight” means the weight of an unloaded vehicle ordinarily equipped and ready for use, minus the driver’s weight.) In the case of a tractor-trailer unit, gross weight means the tractor’s light weight plus the (1) light weight of the trailer or semitrailer and (2) weight of the vehicle’s load.

**Table 1: FHWA Vehicle Classification and Tax Status**

<i>Not Subject to HUT</i>		<i>Subject to HUT</i>	
<b>Class</b>	<b>Vehicles</b>	<b>Class</b>	<b>Vehicles</b>
<b>1</b>	Motorcycles	<b>8</b>	Single trailer, 3- or 4- axle trucks
<b>2</b>	Passenger cars	<b>9</b>	Single trailer, 5-axle trucks
<b>3</b>	Pickups, panels, and vans	<b>10</b>	Single trailer, 6+ axle trucks
<b>4</b>	Buses	<b>11</b>	Multi-trailer, 5 or fewer axle trucks
<b>5</b>	Single unit, 2-axle trucks	<b>12</b>	Multi-trailer, 6-axle trucks
<b>6</b>	Single unit, 3-axle trucks	<b>13</b>	Multi-trailer, 7+ axle trucks
<b>7</b>	Single unit, 4+ axle trucks		

The bill requires each carrier to maintain, on a monthly basis, a list of all eligible motor vehicles it operated or caused to be operated in the month. Carriers must maintain these lists for at least four years after the month’s date and make them available to DRS upon request.

### ***Tax Rate (§ 1(b))***

The bill requires carriers to determine their tax due on a monthly

basis by (1) calculating the number of miles traveled by each eligible motor vehicle the carrier operated or caused to be operated in the state and (2) multiplying each vehicle's miles traveled by the rate corresponding to its gross weight. The rates range from 2.5 cents per mile to 17.5 cents per mile, as shown in Table 2.

**Table 2: Highway Use Tax Rates (per mile)**

<b>Gross Weight (lbs.)</b>	<b>Rate (cents per mile)</b>	<b>Gross Weight (lbs.)</b>	<b>Rate (cents per mile)</b>
26,000-28,000	2.50	54,001-56,000	6.54
28,001-30,000	2.79	56,001-58,000	6.83
30,001-32,000	3.08	58,001-60,000	7.12
32,001-34,000	3.37	60,001-62,000	7.40
34,001-36,000	3.65	62,001-64,000	7.69
36,001-38,000	3.94	64,001-66,000	7.98
38,001-40,000	4.23	66,001-68,000	8.27
40,001-42,000	4.52	68,001-70,000	8.56
42,001-44,000	4.81	70,001-72,000	8.85
44,001-46,000	5.10	72,001-74,000	9.13
46,001-48,000	5.38	74,001-76,000	9.42
48,001-50,000	5.67	76,001-78,000	9.71
50,001-52,000	5.96	78,001-80,000	10.00
52,001-54,000	6.25	80,001 and over	17.50

## **HUT ADMINISTRATION**

### **Returns (§ 1(c))**

Under the bill, each carrier must file a monthly return with DRS in a form and with the information that the commissioner requires and pay the taxes owed. The returns and tax payments are due by the last day of the month following the month for which a carrier is filing a return. The bill requires carriers to file returns and pay the tax by electronic funds transfer in accordance with existing law.

### **Deposit and Recording of Revenue (§ 1(c) & 1(r))**

The bill requires the DRS commissioner to deposit HUT revenue

into the STF (see BACKGROUND). This comports with existing law, which requires that, beginning July 1, 2015, all funds that the state receives or collects on account of, or derived from, the use of highways be credited to the STF (CGS § 13b-61(b)(19)).

At the close of each fiscal year, beginning with FY 23, the bill authorizes the state comptroller to record as revenue for the fiscal year the amount DRS received from the HUT no later than five business days after the end of July following the end of the fiscal year.

***HUT Permits (§ 1(d) & 1(e))***

***Application and Issuance.*** The bill requires each carrier to apply to DRS for a HUT permit in the manner and with the information he prescribes. It prohibits carriers from operating, or causing to be operated, any eligible motor vehicle in the state without a HUT permit on or after January 1, 2023.

DRS must grant and issue a permit to a carrier upon receiving its fully completed application. The permit is (1) valid only for the carrier to which it is issued and the eligible motor vehicles the carrier operates or causes to be operated and (2) not assignable (i.e., it cannot be transferred to another carrier). Carriers must keep a copy of the permit in each eligible motor vehicle they operate or cause to be operated.

***Suspension, Revocation, and Cancellation.*** Under the bill, DRS must order a hearing if a carrier (1) fails to comply with any HUT provision or (2) files a return for four successive months indicating that none of the eligible motor vehicles that the carrier operated or caused to be operated used roads in the state. During the hearing, the carrier must show cause as to why its permit should not be (1) suspended or revoked for failing to comply with any HUT provision or (2) cancelled for filing returns showing no road use in Connecticut.

The commissioner must give written notice of the hearing's date, time, and location, personally or via registered or certified mail, at least (1) 10 days before a hearing for failure to comply with any HUT provision and (2) 30 days before a hearing for returns indicating no

road use in the state. If the commissioner revokes or suspends a permit after a hearing, he must not restore it or issue a new permit to the carrier until he is satisfied that it will comply with the HUT. If he cancels a permit, he must not issue a new one until he is satisfied that the carrier will use roads in the state.

***Tax Collection and Enforcement (§ 1(f)-1(n) & 1(p))***

The bill applies various collection, enforcement, and appeals process provisions to the HUT that apply to other taxes under existing law. They include the following:

1. The DRS commissioner may (a) impose a deficiency assessment and penalty; (b) impose record retention requirements on taxpayers and examine all of their records; (c) administer oaths, subpoena witnesses, and receive testimony; and (d) collect the tax and any penalties using the same methods for collecting unpaid admissions and dues taxes (i.e., tax warrants, liens against real property, and foreclosure against that property).
2. Carriers may (a) request a hearing from the commissioner on the amount of fees or related penalties they must pay and appeal the hearing decision to Superior Court if aggrieved and (b) apply for a refund if they believe they overpaid the HUT.

Table 3 lists the penalties in existing law that the bill applies to the HUT. Additionally, any person that knowingly violates a HUT-related provision for which a penalty is not provided must be fined \$1,000.

**Table 3: Penalties Applicable to the HUT**

<b><i>Action</i></b>	<b><i>Penalty</i></b>
Deficiency assessment	Amount of deficiency plus 1% monthly interest  10% of deficiency amount or \$50, whichever is greater, if the deficiency was due to negligence or intentional disregard  25% of the deficiency amount if the deficiency was due to fraud or an attempt to evade
Return made by DRS commissioner when no return	10% of the tax due or \$50, whichever is greater, plus 1% monthly interest

has been filed	
Willful failure to pay tax, file return, keep records, or supply information	Up to one year of imprisonment, fine of up to \$1,000, or both, in addition to any other penalty provided by law
Willful delivery or disclosure to DRS commissioner of false or fraudulent documents	Class D felony (i.e., up to five years' imprisonment, fine of up to \$5,000, or both), in addition to any other penalty provided by law
Willful failure by a person, other than a carrier, that is required on the carrier's behalf to collect, truthfully account for, and pay the HUT	Total amount of tax evaded, not collected, or not accounted for and paid, including any penalty or interest attributable to the above violations  Applies in addition to other penalties the law provides

## **BACKGROUND**

### ***Related Bill***

sHB 6443 (File 638), reported favorably by the Finance, Revenue and Bonding Committee, contains an identical provision establishing a highway use tax (§ 42).

### ***Special Transportation Fund***

The STF is a dedicated fund used to finance the state's transportation infrastructure program and operate the departments of Motor Vehicles and Transportation (CGS § 13b-68). The law requires that specified tax revenue (e.g., fuel taxes and a portion of sales and use tax revenue) and various transportation-related fees, fines, and charges be credited to the STF. By law, STF revenue is pledged to Special Tax Obligation (STO) bonds issued for transportation projects through DOT's capital program (CGS §§ 13b-74 to 13b-77), and its resources must be used first to pay off STO bond debt service.

Both the state constitution and the general statutes contain a "lockbox" provision, which preserves the STF as a perpetual fund; requires that the fund be used exclusively for transportation purposes, including paying transportation-related debt; and requires that any funding sources directed to the STF by law continue to be directed there, so long as the law authorizes the state to collect or receive them (Conn. Const., art. III, § 19; CGS § 13b-68(b)).