

1 HB399
2 127074-2
3 By Representatives McCutcheon, Hill, Morrow, Weaver, Ball,
4 Buttram, Johnson (K), Johnson (W), Patterson, Laird, Williams
5 (P), Faust, Baker, Shiver, Treadaway, Jones, Wallace, Beech
6 and Hammon
7 RFD: Transportation, Utilities and Infrastructure
8 First Read: 31-MAR-11

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8 SYNOPSIS: This bill would revise the motor fuel tax
9 laws and tax collection and enforcement processes.
10 The bill would impose the tax upon the removal or
11 withdrawal of motor fuel from the terminal using
12 the terminal rack and not by bulk transfer, when
13 the supplier would collect the tax from the entity
14 ordering the removal or withdrawal, would impose
15 the tax when motor fuel is imported into the state,
16 other than by bulk transfer, would impose the tax
17 on blended motor fuel at the point motor fuel is
18 blended, would provide for the levy of the tax on
19 certain products and provide for exemptions, would
20 provide for licensing and fees, would provide for
21 electronic filing of the returns, disposition of
22 the proceeds of the tax, and penalties for
23 violations.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a
2 new or increased expenditure of local funds from
3 becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote
5 unless: it comes within one of a number of
6 specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

10 The purpose or effect of this bill would be
11 to require a new or increased expenditure of local
12 funds within the meaning of the amendment. However,
13 the bill does not require approval of a local
14 governmental entity or enactment by a 2/3 vote to
15 become effective because it comes within one of the
16 specified exceptions contained in the amendment.

17
18 A BILL

19 TO BE ENTITLED

20 AN ACT

21
22 To revise the motor fuel tax collection and
23 enforcement system; to impose the tax upon the removal or
24 withdrawal of motor fuel from the terminal using the terminal
25 rack and not by bulk transfer, when the supplier would collect
26 the tax from the entity ordering the removal or withdrawal; to
27 impose the tax when motor fuel is imported into the state,

1 other than by bulk transfer; to impose the tax on blended
2 motor fuel at the point motor fuel is blended; would provide
3 for the levy of the tax on certain products and provide for
4 exemptions; would provide for licensing and fees, for
5 electronic filing of the returns, disposition of the proceeds
6 of the tax, and penalties for violations; and in this
7 connection would amend Sections 40-17-171, 40-17-174,
8 40-17-220, 40-17-221, and 40-17-223 of the Code of Alabama
9 1975, and repeal Sections 40-12-190, 40-12-191, 40-12-192,
10 40-12-193, 40-12-194, 40-12-195, 40-12-196, 40-12-197,
11 40-12-198, 40-12-199, 40-12-200, 40-12-201, 40-12-202,
12 40-12-204, 40-12-205, 40-12-206, 40-17-1, 40-17-2, 40-17-5,
13 40-17-6, 40-17-7, 40-17-8, 40-17-9, 40-17-13, 40-17-14,
14 40-17-18, 40-17-19, 40-17-20, 40-17-22, 40-17-30, 40-17-31,
15 40-17-32, 40-17-33, 40-17-34, 40-17-35, 40-17-36, 40-17-37,
16 40-17-38, 40-17-39, 40-17-40, 40-17-43, 40-17-45, 40-17-49,
17 40-17-50, 40-17-51, 40-17-52, 40-17-70, 40-17-71, 40-17-72,
18 40-17-73, 40-17-74, 40-17-74.1, 40-17-75, 40-17-76, 40-17-77,
19 40-17-78, 40-17-79, 40-17-80, 40-17-81, 40-17-82, 40-17-100,
20 40-17-101, 40-17-102, 40-17-103, 40-17-104, 40-17-105,
21 40-17-106, 40-17-107, 40-17-108, 40-17-120, 40-17-121,
22 40-17-122, 40-17-124, 40-17-125, 40-17-200, 40-17-201,
23 40-17-203, 40-17-222, 40-17-240, 40-17-250, 40-17-290, and
24 40-17-291, Code of Alabama 1975; and in connection therewith
25 would have as its purpose or effect the requirement of a new
26 or increased expenditure of local funds within the meaning of
27 Amendment 621 of the Constitution of Alabama of 1901, now

1 appearing as Section 111.05 of the Official Recompilation of
2 the Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited
5 as the "Alabama Terminal Excise Tax Act."

6 Section 2. The legislative intent of this act is to
7 establish an efficient, uniform, motor fuel tax collection and
8 enforcement system, to increase conformity and compatibility
9 with federal motor fuel laws, and to position the state to
10 take advantage of advances in highway enforcement systems and
11 technology in order to more effectively deter motor fuel tax
12 evasion emanating from sources within and without this state.

13 Section 3. As used in this act and unless the
14 context requires otherwise, the following terms have the
15 meaning ascribed herein:

16 (1) AIRCRAFT. Any airplane or helicopter.

17 (2) AVIATION FUEL. Aviation gasoline or aviation jet
18 fuel.

19 (3) AVIATION FUEL PURCHASER. A person who purchases
20 aviation fuel either to resell as aviation fuel or as a
21 consumer for use in an aircraft.

22 (4) AVIATION GASOLINE. Motor fuel designed for use
23 in the operation of aircraft other than jet aircraft and sold
24 or used for that purpose.

25 (5) AVIATION JET FUEL. Motor fuel designed for use
26 in the operation of jet or turbo-prop aircraft and sold or
27 used for that purpose.

(6) BIODIESEL FUEL. Any motor fuel or mixture of motor fuels that is derived, in whole or in part, from agricultural products or animal fats, or the wastes of such products or fats, and is advertised as, offered for sale as, suitable for use or used as motor fuel in diesel engines.

(7) BLENDED FUEL. A mixture composed of gasoline or diesel fuel and any other liquid that can be used as a motor fuel in a highway vehicle.

(8) BLENDER. A person who produces blended motor fuel outside the bulk transfer/terminal system.

(9) BLENDING. The mixing of one or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle, an airplane, or a marine vessel. Blending does not include mixing that occurs in the process of refining by a refiner of crude petroleum and applicable feedstocks and blendstocks or the blending of products known as lubricating oil in the production of lubricating oils and greases.

(10) BULK END USER. A person who receives into his or her own storage facilities, in transport truck lots, taxable motor fuel for his or her own consumption.

(11) BULK PLANT. A motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack.

(12) BULK TRANSFER. Any transfer of motor fuel from one location to another by pipeline tender or marine delivery within a bulk transfer/terminal system, including, but not limited to, the following: a. The movement of motor fuel from a refinery or terminal to a terminal by marine vessel or barge; b. the movement of motor fuel from a refinery or terminal to a terminal by pipeline; c. the book or in-tank transfer of motor fuel within a terminal between licensed suppliers prior to the completion of removal across the rack; and d. a two-party exchange between licensed suppliers or between licensed suppliers and permissive suppliers.

(13) BULK TRANSFER/TERMINAL SYSTEM. The motor fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals.

(14) CODE. The Code of Alabama 1975.

(15) COMMISSIONER. The Commissioner of the Alabama Department of Revenue.

(16) DEPARTMENT. The Alabama Department of Revenue.

(17) DESTINATION STATE. The state, territory, or foreign country to which motor fuel is directed for delivery.

(18) DIESEL FUEL. Any liquid that is advertised, offered for sale, or sold for use as or used as a motor fuel in a diesel-powered engine. Diesel fuel includes #1 and #2 fuel oils, kerosene, special fuels, and blended fuels which contain diesel fuel, but shall not include gasoline or aviation fuel.

(19) DISTRIBUTOR. A person who acquires motor fuel from a licensed supplier in this state for subsequent sale.

(20) DYED DIESEL FUEL. Diesel fuel that meets the dyeing and marking requirements of Section 4082, Title 26 of the United States Code.

(21) EXPORT. Motor fuel obtained in Alabama for sale or other distribution in another state, territory, or foreign country.

(22) EXPORTER. A person who exports motor fuel.

(23) GASOHOL. A blended motor fuel composed of gasoline and motor fuel grade alcohol.

(24) GASOLINE. Any product commonly or commercially known as gasoline, regardless of classification, that is advertised, offered for sale, or sold for use as or used as motor fuel in an internal combustion engine, including gasohol or blended fuel which contains gasoline. Gasoline also includes gasoline blendstocks as defined under Section 4081, Title 26 of the United States Code and the regulations promulgated thereunder. Gasoline does not include special fuel or aviation gasoline sold to a licensed aviation fuel purchaser for use in an aircraft motor.

(25) GROSS GALLONS. The total measured product, exclusive of any temperature or pressure adjustments, considerations, or deductions, in U.S. gallons.

(26) HIGHWAY. Includes, but is not limited to, every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct, or trestle located within this state

1 and laid out or erected by the public or dedicated or
2 abandoned to the public or intended for use by or for the
3 public. The term shall also apply to and include driveways
4 upon the grounds of universities, colleges, schools, and
5 institutions but shall not be deemed to include private
6 driveways, private roads, or private places not intended for
7 use by the public.

8 (27) HIGHWAY VEHICLE. Any self-propelled vehicle
9 that is designed for use on a highway.

10 (28) IMPORT. To bring motor fuel into this state for
11 sale, use, or storage by any means of conveyance other than in
12 the fuel supply tank of a motor vehicle. Motor fuel delivered
13 into this state from out-of-state by or for the seller
14 constitutes an import by the seller. Motor fuel delivered into
15 this state from out-of-state by or for the purchaser
16 constitutes an import by the purchaser.

17 (29) IMPORT VERIFICATION NUMBER. The number assigned
18 by the department or its designee to an individual delivery of
19 motor fuel by a transport truck or by another means of
20 transfer outside the terminal transfer system.

21 (30) IMPORTER. A person who imports motor fuel into
22 this state.

23 (31) IN THIS STATE. The area within the borders of
24 Alabama, including all territory within the borders of Alabama
25 that is owned by the United States of America.

26 (32) LICENSEE. Any person licensed by the department
27 pursuant to Section 13 of this act.

(33) LIQUID. Any substance that is liquid above its freezing point and at atmospheric pressure.

(34) MOTOR FUEL. Gasoline, blended fuel, aviation fuel, and diesel fuel.

(35) MOTOR FUEL TRANSPORTER. A person who transports motor fuel by pipeline or marine vessel, or outside the bulk transfer/terminal system by means of a transport vehicle, or a railroad tank car.

(36) MOTOR VEHICLE. Automobiles, motor carriers, motor trucks, motorcycles, and all other vehicles which are operated or propelled by combustion of motor fuel.

(37) NET GALLONS. The amount of motor fuel measured in gallons when adjusted to a temperature of 60 degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds pressure per square inch.

(38) PERMISSIVE SUPPLIER. An out-of-state supplier that elects, but is not required, to have a supplier's license.

(39) PERSON. Any individual, firm, cooperative, association, corporation, limited liability corporation, trust, business trust, syndicate, partnership, limited liability partnership, joint venture, receiver, trustee in bankruptcy, club, society, or other group or combination acting as a unit. Any public body, including, but not limited to, this state, any other state, and any agency, commissioner, institution, political subdivision, or instrumentality of this

1 state or any other state shall be considered a person for the
2 purposes of this act.

3 (40) POSITION HOLDER. The person who holds the motor
4 fuel inventory position in a terminal, as reflected on the
5 records of the terminal operator, including a terminal
6 operator who owns motor fuel in the terminal. A person holds
7 the inventory position in motor fuel when that person has a
8 contract with the terminal operator for the use of storage
9 facilities and terminaling services for motor fuel at the
10 terminal.

11 (41) RACK. A mechanism for delivering motor fuel
12 from a refinery, terminal, marine vessel, or bulk plant into a
13 transport vehicle, railroad tank car, or other means of
14 transfer that is outside the bulk transfer/terminal system.

15 (42) REFINER. Any person who owns, operates, or
16 otherwise controls a refinery.

17 (43) REFINERY. A facility, other than gas plants,
18 used to produce taxable motor fuel from crude oil, unfinished
19 oils, natural gas liquids, or other hydrocarbons and from
20 which taxable motor fuel may be removed by pipeline, by
21 vessel, or at a rack.

22 (44) REMOVAL. Physical transfer other than by
23 evaporation, loss, or destruction. A physical transfer to a
24 transport vehicle or other means of conveyance outside the
25 bulk transfer/terminal system is complete upon delivery into
26 the means of conveyance.

(45) RETAILER. A person other than a wholesale distributor that engages in the business of selling or distributing taxable motor fuel to the end user within this state.

(46) SHIPPING DOCUMENT. Any invoice, shipping paper, bill of lading, or drop ticket which discloses the destination state.

(47) SPECIAL FUEL. Any gas or liquid, other than gasoline, used or suitable for use as motor fuel in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance, and includes products commonly known as natural or casing-head gasoline, biodiesel fuel, and transmix. Special fuel does not include any petroleum product or chemical compound such as alcohol, industrial solvent, or lubricant, unless blended in or sold for use as motor fuel in an internal combustion engine.

(48) STATE. The State of Alabama.

(49) SUPPLIER. A person who is subject to the general taxing jurisdiction of this state and registered under Section 4101 of the Internal Revenue Code for transactions in motor fuel in the bulk transfer/terminal distribution system and who owns motor fuel in the bulk transfer/terminal system, or a person who receives motor fuel in this state pursuant to a two-party exchange. A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal.

(50) TERMINAL. A motor fuel storage and distribution facility to which a terminal control number has been assigned by the Internal Revenue Service, into which motor fuel is supplied by pipeline or marine vessel, and from which motor fuel may be removed at a rack.

(51) TERMINAL OPERATOR. A person who owns, operates, or otherwise controls a terminal.

(52) TRANSMIX. A mixture of finished fuels that no longer meets the specifications for a fuel that can be used or sold without further processing.

(53) TRANSPORT VEHICLE. A vehicle designed or used to carry motor fuel over the highway, including, but not limited to, a straight truck, a straight truck/trailer combination, and a semitrailer combination rig.

(54) TRUSTEE. A person who is licensed as a supplier or a permissive supplier and receives tax payments from and on behalf of another pursuant to Section 25 of this act.

(55) TWO-PARTY EXCHANGE. A transaction in which motor fuel is transferred from one licensed supplier or permissive supplier to another licensed supplier or permissive supplier pursuant to an exchange agreement; and a. includes a transfer from the person who holds the inventory position in taxable motor fuel in the terminal as reflected on the records of the terminal operator; b. is completed prior to removal of the product from the terminal by the receiving exchange partner; and c. is recorded on the terminal operator's books and records with the receiving exchange partner as the

1 supplier that removes the motor fuel across the terminal rack
2 for purposes of reporting the transaction to this state.

3 (56) UNDYED DIESEL FUEL. Diesel fuel that has not
4 been dyed in accordance with Internal Revenue Service fuel
5 dyeing provisions.

6 Section 4. The commissioner may promulgate rules
7 necessary to effectuate the reporting, collection,
8 administration, and enforcement of the taxes imposed under
9 this act. The commissioner shall prescribe the forms or format
10 for reporting the information required herein.

11 Section 5. The Department of Revenue, upon request
12 from the officials to whom are entrusted the enforcement of
13 the motor fuel laws of any other state, may forward to such
14 officials any information which it may have in its possession
15 relative to the manufacture, receipt, sale, use,
16 transportation, or shipment by any person of motor fuel,
17 subject to the provisions of Section 40-2A-10, Code of Alabama
18 1975.

19 Section 6. (a) Subject to the exemptions provided
20 for in this act, the tax is imposed on net gallons of motor
21 fuel according to Section 7 at the following rates:

22 (1) Sixteen cents per gallon on gasoline, which is
23 comprised of a \$.07 excise tax, a supplemental \$.05 excise
24 tax, and an additional \$.04 excise tax.

25 (2) Nineteen cents per gallon on diesel fuel,
26 comprised of a \$.13 excise tax and an additional \$.06 excise
27 tax.

(3) Nine and one-half cents per gallon (\$.095) on aviation gasoline and three and one-half cents per gallon (\$.035) on aviation jet fuel when either is sold to a licensed aviation fuel purchaser or licensed supplier. Aviation gasoline is to be taxed as gasoline and aviation jet fuel is to be taxed as diesel fuel when not sold to a licensed aviation fuel purchaser or licensed supplier.

(b) The motor fuel subject to the excise tax levied by this section shall not be subject to any other excise tax levied by this state.

Section 7. (a) A tax is imposed on the removal within this state of motor fuel from the terminal using the terminal rack, other than by bulk transfer. The supplier shall collect the tax imposed by this act from the person who orders the withdrawal at the terminal rack.

(b) A tax is imposed at the time motor fuel is imported into this state, other than by a bulk transfer, for delivery to a destination in this state. The supplier or permissive supplier shall collect the tax imposed by this act from the person who imports the motor fuel into this state. If the seller is not a supplier or permissive supplier, then the person who imports the motor fuel into this state shall pay the tax.

(c) A tax is imposed on the sale or transfer of motor fuel in the bulk transfer/terminal system in this state by a supplier to a person who is not registered under Section 4101 of the Internal Revenue Code for transactions in motor

1 fuel in the bulk transfer/terminal distribution system. The
2 supplier shall collect the tax imposed by this act from the
3 person who orders the sale or transfer in the bulk
4 transfer/terminal system.

5 (d) A tax is imposed on the blending of motor fuel
6 at the point blended fuel is made in this state outside the
7 bulk transfer/terminal system. The blender shall pay the tax.
8 The rate of tax owed will be at the rate applicable for either
9 gasoline or diesel fuel and will depend on which of these two
10 fuels is used in the blending. The number of gallons of
11 blended fuel on which the tax is imposed is equal to the
12 difference between the number of gallons of blended fuel made
13 and the number of gallons of previously taxed motor fuel used
14 to make the blended fuel.

15 (e) A terminal operator in this state is considered
16 a supplier for the purpose of the tax imposed under this act
17 unless at the time of removal both of the following occur:

18 (1) The terminal operator has a terminal operator's
19 license issued by the department for the facility from which
20 the motor fuel is withdrawn.

21 (2) The terminal operator verifies that the person
22 who removes the motor fuel has a supplier's license.

23 (f) In each subsequent sale of motor fuel on which
24 the tax has been paid, the amount of the tax shall be added to
25 the selling price so that the tax is paid ultimately by the
26 person using or consuming the motor fuel. Motor fuel is

1 considered to be used when it is delivered into a fuel supply
2 tank.

3 (g) Motor fuel in a refinery, a pipeline, a
4 terminal, or a marine vessel transporting motor fuel to a
5 refinery or terminal is in the bulk transfer/terminal system.
6 Motor fuel in a motor fuel storage facility including, but not
7 limited to, a bulk plant that is not part of a refinery or
8 terminal, in the motor fuel supply tank of any engine or motor
9 vehicle, or in any tank car, rail car, trailer, truck, or
10 other equipment suitable for ground transportation is not in
11 the bulk transfer/terminal system.

12 Section 8. (a) There is hereby annually levied a tax
13 at the rates specified by Section 6 on taxable unaccounted for
14 motor fuel losses at a terminal in this state. For the
15 purposes of this section, taxable unaccounted for motor fuel
16 losses shall mean the number of net gallons of unaccounted for
17 motor fuel losses that exceed one half of one percent of the
18 number of net gallons removed from the terminal during the
19 year by a bulk transfer or at the terminal rack. Unaccounted
20 for motor fuel losses means the difference between: (1) The
21 amount of motor fuel in inventory at the terminal at the
22 beginning of the calendar year plus the amount of motor fuel
23 received by the terminal during the year; and (2) the amount
24 of motor fuel in inventory at the terminal at the end of the
25 calendar year plus the amount of motor fuel removed from the
26 terminal during the year. Accounted for motor fuel losses
27 which have been approved by the department or motor fuel

losses constituting part of a transmix shall not constitute unaccounted for motor fuel losses.

(b) The terminal operator is liable for the tax levied by this section on unaccounted gallons. Motor fuel received by a terminal operator and not shown on an informational report filed by the terminal operator with the department as having been removed from the terminal is presumed to be unaccounted for motor fuel losses. A terminal operator may rebut this presumption by establishing that motor fuel received at a terminal, but not shown on an informational report as having been removed from the terminal, was an accounted for loss or constitutes part of a transmix.

Section 9. (a) The tax levied pursuant to Section 6 is levied on the following:

(1) Dyed diesel fuel that is used to operate a highway vehicle other than dyed diesel fuel used in city and county vehicles;

(2) Diesel fuel that is used to operate a highway vehicle after an application for a refund of tax paid on the diesel fuel is made or allowed on the basis that the diesel fuel was used for an off-highway purpose;

(3) Aviation gasoline on which a tax was imposed under subdivision (3) of subsection (a) of Section 6 that is used other than for fuel in an aircraft is subject to the tax rate imposed under subdivision (1) of subsection (a) of Section 6; and

(4) Aviation jet fuel on which a tax was imposed under subdivision (3) of subsection (a) of Section 6 that is used other than for fuel in an aircraft is subject to the tax rate imposed under subdivision (2) of subsection (a) of Section 6.

(b) The operator of a highway vehicle that uses untaxed or refunded diesel fuel that is taxable under subdivisions (1) and (2) of subsection (a) of this section is liable for the tax. If the highway vehicle that uses the diesel fuel is owned by or leased to a motor carrier, the operator of the highway vehicle and the motor carrier are jointly and severally liable for the tax. If the ultimate vendor of diesel fuel taxable under this section knew or had reason to know that the diesel fuel would be used for a purpose that is taxable under this section, the operator of the highway vehicle and the end seller are jointly and severally liable for the tax.

(c) The licensed aviation fuel purchaser selling the aviation gasoline or aviation jet fuel that is not used in an aircraft is liable for the tax owed under subdivisions (3) and (4) of subsection (a) of this section.

(d) The tax liability levied by this section is in addition to any other penalty imposed pursuant to this act.

Section 10. (a) Unless otherwise provided for in this subsection, sales of motor fuel to the following are exempt from the tax levied by subsection (a) of Section 6 and shall not be paid at the rack:

(1) All motor fuel exported from this state for which proof of export is available in the form of a terminal issued destination state shipping document that is a. exported by a supplier who is licensed in the destination state or b. is sold by a supplier to a licensed exporter for immediate export to a state for which the applicable destination state motor fuel excise tax has been collected by the supplier who is licensed to remit the tax to the destination state. This exemption shall not apply to any motor fuel which is transported and delivered outside this state in the motor fuel supply tank of a highway vehicle.

(2) All sales of dyed diesel fuel.

(3) Gasoline blendstocks when sold to a. a licensed supplier or b. a person who will not be using the blendstocks in the manufacture of gasoline or as a motor fuel, as evidenced by the exemption certificate prescribed under regulations promulgated under Section 4081, Title 26 of the United States Code.

(4) All gasoline sold by a licensed supplier or licensed permissive supplier to an exempt agency electing to be licensed under Section 13 of this act.

(5) Motor fuel that is delivered by a licensed supplier from one terminal to another terminal when ownership in the motor fuel has not changed, or by a licensed supplier from a terminal to a refinery operated by the licensed supplier.

(6) Aviation jet fuel sold by a licensed supplier to an air carrier that purchases jet fuel in a Foreign Trade Zone located within this state and uses the jet fuel to propel aircraft powered by jet or turbine engines operated in scheduled all-cargo operations being conducted on international flights or in international commerce. For the purposes of this subdivision, the following words or terms shall be defined and interpreted as follows:

a. Air carrier. Any person, firm, corporation, or entity undertaking by any means, directly or indirectly, to provide air transportation.

b. All-cargo operations. Any flight conducted by an air carrier for compensation or hire other than a passenger carrying flight, except passengers as specified in Sections 121.583 (a) or 135.85 of the Federal Aviation Regulations, as amended.

c. International flights. Any air carrier conducting scheduled all-cargo operations between any point within the 50 states of the United States and the District of Columbia and any point outside the 50 states of the United States and the District of Columbia, including any interim stops within the United States so long as the ultimate origin or destination of the aircraft is outside the United States and the District of Columbia.

d. International commerce. Any air carrier engaged in all-cargo operations transporting goods for compensation or hire on international flights.

(b) A licensed distributor shall have the right to sell gasoline tax-free to the exempt agencies listed under subsection (d) of this section, provided the exempt agency has elected to obtain a license under Section 13 of this act.

(c) Having first paid the tax owed under this act, an exporter shall have the right to apply to the department on a monthly basis for a refund of the taxes paid to this state on the gallons of motor fuel that are ultimately exported by the exporter. The department will require the exporter to provide proof of payment of the applicable destination state excise taxes before issuing a refund.

(d) Having first paid the tax owed under this act, a licensed aviation fuel purchaser shall have the right to apply to the department on a monthly basis for a refund of the taxes paid to this state on the gallons of jet fuel sold to an air carrier that purchases jet fuel in a foreign trade zone located within this state and uses the jet fuel to propel aircraft powered by jet or turbine engines operated in scheduled all-cargo operations being conducted on international flights or in international commerce. For the purposes of this subdivision, the following words or terms shall be defined and interpreted as follows:

a. Air carrier. Any person, firm, corporation, or entity undertaking by any means, directly or indirectly, to provide air transportation.

b. All-cargo operations. Any flight conducted by an air carrier for compensation or hire other than a passenger

1 carrying flight, except passengers as specified in Sections
2 121.583 (a) or 135.85 of the Federal Aviation Regulations, as
3 amended.

4 c. International flights. Any air carrier conducting
5 scheduled all-cargo operations between any point within the 50
6 states of the United States and the District of Columbia and
7 any point outside the 50 states of the United States and the
8 District of Columbia, including any interim stops within the
9 United States so long as the ultimate origin or destination of
10 the aircraft is outside the United States and the District of
11 Columbia.

12 d. International commerce. Any air carrier engaged
13 in all-cargo operations transporting goods for compensation or
14 hire on international flights.

15 (b) Having first paid the tax to its vendor, the
16 following entities that have or have not elected to get
17 licensed under subsection (j) of Section 13 of this act shall
18 have the right to apply to the department for a refund on a
19 quarterly basis for any purchases of motor fuel:

20 (1) The United States government or any agency
21 thereof.

22 (2) Any county governing body of this state.

23 (3) Any incorporated municipal governing body of
24 this state.

25 (4) City and county boards of education of this
26 state.

(5) The Alabama Institute for Deaf and Blind, the Department of Youth Services school district, and private and church school systems as defined in Section 16-28-1, Code of Alabama 1975, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state.

(f) Having first paid the tax, the following entities shall have the right to apply to the department for a refund on a quarterly basis for any purchases of jet fuel used to propel aircraft:

(1) A licensed air carrier with a hub operation within this state. For the purposes of this subdivision, the words "hub operation within this state" shall be construed to have all of the following criteria:

a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

(g) End users who first pay the tax levied by subdivision (2) of subsection (a) of Section 6 on all gallons of diesel fuel used in designated off-road vehicles, other off-road equipment, or for other off-road use may apply to the department for a refund on a quarterly basis.

(h) End users who first pay the tax levied by subdivision (1) of subsection (a) of Section 6 on gallons of

1 gasoline blendstocks not used in the manufacture of gasoline
2 or as a motor fuel may apply to the department for a refund on
3 a quarterly basis.

4 (i) Tax paid on motor fuel that (1) is lost or
5 destroyed as a direct result of a sudden and unexpected
6 casualty, or (2) becomes unsalable or unusable as highway fuel
7 due to such things as the contamination by dye or mixture of
8 gasoline and diesel shall be refundable.

9 (j) Tax paid on transmix not used as a motor fuel or
10 that is delivered to a refinery for further processing shall
11 be refundable, with the person so using the transmix being
12 eligible to file for the refund on a quarterly basis.

13 (k) Tax paid on motor fuel within the bulk transfer
14 system may be refunded upon sufficient proof that a second tax
15 had been paid pursuant to Section 6 of this act. The party
16 paying the second tax may file for a refund on a monthly
17 basis.

18 Section 11. (a) Any person entitled to a refund
19 pursuant to subsections (b), (c), (d), (e), (f), (g), (h), (i), and
20 (j) of Section 10 within two years of the date that the motor
21 fuel was purchased shall present to the department a petition
22 accompanied by the original or duplicate original sales slip,
23 invoice, or any other documentation approved by the department
24 showing the gallons of motor fuel purchased and the taxes
25 paid. The petition shall be in a format prescribed by the
26 commissioner, shall be accompanied by supporting records, and
27 sworn to by the applicant under the penalty of perjury.

(b) The right to receive any refund under the provisions of this section is not assignable and any assignment thereof is void and of no effect.

(c) Any applicant for a refund who willfully files an inaccurate petition or false claim for a refund shall be subject to a penalty of 100 percent of the refund claimed, along with interest assessed according to the provisions of Section 40-1-44, Code of Alabama 1975.

(d) The department may make any investigation or audit any records considered necessary before refunding to a person the tax levied by Section 6.

(e) Persons filing refund petitions in accordance with subsection (e) of Section 10 shall accurately maintain adequate records as required under regulations promulgated by the department in accordance with the provisions of Chapter 22 of Title 41.

(f) Whenever it is determined to the satisfaction of the department that any person is entitled to a refund for taxes paid pursuant to this act, the commissioner shall certify the amount of the refund.

Section 12. (a) There is hereby imposed a floor-stocks tax on motor fuel held in inventory outside of the bulk transfer/terminal system on October 1, 2012, if:

(1) No tax was imposed on the motor fuel under Sections 40-17-2, 40-17-31, and 40-17-220, Code of Alabama 1975, as of September 1, 2008; and

(2) The tax would have been imposed on the motor fuel by this act had it been in effect for the periods prior to its effective date.

(b) The rate of the tax imposed by this section shall be the amount of tax imposed under Sections 40-17-2, 40-17-31, and 40-17-220, Code of Alabama 1975, on September 1, 2008.

(c) Any person owning motor fuel on October 1, 2012, to which the tax imposed by this section applies, shall be liable for the tax. The tax imposed by this section shall be paid on or before November 30, 2012, and shall be paid in the manner prescribed by the department.

Section 13. (a) Each person engaged in business in this state as a supplier shall first obtain a supplier's license. The fee for a supplier's license is two hundred dollars (\$200). A supplier engaged in business in this state will be deemed a permissive supplier with respect to its transactions outside of this state and will have all of the responsibilities and obligations applicable to a permissive supplier as covered in this act.

(b) A person who elects to collect the tax imposed by this act as a supplier and who meets the definition of a permissive supplier may obtain a permissive supplier's license. Application for or possession of a permissive supplier's license does not in itself subject the applicant or licensee to the jurisdiction of this state for a purpose other than administration and enforcement of this act.

(c) Each terminal operator other than a supplier licensed under subsection (a) engaged in business in this state as a terminal operator shall first obtain a terminal operator's license for each terminal site.

(d) The state shall require any exporter who exports products to another state to first obtain an exporter's license prior to any exports. The fee for an exporter's license is one hundred dollars (\$100).

(e) Each person who is not licensed as a supplier shall obtain a transporter's license before transporting taxable motor fuel by whatever manner whether the person is engaged for hire in interstate commerce or for hire in intrastate commerce. The fee for a transporter's license is fifty dollars (\$50).

(f) Each person other than a licensed supplier who wishes to cause motor fuel to be delivered into this state on his or her behalf, for his or her own account, or for resale to a purchaser in this state from another state in a fuel transport truck or railcar shall apply and obtain an importer's license. The fee for an importer's license is one hundred dollars (\$100).

(g) Each person other than a licensed supplier who is required to pay the tax imposed by subsection (d) of Section 7 shall obtain a blender's license.

(h) Each person other than a licensed supplier who purchases taxable motor fuel for resale within this state from a licensed terminal supplier shall first obtain a

1 distributor's license which is operative for all locations
2 controlled or operated by that licensee in this state or in
3 any other state from which the person removes fuel for
4 delivery and use in Alabama. The fee for a distributor's
5 license is fifty dollars (\$50).

6 (i) Each person who desires to purchase aviation
7 fuel at the rate of tax specified under subdivision (3) of
8 subsection (a) of Section 6 must first obtain an aviation fuel
9 purchaser license. The fee for an aviation fuel purchaser
10 license is two hundred dollars (\$200).

11 (j) The United States government or any agency
12 thereof, any county governing body of this state, any
13 incorporated municipal governing body of this state, city and
14 county boards of education of this state, the Alabama
15 Institute for Deaf and Blind and the Department of Youth
16 Services school district, and private and church school
17 systems as defined in Section 16-28-1, Code of Alabama 1975,
18 and which offer essentially the same curriculum as offered in
19 grades K-12 in the public schools of this state may apply for
20 a license to purchase motor fuel on a tax exempt basis. The
21 exempt agency will be responsible for supplying to its motor
22 fuel vendor a copy of the license as issued by the department
23 in support of its tax exempt status.

24 (k) Any person, other than one who possesses a valid
25 Alabama supplier's license, engaged in more than one activity
26 for which a license is required shall obtain a separate
27 license for each activity.

(1) All fees collected under this section, except those refunded, shall be paid into the State Treasury to the credit of the State Public Road and Bridge Fund.

Section 14. Each application for a license under this act must be made upon a form prescribed by the commissioner and furnished by the department.

Section 15. (a) A person may elect to obtain a permissive supplier license to collect the tax levied by Section 6 for motor fuel that is removed at a terminal in another state and has Alabama as the destination state.

(b) A licensed permissive supplier removing motor fuel at a terminal located in another state with Alabama as its destination state shall do all of the following:

(1) Collect the tax due this state on the motor fuel.

(2) Waive any defense that this state lacks jurisdiction to require the supplier to collect the tax due this state on the motor fuel under this act.

(3) Report and pay the tax due on the motor fuel in the same manner as if the removal had occurred at a terminal located in Alabama.

(4) Keep records of the removal of the motor fuel and submit to audits concerning the motor fuel as if the removal had occurred at a terminal located in Alabama.

(c) A licensed permissive supplier acknowledges that this state imposes the requirements listed in subsection (b) under its general police power and submits to the jurisdiction

1 of this state for purposes related to the administration of
2 this act.

3 Section 16. (a) Upon approval of the application by
4 the department, the applicant shall file with the Department
5 of Revenue either a cash deposit or surety bond as herein
6 provided:

7 (1) For a supplier license and a permissive supplier
8 license, the amount shall be equal to the average monthly tax
9 liability or not to exceed two million dollars (\$2,000,000).

10 (2) For an exporter license, a blender license,
11 importer license, or a distributor license, an amount equal to
12 one month's tax liability or one hundred thousand dollars
13 (\$100,000), whichever is less.

14 (3) For a terminal operator license, motor fuel
15 transporter license, or aviation fuel purchaser license, there
16 shall be no bond. If a terminal operator is subsequently found
17 to have a non-licensed supplier operating within one of its
18 terminals within the state, that terminal operator may be
19 required to post a bond in the amount of two million dollars
20 (\$2,000,000).

21 (4) For any person requiring multiple licenses, the
22 minimum bond shall be equal to the highest bond level
23 required.

24 (b) The commissioner may require an additional bond
25 amount from the licensee (1) if the commissioner determines
26 that the surety on an existing bond is unsatisfactory; (2) a
27 surety notifies the department that it intends to cancel a

1 bond as provided in subsection (d); or (3) the commissioner,
2 after reviewing the financial condition of the licensee,
3 determines that the existing bond of the business is
4 insufficient in an amount to insure the prompt payment of all
5 excise taxes that are due or may become due the state by the
6 licensee. However, in no case shall a new or additional bond
7 be more than two times the licensee's existing bond. The
8 licensee must within 30 days from the date that the notice is
9 mailed by the department either file the additional bond
10 amount or file a notice of appeal with the administrative law
11 division as allowed in Chapter 2A of Title 40. The department
12 may immediately revoke the licensee's license upon the
13 expiration of the 30-day period if the licensee fails to
14 either provide the additional bond amount requested by the
15 commissioner or appeal to the administrative law division in a
16 timely manner.

17 (c) A surety providing a bond must be authorized to
18 engage in business within this state. Cash deposits and the
19 surety bonds are conditioned upon faithful compliance with the
20 provisions of this act, including the filing of returns and
21 the payment of all tax prescribed herein. Cash deposits and
22 the surety bonds shall be approved by the commissioner as to
23 sufficiency and form, and shall indemnify the state against
24 any loss arising from the failure of the licensee to pay, for
25 any cause, the motor fuel excise tax levied by this act.

26 (d) Any surety on an existing bond furnished by a
27 person required to be licensed pursuant to Section 13 may

1 notify the department in writing of its intent to cancel the
2 bond. The department shall immediately notify the licensee of
3 the intent of the surety to cancel and the licensee shall have
4 30 days from the date the notice is mailed by the department
5 to provide a sufficient replacement bond as required by the
6 department. The department may immediately cancel the
7 licensee's license upon expiration of the 30-day period set
8 out above if the licensee fails to either provide a new
9 replacement bond or appeal the proposed revocation to the
10 administrative law division within the 30 days, in accordance
11 with Chapter 2A of Title 40. The surety requesting to be
12 released shall remain liable for any accrued liability or for
13 any liability accruing during the 30-day period set out above,
14 but shall not be responsible for any liability accruing after
15 the 30-day period.

16 (e) A licensee may request to be relieved, released,
17 and discharged from a cash deposit by submitting a written
18 request to be discharged to the commissioner indicating the
19 amount of the cash deposit to be refunded less any outstanding
20 liabilities. The commissioner shall retain the cash deposit
21 until the department performs an audit of the licensee's
22 business.

23 Section 17. (a) The department may refuse to issue a
24 license under this act if the applicant or any principal of
25 the applicant has done any of the following:

26 (1) Had a license or registration issued under prior
27 law or this act canceled by the department for cause.

(2) Had a motor fuel license or registration issued by another state canceled for cause.

(3) Had a federal certificate of registry issued under Section 4101 of the Internal Revenue Code, or a similar federal authorization, revoked.

(4) Been convicted of any offense involving fraud or misrepresentation.

(5) Been convicted of any other offense that indicates that the applicant may not comply with this act if issued a license.

(b) The department may also refuse to issue a license if the applicant is in arrears to the state for any taxes or for other good cause shown.

(c) Any refusal by the department under this section to issue a license may be appealed to the administrative law division under the provisions of Chapter 2A of Title 40.

Section 18. Upon approval of the bond required, the department shall issue to the applicant the appropriate license or licenses. The license is not transferable and remains in effect until surrendered or canceled.

Section 19. (a) A licensee who discontinues in its entirety the business for which a license was authorized by this act shall notify the department in writing at least 10 days prior to the time of the discontinuance, sale, or transfer takes effect, and shall surrender the license to the department. The notice shall state the effective date of the discontinuance and, if the licensee has transferred the

1 business or otherwise relinquished control to another person
2 by sale or other means, the date of the sale or transfer and
3 the name and address of the person to whom the business is
4 transferred or relinquished. The notice shall also include any
5 other information required by the department.

6 (b) All taxes for which the licensee is liable under
7 this act but are not yet payable shall be due on the date of
8 the discontinuance. If the licensee has transferred the
9 business to another person and does not give the notice
10 required herein, the person to whom the business was
11 transferred is jointly and severally liable for the amount of
12 any tax owed by the licensee to this state on the date the
13 business was transferred. The liability of the person to whom
14 the business was transferred shall not exceed the value of the
15 property and business acquired from the licensee.

16 Section 20. (a) In accordance with the provisions of
17 Chapter 2A of Title 40, the department may cancel any license
18 required under Section 13, upon written notice sent to the
19 licensee's last known address, as it appears in the
20 department's files, for any of the following reasons:

21 (1) Filing by the licensee of a false report of the
22 data or information required by this act.

23 (2) Failure, refusal, or neglect of the licensee to
24 file a report or to provide any information required by this
25 act.

(3) Failure of the licensee to pay the full amount of all excise taxes due or to pay any penalties or interest due.

(4) Failure of the licensee to keep accurate records of the quantities of motor fuel received, produced, refined, manufactured, compounded, sold, or used in Alabama.

(5) Failure to file a new or additional cash deposit or surety bond upon request of the department pursuant to Section 16 of this act.

(6) Conviction of the licensee or a principal of the licensee for any act prohibited under this act.

(7) Failure, refusal, or neglect of a licensee to comply with any other provision of this act or any rule promulgated pursuant to this act.

(8) Having a motor fuel license or registration issued by another state canceled for cause.

(9) For any change in the ownership or control of the business.

(b) Upon cancellation of any license for any cause listed above, the tax levied under this act becomes due and payable on all untaxed motor fuel held in storage or otherwise in the possession of the licensee and all motor fuel sold, delivered, or used prior to the cancellation on which the tax has not been paid.

(c) The license can be cancelled upon the written request of the licensee.

Section 21. (a) Each supplier, importer, blender, permissive supplier, and exporter shall file the monthly return required herein, in a format prescribed by the commissioner, on or before the 20th day of each calendar month for the preceding month.

(b) The tax levied by this act shall be paid to the department by each taxpayer on or before the 20th day of each calendar month for the preceding month and shall be accompanied by any required returns. The department may require all or certain taxpayers to file tax returns and payments electronically.

Section 22. (a) Each distributor or importer shall remit to the supplier or permissive supplier, as applicable, the motor fuel tax levied by Section 6 due on motor fuel removed at a terminal rack. At the election of a licensed distributor or licensed importer, the supplier or permissive supplier may not require the licensed distributor or licensed importer to pay the tax levied by Section 6 earlier than one business day before the date the supplier or permissive supplier is required to pay the tax to this state. An election under this subsection is subject to the condition that remittances by the licensed distributor or licensed importer of all tax due to the supplier or permissive supplier shall be paid by electronic funds transfer. An election under this subsection may be terminated by the supplier or permissive supplier if the licensed distributor or licensed importer does

1 not make timely payments to the supplier or permissive
2 supplier as required by this subsection.

3 (b) A licensed exporter shall remit tax due on motor
4 fuel removed at a terminal rack to the supplier of the motor
5 fuel. If the laws of the destination state prohibit the
6 collection of the destination state's tax, the tax levied by
7 Section 6 shall be collected.

8 (c) All tax payments received by a supplier or
9 permissive supplier shall be held in trust by the supplier or
10 permissive supplier until the supplier or permissive supplier
11 remits the tax payment to this state or to another state, and
12 the supplier or permissive supplier shall constitute the
13 trustee for the tax payments.

14 Section 23. Every return required to be filed under
15 the provisions of this act shall be on forms prescribed by the
16 commissioner and furnished by the department and shall contain
17 any information the department considers necessary for the
18 enforcement of this act.

19 Section 24. (a) The supplier or permissive supplier
20 may deduct from the next monthly return those tax payments
21 that were not remitted for the previous month to the supplier
22 or permissive supplier by any licensed distributor or any
23 licensed importer who removed motor fuel on which the tax is
24 due from the supplier's or permissive supplier's terminal. The
25 licensed supplier or permissive supplier is eligible to take
26 this deduction if the licensed supplier or permissive supplier
27 notifies the state within 10 business days after a return is

1 due of any licensed distributor, importer, or exporter who did
2 not pay to the supplier or permissive supplier the tax due
3 this state by the time the supplier or permissive supplier
4 filed the monthly return and if, when a licensed distributor
5 or licensed importer fails to remit the tax to the licensed
6 supplier or permissive supplier, the licensed supplier or
7 permissive supplier is not eligible to take the deduction for
8 any tax payments that accrue after the 10 business day period
9 referenced above for delinquent distributors or importers. The
10 notice shall be transmitted to the state in the form required
11 by the department. If a licensee later pays to a supplier or
12 permissive supplier the tax owed, but the payment occurs after
13 the supplier or permissive supplier has deducted the amount of
14 the tax on a return, the supplier or permissive supplier shall
15 remit the payment to the department with the next monthly
16 return filed subsequent to receipt of the tax.

17 (b) A supplier or permissive supplier who timely
18 files a return with the payment due may deduct, from the
19 amount of tax payable with the return, an administrative
20 discount of one tenth of one percent of the amount of tax
21 payable to this state, not to exceed two thousand dollars
22 (\$2,000) per month.

23 (c) (1) A licensed distributor who timely files a
24 return with the payment due may deduct from the amount of tax
25 payable with the return an administrative discount in an
26 amount equal to two percent of the first five thousand dollars
27 (\$5,000) of tax paid and one percent of all amounts of tax

1 paid in excess of five thousand dollars (\$5,000) under
2 subdivision (1) of subsection (a) of Section 6, not to exceed
3 in any case four hundred dollars (\$400) on taxes paid in any
4 month.

5 (2) Also, a licensed distributor who timely files a
6 return with the payment due may deduct from the amount of tax
7 payable with the return an administrative discount in an
8 amount equal to two percent of the first ten thousand dollars
9 (\$10,000) of tax paid and one percent of all amounts of tax
10 paid in excess of ten thousand dollars (\$10,000) under
11 subdivision (2) of subsection (a) of Section 6, not to exceed
12 in any case five hundred dollars (\$500) on taxes paid in any
13 one month.

14 (3) Additionally, a licensed distributor who timely
15 files a return with the payment due may deduct from the amount
16 of tax payable with the return a discount in an amount equal
17 to two percent of all gasoline taxes paid under Section 6
18 herein, the amount of the discount, which shall not exceed
19 five hundred dollars (\$500) per month, being for the purpose
20 of partially defraying the cost of losses in volume due to the
21 evaporation shrinkage incurred in the handling of gasoline by
22 such licensed distributor.

23 Section 25. (a) All tax payments due to this state
24 that are received by a supplier or permissive supplier shall
25 be held by the supplier or permissive supplier as trustee in
26 trust for this state, and the supplier or permissive supplier
27 has a fiduciary duty to remit to the department the amount of

1 tax received. A supplier or permissive supplier is liable for
2 the taxes paid to it.

3 (b) A supplier or permissive supplier of motor fuel
4 at a terminal shall notify the department within the time
5 period established by the department of any licensed
6 distributors, licensed exporters, or licensed importers who
7 did not pay the tax due when the supplier or permissive
8 supplier filed its return. The notice shall be transmitted in
9 the form required by the department.

10 Section 26. (a) Any importer bringing motor fuel
11 into this state in a transport truck, or by other means
12 outside the terminal transfer system, who has not acquired the
13 fuel from a supplier or permissive supplier who has
14 pre-collected the tax shall be required to obtain an import
15 verification number from the department or its designee prior
16 to the actual importation of that fuel.

17 (b) An importer who knowingly imports taxable motor
18 fuel in a transport truck in violation of the provisions of
19 this act, without either a valid importer's license or
20 supplier's license and either an import verification number or
21 a shipping paper showing on its face that the tax on the fuel
22 is not due shall be subject to a civil penalty of one thousand
23 dollars (\$1,000) for each occurrence, to be multiplied by the
24 sum of the current violation plus prior violations.

25 (c) When obtaining an import verification number an
26 importer is required to show that number on a shipping paper
27 or invoice associated with that specific load.

Section 27. (a) A person who is licensed as an exporter shall file monthly returns with the department on forms prescribed and furnished by the department concerning the amount of taxable motor fuel exported from this state.

(b) The report must contain all of the following information with respect to motor fuel other than diesel fuel dyed in accordance with the Internal Revenue Code:

(1) All shipments of taxable motor fuel removed from a terminal in this state as to which the tax imposed by this act previously was paid or accrued for direct delivery outside of this state by the exporter.

(2) All shipments of taxable motor fuel acquired free of this state's motor fuel tax at a terminal in this state for direct delivery outside of Alabama but as to which the destination state's motor fuel tax was paid or accrued to the supplier at the time of removal from the terminal.

(3) The gallons delivered to taxing jurisdictions outside this state out of bulk plant storage and whether by transport truck or tank wagon.

(4) The name and federal employer identification number of the person receiving the exported taxable motor fuel from the exporter.

(5) The date of the shipments.

(6) The carrier name and FEIN.

(c) The department in addition may require the reporting of other information it considers reasonably necessary to the enforcement of this act.

(d) The return shall serve as a claim for a refund for tax paid to this state on exported motor fuel.

Section 28. (a) A terminal operator shall file with the department a monthly informational report showing the amount of motor fuel received and removed from the terminal during the month. The report is due by the last day of the month following the month covered by the report. The report shall contain all of the following information and any other information required by the department:

(1) The terminal code assigned by the Internal Revenue Service.

(2) The beginning and ending inventory which pertains to the applicable reporting month.

(3) The number of net gallons of motor fuel received in inventory at the terminal during the month and each position holder for the motor fuel.

(4) The number of net gallons of motor fuel removed from inventory at the terminal during the month and, for each removal, the position holder for the motor fuel and the destination state of the motor fuel.

(5) The number of net gallons of motor fuel gained or lost at the terminal during the month.

(b) Each person operating a terminal in this state shall file an annual report for each terminal within this state on forms provided by the department. The report must be filed for each calendar year on or before January 31 of the

1 following year. This report must include all of the following
2 data:

3 (1) The net amount of monthly net gallons, gains or
4 losses.

5 (2) The total net gallons removed from the terminal
6 in bulk and across the rack during the calendar year and any
7 other information as the department considers reasonably
8 necessary to determine the tax liability of the terminal
9 operator under this article.

10 (3) The amount of tax due calculated pursuant to
11 Section 8.

12 Section 29. (a) A person licensed as a motor fuel
13 transporter in this state shall file a monthly informational
14 report with the department on forms prescribed and furnished
15 by the department concerning the amount of motor fuel received
16 or delivered for import or export by the motor fuel
17 transporter during the month.

18 (b) The report required by this section is due by
19 the last day of the month following the month covered by the
20 report.

21 (c) Any transporter failing to make the reports
22 required by this section shall be subject to a civil penalty
23 of one thousand dollars (\$1,000) for each violation, as
24 reasonably determined by the department.

25 Section 30. (a) Persons violating any provisions of
26 this act may be restrained from distributing, using, or
27 withdrawing from storage any taxable motor fuel, as herein

1 defined, and may be prosecuted in the name of the State of
2 Alabama by the Attorney General or, under his or her
3 direction, by a district attorney or, with the approval of the
4 Governor, an attorney employed by the Department of Revenue
5 until that person has complied with this act.

6 (b) It shall be unlawful for any person to sell for
7 use or to use motor fuel upon which the tax levied by this act
8 has not been paid or the payment assumed by a licensee. Any
9 person who willfully fails to comply with this act, for each
10 failure, shall be subject to a penalty imposed by the
11 Department of Revenue of not less than one hundred dollars
12 (\$100) nor more than ten thousand dollars (\$10,000).

13 Section 31. (a) Each person operating a refinery or
14 terminal in Alabama shall prepare and provide to the driver of
15 every highway vehicle receiving motor fuel at the facility a
16 shipping document setting out on its face the destination
17 state as represented to the terminal operator by the shipper
18 or the shipper's agent. Failure to comply with this subsection
19 may result in a department imposed penalty of not less than
20 five hundred dollars (\$500) nor more than one thousand dollars
21 (\$1,000), to be multiplied by the sum of the current violation
22 plus prior violations of this subsection.

23 (b) Every person transporting motor fuel in Alabama
24 in a highway vehicle other than in its supply tank shall carry
25 on board a shipping document issued by the facility where the
26 motor fuel was obtained. The shipping document shall set out
27 on its face the state of destination of the motor fuel

1 transported in the highway vehicle. Violation of this
2 subsection constitutes a Class A misdemeanor. Failure to
3 comply with this subsection may result in a department imposed
4 penalty of not less than five hundred dollars (\$500) nor more
5 than one thousand dollars (\$1,000), to be multiplied by the
6 sum of the current violation plus prior violations of this
7 subsection.

8 (c) Every person transporting in Alabama motor fuel
9 received from a terminal operator or refiner shall provide the
10 original or a copy of the terminal issued shipping document
11 accompanying the shipment to the operator of the retail outlet
12 to which delivery of the shipment was made. Knowingly
13 violating or knowingly aiding and abetting another person in
14 violating this subsection shall constitute a Class C felony.
15 Failure to comply with this subsection may result in a
16 department imposed penalty of not less than five hundred
17 dollars (\$500) nor more than one thousand dollars (\$1,000), to
18 be multiplied by the sum of the current violation plus prior
19 violations of this subsection.

20 (d) Each operator of a retail outlet shall receive,
21 examine, and retain the shipping document received from the
22 transporter for every shipment of motor fuel that is delivered
23 to each location, and retain the shipping document at the
24 location for not less than 30 days. At the end of 30 days, the
25 shipping document shall be maintained with the required books
26 and records for a period of three years from the date of
27 shipment. Knowingly violating or knowingly aiding and abetting

1 another person in violating this subsection shall constitute a
2 Class C felony. Failure to comply with this subsection may
3 result in a department imposed penalty of not less than five
4 hundred dollars (\$500) nor more than one thousand dollars
5 (\$1,000), to be multiplied by the sum of the current violation
6 plus prior violations of this subsection.

7 (e) No bulk end user, retail dealer, or wholesale
8 distributor shall knowingly accept delivery of motor fuel into
9 storage facilities in Alabama if that delivery is not
10 accompanied by a shipping document that sets out on its face
11 Alabama as the state of destination of the motor fuel.

12 Knowingly violating or knowingly aiding and abetting another
13 person in violating this subsection shall constitute a Class C
14 felony. Failure to comply with the provisions of this
15 subsection may result in a department imposed penalty of not
16 less than five hundred dollars (\$500) nor more than one
17 thousand dollars (\$1,000), to be multiplied by the sum of the
18 current violation plus prior violations of this subsection.

19 (f) The department shall provide for relief in a
20 case where a shipment of motor fuel is legitimately diverted
21 from the represented destination state after the shipping
22 document has been issued by the terminal operator or where the
23 terminal operator failed to cause proper information to be
24 printed on the shipping document. These relief provisions
25 shall include the requirement that the shipper or its agent
26 provide notification as prescribed by the department before
27 the diversion or correction is to occur.

(g) A terminal operator or bulk plant operator may rely on the representation made by the purchaser of motor fuel or the purchaser's agent concerning the destination state of the motor fuel. A purchaser is liable for any tax due as a result of the purchaser's diversion of motor fuel from the represented destination state.

(h) Every person hauling, transporting, or conveying motor fuel over any of the navigable waters of this state, during the entire time so engaged, must maintain possession of an invoice, bill of sale, or shipping document showing the legal name and physical address of the person from whom motor fuel was received, the legal name and physical address of every person or persons to whom deliveries of motor fuel will be made, and the number of gallons delivered. The person hauling, transporting, or conveying the motor fuel shall, at the request of any person authorized by law to inquire into or investigate these matters, produce and offer for inspection the invoice, bill of sale, or shipping document. Failure to comply shall be prima facie evidence of a violation of this section.

(1) No person shall haul, transport, or convey motor fuel in boats or barges over any of the navigable waters of the state except in boats or barges plainly visibly marked on both sides and above the water line thereof with the word "gasoline" or other name of the motor fuel being transported, in letters at least four inches high and of correspondingly appropriate width, together with the legal name and physical

1 address of the owner of the boat or barge in which the
2 gasoline is contained.

3 (2) The provisions of this subsection shall not
4 apply to boats transporting gasoline to be used solely for
5 motive power of the boats.

6 (i) Every motor vehicle being operated by private
7 and for-hire carriers of property must be marked as specified
8 in this section if that vehicle is transporting hazardous
9 materials including gasoline of a kind or quantity that
10 requires the vehicle to be marked or placarded in accordance
11 with Section 177.823 of the Hazardous Materials Regulations of
12 the Department of Transportation and is operating under its
13 own power, either alone or in combination.

14 (1) The marking shall display all of the following
15 information:

16 a. The name or trade name of the private and
17 for-hire carrier operating the vehicle.

18 b. The city or community and state abbreviation in
19 which the carrier maintains its principal office or in which
20 the vehicle is customarily based.

21 c. If the name of a person other than the operating
22 carrier appears on the vehicle, the words "operated by"
23 immediately preceding the information required by this
24 section.

25 d. Other identifying information may be displayed on
26 the vehicle if it is not inconsistent with the information
27 required by this section.

(2) The marking must meet all of the following requirements:

a. Appear on both sides of the vehicle.

b. Be in letters that contrast sharply in color with the background.

c. Be readily legible during daylight hours from a distance of 50 feet while the vehicle is stationary.

d. Be kept and maintained in a manner that retains the legibility required by this section.

e. The marking may consist of a removable device if that device meets the identification and legibility requirements of this act.

(j) Willful violation of any of the provisions of subsection (h) or (i) shall constitute a Class C felony.

(k) The marking provisions of this section as to the word "gasoline" shall not apply to a vehicle transporting gasoline in the fuel tank supplied by the manufacturer with the vehicle, or carried in an auxiliary fuel tank, connected directly with the carburetor of the vehicle and used exclusively for propelling it, to vehicles transporting gasoline in quantities of not more than five gallons for delivery in response to emergency calls, or to gasoline being transported by common carriers in railroad cars.

(1) (1) Officers or employees of the State of Alabama, or law enforcement officers of any county or municipality in the State of Alabama, upon the presentation of appropriate credentials and a written notice to the owner,

operator, or agent in charge, are authorized to enter any place and to conduct inspections.

(2) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered. Inspections may be at any place at which taxable motor fuel is or may be produced or stored or at any inspection site where evidence of activities may be discovered. These places include, but are not limited to, any of the following:

a. A terminal.

b. A motor fuel storage facility that is not a terminal.

c. A retail motor fuel facility.

d. A state or local highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the commissioner or his or her designated agent to be used as a motor fuel inspection site.

(3) Officers or employees of the State of Alabama, or law enforcement officers of any county or municipality in the State of Alabama, may do any of the following:

a. Physically inspect, examine, or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of motor fuel, fuel dyes, or fuel markers. Inspection may also be made of any equipment used for, or in connection with, production,

1 storage, or transportation of motor fuel, fuel dyes, or fuel
2 markers. This includes any equipment used for the dyeing or
3 marking of diesel fuel, and shall include the inspection of
4 related shipping documents.

5 b. Detain any vehicle, train, or boat for the
6 purpose of inspecting its fuel tanks and storage tanks.
7 Detainment may continue for any reasonable period of time, not
8 to exceed one hour, necessary to determine the amount and
9 composition of the motor fuel.

10 c. Take and remove samples of motor fuel in
11 reasonable quantities necessary to determine its composition.

12 (4) Penalties.

13 a. Any person refusing to allow an inspection may be
14 penalized one thousand dollars (\$1,000) for each refusal. This
15 penalty is in addition to any other penalties or tax that may
16 be imposed upon that person or any other person liable for
17 motor fuel excise taxes.

18 b. The following acts shall be subject to a civil
19 penalty payable to the Department of Revenue:

20 1. Transporting motor fuel in a railroad tank car or
21 transport truck without a shipping document or with a false or
22 an incomplete shipping document.

23 2. Delivering motor fuel to a destination state
24 other than that shown on the shipping document.

25 c. The penalty imposed under paragraph b. is payable
26 by the person in whose name the conveyance is registered,
27 tagged, or titled, or the lessee if the conveyance is a

transport truck. If the conveyance is a railroad tank car, it is payable by the person responsible for the movement of motor fuel in that conveyance. The amount of the penalty shall depend upon the amount of fuel improperly transported or diverted and whether the person against whom the penalty is assessed has previously been assessed a penalty under this subsection. For a first assessment under this subsection, the penalty is twice the amount of excise tax payable on the improperly transported or diverted motor fuel. For a second or subsequent assessment under this subsection, the penalty is the greater of five thousand dollars (\$5,000) or five times the amount of excise tax payable on the improperly transported or diverted motor fuel. The penalty imposed under this subsection shall be in addition to any fuel excise tax assessed.

d. It is unlawful to use dyed diesel fuel for highway use, with the exception of a city or county vehicle and those permitted under 26 U.S.C. § 4082. The operation of a motor vehicle on a highway with a supply tank containing dyed diesel fuel, the use of which is unlawful under this section, or the use of other motor fuel on which the tax imposed by the state has not been paid, shall constitute a Class A misdemeanor and may result in a civil penalty. The penalty is payable to the Department of Revenue by the person in whose name the motor vehicle is registered or the driver of the vehicle, or both. The penalty shall be the greater of one thousand dollars (\$1,000) or ten dollars (\$10) per gallon of

the motor fuel involved. In the case of repeated violations, the penalty is to be multiplied by the current violation plus prior violations that have been imposed under this section in addition to any fuel tax assessed. A county or municipality shall be entitled to 25 percent of any penalty authorized by this section if law enforcement officers in its employment provide information that leads to the arrest and conviction of any person violating this section or to the assessment and collection of the excise taxes from any person violating this section.

Section 32. (a) Any person who engages in any business activity for which a license is required by this act without having first obtained and subsequently retained a valid license shall be subject to the following civil penalties:

(1) Ten thousand dollars (\$10,000) for the first violation.

(2) For each subsequent violation, the amount is to be multiplied by the sum of the current violation plus prior violations.

(b) Civil penalties prescribed under this section shall be assessed, collected, and paid in the same manner as the motor fuel tax.

Section 33. (a) Any person who willfully does any of the following is guilty of a misdemeanor and upon conviction thereof shall be fined not less than five thousand dollars

1 (\$5,000) nor more than twenty-five thousand dollars (\$25,000),
2 or imprisoned for not more than one year, or both:

3 (1) Fails to obtain a license as required by this
4 act prior to engaging in an activity for which a license is
5 required.

6 (2) Fails to pay to this state no more than 30 days
7 after the date the tax is due the tax levied by this act.

8 (3) Makes a false statement on an application,
9 return, ticket, invoice, statement, or any other document
10 required under this act.

11 (4) Fails to file no more than 30 days after it is
12 due any return required by this act.

13 (5) Fails to maintain any record required by this
14 act.

15 (6) Makes a false statement in an application for a
16 refund.

17 (7) Fails to make required disclosure of the correct
18 amount of fuel sold or used in this state.

19 (8) Fails to show or give a shipping document as
20 required under this act.

21 (9) Uses, delivers, or sells any aviation fuel for
22 use or intended for use in highway vehicles or watercraft.

23 (10) Interferes with or refuses to permit seizures
24 authorized under Section 32.

25 (11) Delivers motor fuel from a transport vehicle to
26 the fuel supply tank of a highway vehicle.

(12) Dispenses into the supply tank of a highway vehicle, watercraft, or aircraft any motor fuel on which tax levied by Section 6 has not been paid.

(13) Allows to be dispensed into the supply tank of a highway vehicle, watercraft, or aircraft any motor fuel on which tax levied by Section 6 has not been paid.

(14) Purchases motor fuel from an unlicensed distributor, unlicensed importer, or unlicensed supplier.

(b) Any person who willfully does any of the following with the intent to either evade or circumvent the tax levied by Section 6 or assists any other person in efforts to evade or circumvent the tax shall be guilty of a felony and upon conviction thereof shall be fined not less than twenty-five thousand dollars (\$25,000) nor more than fifty thousand dollars (\$50,000), or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned:

- (1) Fails to pay motor fuel taxes and diverts the tax proceeds for other purposes.

(2) As a licensee or the agent or representative of a licensee, converts or attempts to convert motor fuel tax proceeds for the use of the licensee or the licensee's agent or representative, with the intent to defraud this state.

(3) Collects motor fuel taxes when not authorized or licensed by the department to do so.

(4) Imports motor fuel into this state in contravention of this act.

(5) Conspires with any other person or persons to engage in an act, plan, or scheme to defraud this state of motor fuel tax proceeds.

(6) Alters or attempts to alter the strength or composition of any dye or marker in any dyed diesel fuel intended to be used for a taxable purpose.

(7) Fails to remit to the department any tax levied pursuant to this act if the person has added, or represented that he or she has added, the tax to the sales price for the motor fuel and has collected the amount of the tax.

(c) Each offense under this section is subject to a separate criminal penalty.

Section 34. (a) Upon the discovery of any motor fuel illegally imported into or illegally transported, delivered, stored, or sold in this state, the commissioner shall order the tank or other storage receptacle in which the motor fuel is located to be seized and locked or sealed until the tax, interest, and penalties levied under this act are assessed and paid.

(b) If the assessment for the above tax is not paid within 30 days, the commissioner, in addition to the other remedies in this act, may sell the motor fuel and use the proceeds of the sale to satisfy the assessment due, with any excess funds after payment of the assessment and costs of the sale being returned to the owner of the motor fuel.

(c) All motor fuel and any property, tangible or intangible, which is found upon the person or in any vehicle

1 which the person is using, including the vehicle itself, to
2 transport or sell illegally transported, delivered, stored,
3 sold, imported, or acquired motor fuel, and any property found
4 in the immediate vicinity, including motor vehicles, tanks,
5 and other storage devices, used to aid in the illegal
6 transportation or sale of motor fuel, shall be considered
7 contraband and shall be forfeited to this state.

8 Section 35. Each person required to be licensed
9 under Section 13 and each bulk user and retailer shall keep
10 and maintain all records pertaining to motor fuel received,
11 produced, manufactured, refined, compounded, used, sold, or
12 delivered, together with delivery tickets, invoices, bills of
13 lading, and other pertinent records and papers required by the
14 department for the reasonable administration of this act, for
15 a period of no less than three years.

16 Section 36. (a) A person who refuses to permit an
17 inspection or audit authorized by this act is subject to a
18 civil penalty of five thousand dollars (\$5,000) in addition to
19 any penalty imposed by other provisions of this act.

20 (b) A person who refuses, for the purpose of evading
21 tax, to allow an inspection, in addition to being liable for
22 other penalties imposed by this act, is guilty of a felony and
23 upon conviction shall be fined not more than ten thousand
24 dollars (\$10,000) or imprisoned not more than three years, or
25 both.

26 Section 37. A notice stating: "DYED DIESEL FUEL,
27 NON-HIGHWAY USE ONLY, PENALTY FOR HIGHWAY USE" or a similar

1 phrase that clearly indicates that the diesel fuel is not to
2 be used to operate a highway vehicle shall be provided or
3 posted in all of the following circumstances:

4 (1) By the terminal operator to a person who
5 receives dyed diesel fuel at a terminal rack of that terminal
6 operator.

7 (2) By a seller of dyed diesel fuel to its buyer if
8 the diesel fuel is located outside the bulk transfer/terminal
9 system and is not sold from a retail pump or bulk plant posted
10 in accordance with the requirements of subsection (3).

11 (3) By a seller on a retail pump or bulk plant where
12 it sells dyed diesel fuel for use by its buyer.

13 (4) By the time of the removal or sale appears on
14 shipping documents, bills of lading, and invoices accompanying
15 the sale or removal of the dyed diesel fuel.

16 Section 38. Upon the effective date of this act, no
17 city or town may levy or impose a new or additional excise or
18 license tax on the sale, distribution, storage, use, or
19 consumption of gasoline or any substitute therefor which is
20 consumed as aviation fuel, as defined under subdivision (3) of
21 Section 3. Any ordinance enacted or adopted contrary to the
22 provisions of this section shall be null and void.

23 Section 39. All municipalities and all counties
24 currently levying an excise or privilege license tax upon the
25 sale, use, or consumption, distribution, storage, or
26 withdrawal from storage of gasoline or motor fuel may require
27 that where the tax has been paid to the municipality or county

1 by a distributor, refiner, or by any retail dealer, storer, or
2 user, such payment shall be sufficient, the intent being that
3 the tax shall be borne by the consumer and paid to the
4 municipality or county but once.

5 Section 40. (a) For the purpose of this section, the
6 following terms shall have the meanings ascribed below:

7 (1) BASE ANNUAL COUNTY DISTRIBUTION. Five hundred
8 fifty thousand dollars (\$550,000).

9 (2) COST OF COLLECTION. The amounts from the
10 proceeds of the highway gasoline tax that may be appropriated
11 by the Legislature to the Department of Revenue for its
12 operating expenses.

13 (3) COUNTY. Each county in the state.

14 (4) FISCAL YEAR. The fiscal year of the state.

15 (5) DEPARTMENT OF TRANSPORTATION. The Department of
16 Transportation of the state.

17 (6) HIGHWAY GASOLINE TAX. Both of the following:

18 a. The excise tax levied under Section 6, with the
19 exception of those portions of the tax levied on aviation fuel
20 and marine gasoline.

21 b. The excise tax levied by Sections 40-17-140 to
22 40-17-155, inclusive, Code of Alabama 1975, except that
23 portion of the tax imposed on diesel fuel.

24 (7) LOCAL SUBDIVISIONS' SHARES OF THE NET TAX
25 PROCEEDS. The 55 percent of the net tax proceeds referred to
26 in the first sentence of subsection (d).

(8) MUNICIPALITY. An incorporated city or town in the state.

(9) NET TAX PROCEEDS. The entire proceeds from the highway gasoline tax, except the proceeds from the supplemental excise tax of five cents (\$.05) per gallon imposed by Section 6, less the cost of collection and less any refunds pursuant to the provisions of this act.

(10) STATE. The State of Alabama.

(11) STATE'S SHARE OF THE NET TAX PROCEEDS. The 45 percent of the net tax proceeds referred to in the first sentence of subsection (c).

(12) PUBLIC HIGHWAY. Every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct, or trestle located either within a municipality or in unincorporated territory and laid out or erected by the public or dedicated or abandoned to the public or intended for use by or for the public. The term "public highway" shall apply to and include driveways upon the grounds of universities, colleges, schools, and institutions but shall not be deemed to include private driveways, private roads, or private places not intended for use by the public.

(13) SUPPLEMENTAL NET TAX PROCEEDS. That portion of the highway gasoline tax remaining after the net tax proceeds and applicable costs of collection and refunds have been deducted, less the cost of collection and less any refunds of the highway gasoline tax applicable to the supplemental gasoline excise tax imposed in Section 6.

The foregoing definitions shall be deemed applicable whether terms defined are used in the singular or plural.

(b) The revenue, less the cost of collection and refunds authorized by law, from the seven cents (\$.07) excise tax and the supplemental excise tax of five cents (\$.05) per gallon on gasoline, shall not be used for any purposes other than the following:

(1) The Legislature hereby finds as a fact that of all the gasoline sold in this state not less than one and twenty-three hundredths percent thereof is used for marine purposes to propel vessels on inland and coastal waterways of this state. The Legislature hereby declares that it is the policy of this state to use the funds derived pursuant to this section from the sale of marine gasoline to provide for the programs and activities of the Marine Police, Marine Resources, and Wildlife and Freshwater Fisheries Divisions of the Department of Conservation and Natural Resources in this state as follows:

a. Thirty-five one hundredths of one percent of all state imposed taxes collected pursuant to this section on the sale of gasoline, except gasoline and other fuels consumed in airplanes, shall be credited as follows: 60 percent to the State Water Safety Fund of the Marine Police Division and 40 percent to the Seafood Fund of the Marine Resources Division.

b. An amount equal to seventy-one hundredths of one percent of all state-imposed taxes levied pursuant to this section and collected on the sale of gasoline, except gasoline

1 and other fuels consumed in airplanes, and which would
2 otherwise be credited to the Public Road and Bridge Fund
3 pursuant to this section shall be credited to the Game and
4 Fish Fund of the Division of Wildlife and Freshwater
5 Fisheries. Provided, however, that the above credit to the
6 Game and Fish Fund shall not diminish the allocations provided
7 by this section.

8 c. An amount equal to eighteen one hundredths of one
9 percent of all state-imposed taxes levied pursuant to this
10 section and collected on the sale of gasoline, except gasoline
11 and other fuels consumed in airplanes, and which would
12 otherwise be credited to the Public Road and Bridge Fund
13 pursuant to this section shall be credited as follows: 60
14 percent to the State Water Safety Fund of the Marine Police
15 Division and 40 percent to the Seafood Fund of the Marine
16 Resources Division. Provided, however, that this additional
17 credit to the State Water Safety Fund and Seafood Fund shall
18 not diminish the allocations provided by this section.

19 (2) The revenue arising from the sale of gasoline as
20 herein defined, except gasoline sold for use as fuel to propel
21 aircraft and which gasoline is subject to the tax imposed in
22 subdivision (3) of subsection (a) of Section 6, and except for
23 revenues from the supplemental net tax proceeds, for all other
24 purposes shall not be used for any purpose other than for the
25 construction, improvement, maintenance, and supervision of
26 highways, bridges, and streets, including the retirement of
27 bonds for the payment of which such revenues have been or may

1 hereafter be pledged. The payment of the per diem and mileage
2 of members of county governing bodies when engaged in
3 supervising the construction, improvement, and maintenance of
4 highways, bridges, and streets shall be construed as used in
5 supervision. The governing body of each county may expend an
6 amount not to exceed one third of the total amount of such
7 revenue that may be received by such county in the payment of
8 any debt that may have been incurred by such county for the
9 construction or maintenance of roads or bridges. This fund
10 shall be allocated in the manner now provided by law. On the
11 20th day of each month following that quarter of any fiscal
12 year, all revenue derived from the sale of gasoline to be
13 consumed in the motor of a boat or vessel as defined in
14 subdivision (1) shall be allocated to the State Water Safety
15 Fund, Seafood Fund, and Game and Fish Fund.

16 (c) Distribution of forty-five percent of net tax
17 proceeds shall be distributed as follows:

18 (1) Forty-five percent of the net tax proceeds are
19 hereby allocated and appropriated for state highway purposes
20 and as the state's share of the net tax proceeds to be covered
21 into the State Treasury to the credit of the Public Road and
22 Bridge Fund and to be disbursed as hereinafter provided in
23 this section.

24 (2) A portion of the state's share of the net tax
25 proceeds that is equal in amount to two sevenths (equivalent
26 to six twenty-firsts) of the net tax proceeds shall be
27 disbursed, to pay at their respective maturities the principal

1 of and interest on the bonds issued prior to March 1, 1967, by
2 the Alabama Highway Authority, a public corporation organized
3 and existing under the provisions of Sections 23-1-150 to
4 23-1-160, inclusive, Code of Alabama 1975, in the order in
5 which the two sevenths of the net tax proceeds were pledged
6 for the bonds.

7 (3) A portion of the state's share of the net tax
8 proceeds that is equal in amount to two twenty-firsts of the
9 net tax proceeds shall be disbursed to pay at their respective
10 maturities the principal of and interest on the bonds issued
11 prior to March 1, 1967, by the Alabama Highway Authority, in
12 the order in which the two twenty-firsts of the net tax
13 proceeds were pledged for the bonds.

14 (4) A portion of the state's share of the net tax
15 proceeds that is equal in amount to one twenty-first of the
16 net tax proceeds shall be disbursed to pay at their respective
17 maturities the principal of and interest on the bonds issued
18 by the Alabama Highway Authority after March 1, 1959, and
19 prior to March 1, 1967, in the order in which the one
20 twenty-first of the net tax proceeds was pledged for the
21 bonds.

22 (5) The residue of the state's share of the net tax
23 proceeds remaining after provision shall have been made out of
24 the aforesaid nine twenty-firsts of the net tax proceeds for
25 payment of the obligations referred to in the foregoing
26 subdivisions (2), (3), and (4) shall be disbursed for the

1 following purposes, in the following order and to the extent
2 necessary:

3 a. For payment at their respective maturities of the
4 principal of and interest on bonds, other than refunding
5 bonds, issued by the Alabama Highway Authority under the
6 provisions of Act No. 225, 1967 Special Session (Acts 1967, p.
7 302), to the extent that the portion of the motor vehicle
8 license taxes and registration fees provided in Section
9 40-12-270, Code of Alabama 1975, to be used for the payment of
10 the principal of and interest on the bonds, other than
11 refunding bonds, issued by the Alabama Highway Authority under
12 the provisions of Act No. 225, should be insufficient to pay
13 the principal and interest at their respective maturities.

14 b. For payment at their respective maturities of the
15 principal of and interest on the bonds, other than refunding
16 bonds, issued by the Alabama Highway Authority under the
17 provisions of Act No. 781, 1969 Regular Session (Acts 1969, p.
18 1398), to the extent that the portion of the motor vehicle
19 license taxes and registration fees provided in Section
20 40-12-270, Code of Alabama 1975, to be used for the payment of
21 the principal of and interest on the bonds, other than
22 refunding bonds, issued by the Alabama Highway Authority under
23 the provisions of Act No. 781, should be insufficient to pay
24 the principal and interest at their respective maturities.

25 c. For payment at their respective maturities of the
26 principal of and interest on the bonds, other than refunding
27 bonds, issued by the Alabama Highway Authority under the

1 provisions of Act No. 1416, 1971 Regular Session (Acts 1971,
2 p. 2412), to the extent that the portion of the motor vehicle
3 license taxes and registration fees provided in Section
4 40-12-270, Code of Alabama 1975, to be used for the payment of
5 the principal of and interest on the bonds, other than
6 refunding bonds, issued by the Alabama Highway Authority under
7 the provisions of Act No. 1416, should be insufficient to pay
8 the principal and interest at their respective maturities.

9 d. For payment at their respective maturities of the
10 principal of and interest on any bonds or other obligations,
11 including refunding obligations, issued after December 1,
12 1977, by a public corporation existing at the time of issuance
13 under the laws of the state pursuant to then existing
14 statutory authorization, or by the state pursuant to then
15 existing authorization, effective at the time of issuance,
16 under the constitution and laws of the state, and for which
17 the aforesaid residue, referred to in this subdivision, of the
18 state's share of the net tax proceeds shall have been
19 appropriated and pledged in a then effective statute or
20 constitutional provision (including any enabling act under a
21 constitutional provision) under which the bonds may be issued,
22 all in the manner and to the extent and subject to the
23 priorities in rank as may be provided in a statute or
24 constitutional provision or in any authorizing resolution
25 thereunder.

26 e. For allocation on September 30 of each fiscal
27 year to each county to which allocation shall have been made

1 under the provisions of subsection (d), during that fiscal
2 year less than the base annual county distribution, which,
3 when added to the amounts so allocated to that county under
4 subsection (d), will equal the base annual county
5 distribution.

6 (6) The state's share of the net tax proceeds paid
7 into the Public Road and Bridge Fund and not required for any
8 of the purposes referred to in any of the foregoing
9 subdivisions (2), (3), (4), and (5) may be withdrawn by the
10 Department of Transportation and used by it for highway
11 purposes.

12 (d) Fifty-five percent of net tax proceeds shall be
13 distributed as follows:

14 (1) Fifty-five percent of the net tax proceeds are
15 hereby allocated and appropriated to be used for highway
16 purposes by the counties and municipalities to be covered into
17 the State Treasury and shall be disbursed and allocated as
18 hereinafter provided in this section.

19 (2) A portion of the local subdivisions' shares of
20 the net tax proceeds that is equal to 25 percent of the net
21 tax proceeds shall be allocated equally among the 67 counties
22 of the state.

23 (3) The entire residue of the local subdivisions'
24 shares of the net tax proceeds, being an amount equal to 30
25 percent of the net tax proceeds less any amount paid pursuant
26 to the contingent appropriation in subdivision (2), shall be
27 allocated among the 67 counties of the state on the basis of

1 the ratio of the population of each county to the total
2 population of the state according to the then next preceding
3 federal decennial census, or any special federal census
4 heretofore held in any county subsequent to the effective date
5 of the 1960 Federal Decennial Census. The allocation provided
6 for in this subdivision shall be made on or prior to the tenth
7 day of each month with respect to receipts of the highway
8 gasoline tax by the state during the preceding month.

9 (e) (1) The amounts allocated or apportioned to each
10 county pursuant to each of subsections (c) and (d) shall be
11 disposed of as follows:

12 a. Ten percent of the amount so allocated or
13 apportioned to each county shall be distributed among the
14 municipalities in the county with respect to which the
15 allocation or apportionment is made; each distribution among
16 the municipalities shall be made on the basis of the ratio of
17 the population of each municipality to the total population of
18 all municipalities in the applicable county according to the
19 then next preceding federal decennial census.

20 b. The remaining portion of the amount so allocated
21 or apportioned to each county shall be distributed to the
22 county with respect to which the allocation or apportionment
23 is made. The distributions provided for in this subsection
24 shall be made monthly.

25 (2) The population of any municipality incorporated
26 subsequent to the taking of the then next preceding federal
27 decennial census shall be deemed to be the population shown by

1 the census for that municipality taken pursuant to the
2 requirements of Section 11-41-4, Code of Alabama 1975. Any
3 municipality incorporated after September 30, 1967, shall not
4 participate in the distribution provided for in this section
5 until the fiscal year next succeeding the fiscal year during
6 which it is incorporated, the first distribution to the
7 municipality to be made from the receipts of the highway
8 gasoline tax by the state during October of the fiscal year
9 next succeeding its incorporation.

10 (3) When requested to do so by any municipality, the
11 Department of Transportation may make available the services
12 and advice of its engineers and other employees with respect
13 to any work for which that municipality proposes to expend
14 moneys distributed to it under this section. Any services and
15 advice that may be made available shall be provided under the
16 terms and conditions that may be mutually agreeable to the
17 Department of Transportation and the municipality.

18 (f) Three-fifths of the supplemental net tax
19 proceeds on gasoline as defined in subsection (a), shall be
20 deposited in the State Treasury to the credit of the Public
21 Road and Bridge Fund of the Department of Transportation, and
22 shall be used exclusively in the construction, repair,
23 maintenance, and operation of public roads and bridges in this
24 state, including public roads in state parks and any toll road
25 or toll bridge constructed by the state Department of
26 Transportation or maintained and operated by it or under its
27 supervision. It is further provided that of the receipts

1 collected under the provisions of this section dedicated to
2 the Public Road and Bridge Fund, the sum of one million
3 dollars (\$1,000,000) shall be set aside in the fiscal year
4 ending September 30, 1992, and the sum of at least five
5 hundred thousand dollars (\$500,000) for the fiscal year ending
6 September 30, 1993, and in each fiscal year thereafter, to
7 coordinate with the Department of Conservation and Natural
8 Resources on the construction, maintenance, and repair of
9 public roads in the state's park system. The remaining
10 two-fifths of the supplemental net tax proceeds shall be
11 distributed, as provided for distribution of the net tax
12 proceeds, according to subsections (c), (d), and (e). Any
13 local laws or general laws of local application now in effect
14 regarding the distribution of the tax levied by Section 6
15 shall govern the distribution of the amounts allocated or
16 apportioned within every county by this section. The
17 Legislature may by general or local laws prescribe other
18 distributions within counties to local governments. The two
19 fifths of the supplemental net tax proceeds shall be used for
20 the same purposes and deposited in the same state, county, and
21 municipal funds as provided by Section 43. Where the use is by
22 a county, the funds may be used to match federal aid on any
23 projects that meet the requirements for federal funding and
24 the funds may also be used for new construction without regard
25 to the provision that 90 percent of the county's paved road
26 system has achieved a grade of 85 percent based on the State

of Alabama Department of Transportation's annual maintenance report of county roads and bridges.

(g) In all counties wherein members of the county governing bodies are compensated or paid on a salary basis, the county governing bodies may pay a part of the salary out of the county gasoline tax revenues. The part paid out of county gasoline tax revenues shall bear the same proportion to the total salary paid to the member as the time devoted by the member to supervising, inspecting, accepting, building, or repairing county roads or bridges bears to the total time devoted by the member to all of his or her duties as a member of the county governing body.

The county governing body may determine the proportions set out in this section.

(h) The county commissions may pay a portion of the compensation of their clerks out of the Public Road and Bridge Fund or gasoline tax funds in the county treasury; provided, that not more than 75 percent of the total salary payable shall be paid out of the fund or funds.

(i) For the purpose of this section, each federal decennial census shall be deemed to be effective on October 1 next following the publication of the results of the decennial census.

(j) Wherever in this section any portion of the net tax proceeds is provided to be applied or used for highway purposes, it shall be used as follows:

(1) Where the use is by the Department of Transportation, the use shall, with the approval of the Governor, be for the construction of public roads and bridges in the state, the maintenance of public roads and bridges on the state highway system, the equipment and preparation of convicts for use upon the public roads and bridges in the state, the maintenance of the convicts while at work upon the roads and bridges, the compensation to the state for the use of any convicts, and for other public road and bridge purposes in the state as may be authorized by the Department of Transportation with the approval of the Governor.

(2) Where the use is by a county, the use shall be for transportation planning, the construction, reconstruction, maintenance, widening, alteration, and improvement of public roads and bridges as is now or may hereafter be provided by law, including payment of the principal of and interest on any securities at any time issued by the county pursuant to law for payment of which all or any of the net tax proceeds were or may be lawfully pledged, and the use may also be for the purpose and subject to the provisions contained in subsection (q).

(3) Where the use is by a municipality, the use shall be for transportation planning, the construction, reconstruction, maintenance, widening, alteration, and improvement of public roads, bridges, streets, and other public ways, including payment of the principal of and interest on any securities at any time issued by the

1 municipality pursuant to law for the payment of which any part
2 of the net tax proceeds were or may be lawfully pledged;
3 provided, that no part of the net tax proceeds referred to in
4 this section shall be expended contrary to the provisions of
5 the constitution; and provided further, that funds distributed
6 to municipalities under the provisions of this section shall
7 not be commingled with other funds of the municipality and
8 shall be kept and disbursed by the municipality from a special
9 fund only for the purposes hereinabove provided.

10 (k) The county commission of each of the counties
11 may use or expend the proceeds of the state gasoline tax
12 levied by Section 6, distributed to the county pursuant to
13 this section, for the construction and maintenance of streets
14 within the corporate limits of any municipality located within
15 the county, anything in Sections 3 to 37, inclusive, to the
16 contrary notwithstanding.

17 (l) The county commission of each of the counties
18 may use or expend the state gasoline tax proceeds referred to
19 in subsection (k) for the construction, reconstruction,
20 maintenance, and repair of public highways and traffic control
21 areas located on public school property or state school
22 property within the county.

23 (m) The State Treasurer shall make all allocations
24 of the net tax proceeds and the supplemental net tax proceeds
25 and shall make the distributions and payments thereof pursuant
26 to the allocations provided for in this section.

(n) It is the intention of the Legislature in enacting this section to preserve inviolate all pledges heretofore made pursuant to law of any portion of the proceeds derived from the highway gasoline tax for the benefit of those bonds now outstanding that are referred to in subsection (c), or for the benefit of securities now outstanding that were issued pursuant to law by any county or municipality.

(o) All revenues received or collected by the Department of Revenue from the tax levied on gasoline remaining after the payment of the expense of administration and enforcement of this act are hereby allocated and appropriated in the following manner:

(1) Forty-five percent of the net tax proceeds are hereby allocated and appropriated for state highway purposes and as the state's share of the net tax proceeds. This 45 percent of the net tax proceeds shall be covered into the State Treasury to the credit of the Public Road and Bridge Fund and shall be disbursed as provided in this act.

(2) Fifty-five percent of the net tax proceeds are hereby allocated and appropriated to be used for highway purposes by the counties and municipalities. The 55 percent of the net tax proceeds shall be covered into the State Treasury and shall be disbursed and allocated as hereinafter provided in this section.

a. A portion of the local subdivisions' shares of the net tax proceeds that is equal to 25 percent of the net

1 tax proceeds shall be allocated equally among the 67 counties
2 of the state.

3 b. The entire residue of the local subdivisions'
4 shares of the net tax proceeds, being an amount equal to 30
5 percent of the net tax proceeds, shall be allocated among the
6 67 counties of the state on the basis of the ratio of the
7 population of each county to the total population of the state
8 according to the then next preceding federal decennial census,
9 or any special federal census heretofore held in any county
10 subsequent to the effective date of the 1970 Federal Decennial
11 Census. The allocation provided for in this subsection shall
12 be made on or prior to the tenth day of each month with
13 respect to receipts of the highway gasoline tax by the state
14 during the preceding month.

15 c. The distributions provided for in this
16 subdivision shall be made monthly. The amounts allocated or
17 apportioned to each county shall be disposed of as follows:

18 1. Ten percent of the amount so allocated or
19 apportioned to each county shall be distributed among the
20 municipalities in the county with respect to which the
21 allocation or apportionment is made, each distribution among
22 the municipalities shall be made on the basis of the ratio of
23 the population of each municipality to the total population of
24 all municipalities in the applicable county according to the
25 then next preceding federal decennial census. Provided, that
26 any local laws or general laws of local application now in
27 effect regarding the distribution of the tax levied by Section

1 6 shall govern the distribution of the amounts allocated or
2 apportioned within every county by this section; provided
3 further, that the Legislature may by general or local laws
4 prescribe other distributions within counties to local
5 governments.

6 2. The remaining portion of the amount so allocated
7 or apportioned to each county shall be distributed to the
8 county with respect to which such allocation or apportionment
9 is made.

10 d. The population of any municipality incorporated
11 subsequent to the taking of the then next preceding federal
12 decennial census shall be deemed to be the population shown by
13 the census for that municipality taken pursuant to the
14 requirements of Section 11-41-4, Code of Alabama 1975. Any
15 municipality incorporated after September 30, 1978, shall not
16 participate in the distribution provided for in this section
17 until the fiscal year next succeeding the fiscal year during
18 which it is incorporated, the first distribution to the
19 municipality shall be made in respect of receipts of the
20 highway gasoline tax by the state during October of the fiscal
21 year next succeeding its incorporation.

22 e. When requested to do so by any municipality, the
23 Department of Transportation may at its discretion make
24 available the services and advice of its engineers and other
25 employees with respect to any work for which that municipality
26 proposes to expend moneys distributed to it under this
27 subdivision. Any services and advice that may be so made

1 available shall be provided under the terms and conditions as
2 may be mutually agreeable to the Department of Transportation
3 and the municipality.

4 (p) The State Treasurer shall make all allocations
5 of the revenue collections and shall make the distribution and
6 payments thereof pursuant to such allocations provided for in
7 this act.

8 Section 41. The revenue, less the cost of
9 collection, obtained from the tax levied in subdivision (3) of
10 subsection (a) of Section 6 shall be paid into the State
11 Treasury to the credit of the Department of Transportation and
12 be used exclusively for the purpose of paying the cost of
13 acquiring, engineering, construction, improvement, and
14 maintenance of existing or proposed airports and other air
15 navigation facilities within the state, for the payment of the
16 salaries of all employees who have been transferred from the
17 Alabama Department of Aeronautics to the Department of
18 Transportation under Article 12 of Chapter 1 of Title 23, Code
19 of Alabama 1975, and for the payment of administrative
20 expenses incurred by the Department of Transportation in
21 performing aeronautical activities and for the further purpose
22 of creating a sinking fund for the payment of the interest and
23 retirement of the principal of all bonds which may be
24 hereafter lawfully issued, sold, and delivered for funds to be
25 used exclusively for the enumerated purposes.

Section 42. (a) The proceeds of the thirteen cents (\$.13) excise tax imposed by this act, when collected, shall be applied as follows:

(1) For payment of the costs of collection thereof, being the amount appropriated for each fiscal year by the Legislature to the Department of Revenue for the administration of this article.

(2) For payment of the principal of and interest on bonds issued after October 1, 1969, and prior to December 1, 1977, by the Alabama Highway Authority, a public corporation and instrumentality of the state, all in the manner and to the extent and subject to the priorities as to rank as are provided in the respective statutes under which the bonds were issued.

(3) For payment of the principal of and interest on bonds and other obligations, including refunding obligations, issued after December 1, 1977, by a public corporation existing at the time of issuance under the laws of Alabama pursuant to then existing statutory or constitutional authorization, or by the State of Alabama pursuant to authorization, effective at the time of issuance, under the Constitution and laws of the state, and for which the excise tax imposed by this act shall have been appropriated and pledged in a then effective statute or constitutional provision, including any enabling act under a constitutional provision, all in the manner and to the extent and subject to the priorities in rank as may be provided in the statute or

1 constitutional provision or in an authorizing resolution
2 thereunder.

3 (4) The balance shall be covered into the State
4 Treasury to the credit of the Department of Transportation to
5 be used exclusively in the construction, repair, maintenance,
6 and operation of public roads and bridges in this state,
7 including any toll road or toll bridge constructed by the
8 Department of Transportation or maintained and operated by it
9 or under its supervision.

10 (b) Revenues received or collected from the
11 additional six cents (\$.06) excise tax by the Department of
12 Revenue upon the selling, use or consumption, distributing,
13 storing, or withdrawing from storage in this state of diesel
14 fuel remaining after the payment of the expense of
15 administration and enforcement of this section shall be
16 distributed as follows:

17 (1) Four and sixty-nine one hundredths percent shall
18 be distributed equally among each of the 67 counties of the
19 state monthly. These funds shall be used by counties for the
20 purposes specified in paragraph a. of subdivision (2) of
21 subsection (a) of Section 8-17-91, Code of Alabama 1975.

22 (2) Ninety-three one hundredths of one percent shall
23 be allocated among the incorporated municipalities of the
24 state and distributed and used as provided in paragraph c. of
25 subdivision (2) of subsection (a) of Section 8-17-91, Code of
26 Alabama 1975.

(3) The balance shall be paid to the State Treasury to be used for highway purposes by the Department of Transportation.

Provided, that for the first five full fiscal years commencing October 1, 2012, if distributions to the counties and municipalities provided for in subdivisions (1) and (2) above are insufficient to ensure, in combination with the distributions provided in Section 8-17-91, Code of Alabama 1975, that the counties and municipalities receive no less than the distributions received for fiscal year 2003 under the previous provisions of Section 8-17-91, then the above percentages shall be adjusted accordingly. After the first five full fiscal years, the above percentages shall not be adjusted.

Section 43. (a) For the purposes of this section, the following words and phrases shall have the following meanings:

(1) BRIDGE REPLACEMENT. Bridge replacement includes the replacement of existing bridge structures and, if necessary, the realignment of the adjacent approaches.

(2) RESURFACING, RESTORATION, AND REHABILITATION.

Work undertaken primarily to preserve an existing facility.

Restoration and rehabilitation is work required to return the existing pavement or bridge deck, including shoulders, to a condition of adequate structural support or to a condition adequate for placement of an additional state of construction.

Resurfacing consists of the placement of additional surface

1 material over the existing, restored, or rehabilitated roadway
2 or bridge deck to improve serviceability or to provide
3 additional strength. Resurfacing, restoration, and
4 rehabilitation work may include changes to geometric features,
5 such as minor widening, flattening curves, or improving sight
6 distances.

7 (b) It is the intent of the Legislature that the
8 proceeds of the tax collected on motor fuel and gasoline under
9 the provisions of this act shall be used in the following
10 manner:

11 (1) Where the use is by the Department of
12 Transportation, the use shall, with the approval of the
13 Governor, be for the construction and maintenance of public
14 roads and bridges on the state highway system.

15 (2) Where the use is by a county, the use shall be
16 for the resurfacing, restoration, and rehabilitation of the
17 paved county roads and bridges or bridge replacement on the
18 county road system. These funds shall not be used for new
19 construction unless 90 percent of the county's paved road
20 system has achieved a grade of 85 percent based on the State
21 of Alabama Department of Transportation's annual maintenance
22 report of county roads and bridges. These funds shall not be
23 used for the purchase of equipment. The net tax proceeds
24 distributed to the county shall not be commingled with other
25 funds of the county, including any other gasoline tax
26 revenues, and shall be kept and disbursed by the county from a
27 special fund only for the purposes hereinabove provided.

(3) Where the use is by a municipality, the use shall be for resurfacing, restoration, and rehabilitation of roads, bridges, and streets within the municipality. The use may also be for bridge replacement within the municipality. From time to time, the funds may also be used to construct new roads and streets within the municipality. These funds shall not be commingled with other funds of the municipality, including any other gasoline tax revenues, and shall be kept and disbursed by the municipality from a special fund only for the purposes hereinabove provided.

Section 44. Sections 40-17-171, 40-17-174,
40-17-220, 40-17-221, and 40-17-223 of the Code of Alabama
1975, are hereby amended to read as follows:

"§40-17-171.

"Every distributor, manufacturer, retail dealer, or storero of lubricating oil, as herein defined, shall pay an excise tax of \$.02 per gallon upon the selling, distributing, or withdrawing from storage in this state for any use lubricating oil as herein defined; provided, that this excise tax shall neither be levied upon the sale of lubricating oil in interstate commerce nor upon any sale of lubricating oil destined for out-of-state use which is transacted in a manner whereby an out-of-state purchaser takes delivery of such oil at a distributor's plant within this state and transports it out-of-state; and provided further that this excise tax shall not be levied on lubricating oil sold to city and county governing bodies, city and county boards of education, the

1 Alabama Institute for Deaf and Blind, the Department of Youth
2 Services school district, and private and church schools as
3 defined in Section 16-28-1, and which offer essentially the
4 same curriculum as offered in grades K-12 in the public
5 schools of this state; and provided further, that where the
6 excise tax of \$.02 per gallon upon the sale of ~~such the~~
7 lubricating oil shall have been paid by a distributor,
8 manufacturer, retail dealer, or storer, ~~such~~ payment shall be
9 paid but one time by any person so liable. The state
10 Department of Revenue is hereby authorized to issue to the
11 United States certificates of exemption, upon forms prescribed
12 by the department, for use by the United States in purchasing
13 lubricating oil within the State of Alabama and which is paid
14 for by the United States. Any person in reporting and paying
15 ~~said~~ ~~the~~ tax to the department may deduct the number of
16 gallons of lubricating oil so sold to the United States, as
17 shown by ~~such~~ ~~the~~ certificates of exemption duly executed by
18 the United States and filed with ~~such~~ ~~the~~ report; ~~and the.~~ The
19 department is authorized to adopt rules and regulations with
20 respect to the issuance and use of ~~such~~ ~~the~~ certificates.

21 "§40-17-174.

22 "Each person, firm, corporation, or agency selling
23 illuminating, lubricating, or fuel oils at wholesale ~~in~~
24 ~~quantities of 25 gallons or more;~~ shall pay to the Department
25 of Revenue for the use of the state, ~~within two weeks from the~~
26 ~~beginning of the~~ on or before October 31 for the preceding
27 fiscal year, the sum of one half of one percent on the gross

1 sales, excluding all federal, state, and local excise taxes,
2 for the preceding fiscal year. The payment to the Department
3 of Revenue shall be accompanied by a sworn statement verified
4 by the person having knowledge of the facts showing the amount
5 of the gross sales of the oils sold in the state during the
6 preceding fiscal year. No county license shall be charged
7 under this section. The tax shall be paid on the first, and
8 only the first, wholesale sales transaction of the oils sold
9 in the state. The initial wholesale transaction shall be the
10 only point at which the wholesale oil license fee is imposed
11 on the oils sold in the state, the intent being that the tax
12 shall be paid to the state but once. A copy of the statement
13 shall at the same time be filed with the Department of
14 Revenue. The books of the person so engaged in the business
15 shall be accurately kept and shall show the date, character,
16 and quantity of the oils received for sale in this state and
17 the name and post-office address of the person from whom
18 received. The books shall also show the date, character, and
19 quantity of each sale made, together with the name and address
20 of the person to whom sold and, when consigned to an agent for
21 sale in this state, the date, character, and quantity of the
22 consignment, together with the name and address of the agent
23 and place of consignment. The books shall always be open to
24 inspection by the Department of Revenue. Any person failing to
25 make the sworn statement or making a false statement or
26 failing to keep books in substantial compliance with this
27 section shall be guilty of a misdemeanor and upon conviction

1 therefore shall be fined an amount not exceeding five hundred
2 dollars (\$500), and also forfeit to the state three times the
3 amount of the license on the gross sales, but no tax shall be
4 paid to the county.

5 "§40-17-220.

6 "(a) There is hereby levied in addition to all other
7 taxes of every kind now imposed by law an excise tax on
8 ~~gasoline and~~ lubricating oil of \$.04 per gallon, which shall
9 be collected as herein provided.

10 "(b) Every manufacturer, distributor, refiner,
11 retail dealer, storer, or user of ~~gasoline or~~ lubricating oil
12 shall collect and pay over to the state Department of Revenue
13 an excise tax of \$.04 per gallon upon the selling, use or
14 consumption, distributing, storing, or withdrawing from
15 storage in this state for any use of ~~gasoline or~~ lubricating
16 oil as defined or otherwise referred to in this article,
17 except ~~gasoline and~~ lubricating oil expressly exempted by the
18 provisions of this article. Provided, that where any excise
19 tax imposed by this section upon the sale, use or consumption,
20 distribution, storage or withdrawal from storage in this state
21 of gasoline or lubricating oil shall have been paid to the
22 state by a manufacturer, distributor, refiner or by any retail
23 dealer, storer, or user, the payments shall be sufficient, the
24 intent being that the tax shall be paid to the state but once.

25 "(c) ~~The state Department of Revenue is hereby~~
26 ~~authorized to issue to the United States certificates of~~
27 ~~exemption, upon forms prescribed by the department, for use by~~

1 the United States in purchasing gasoline or lubricating oil
2 taxed by this section within the State of Alabama and which is
3 paid for by the United States. Any person in reporting and
4 paying the tax to the department may deduct the number of
5 gallons of products taxed by this section sold to the United
6 States, as shown by a certificate of exemption duly executed
7 by the United States and filed with a report, and the
8 department is authorized to adopt rules and regulations with
9 respect to the issuance and use of these certificates.

10 "(d) (c) The following are expressly exempted from
11 the provisions of this article:

12 "(1) ~~Gasoline and other fuel~~ Lubricating oil used to
13 propel in aircraft powered by reciprocating engines, ~~any fuel~~
14 used to propel aircraft powered by or jet or turbine engines
15 and lubricating oil used in such aircraft;

16 "(2) ~~Gasoline used to propel ships, vessels, barges,~~
17 ~~railroad locomotives, other railroad equipment, and~~
18 lubricating Lubricating oil used in ships, vessels, barges,
19 railroad locomotives, and other railroad equipment;

20 "(3) ~~Gasoline and lubricating~~ Lubricating oil sold
21 to be used for agricultural purposes;

22 "(4) ~~Gasoline and lubricating~~ Lubricating oil sold
23 to governing bodies of counties and incorporated
24 municipalities;

25 "(5) ~~Gasoline and lubricating~~ Lubricating oil sold
26 to be used in off-road vehicles which presently do not require
27 state licensing; specifically, but not limited to, forklifts

1 and other like devices not for use on the streets and highways
2 of this state;

3 "(6) ~~Gasoline and lubricating~~ Lubricating oil sold
4 to city and county boards of education; and

5 "(7) ~~Gasoline and lubricating~~ Lubricating oil sold
6 to private and church school systems as defined in Section
7 16-28-1, and which offer essentially the same curriculum as
8 offered in grades K-12 in the public schools of this state,
9 Alabama Institute for Deaf and Blind, and the Department of
10 Youth Services.

11 "(8) Lubricating oil sold to the United States.

12 "(e) ~~Every distributor or supplier shall collect and~~
13 ~~pay over to the state Department of Revenue an excise tax of~~
14 ~~\$.06 per gallon upon the receipt, by any means other than a~~
15 ~~transfer by a marine vessel or pipeline, of motor fuel from a~~
16 ~~terminal, refinery, barge, barge line, or pipeline terminal in~~
17 ~~this state, or upon import into this state by any means other~~
18 ~~than pipeline, marine vessel, or the fuel supply tank of the~~
19 ~~vehicle, for any use of motor fuel not exempted by this~~
20 ~~article. Provided, that where any excise tax imposed by this~~
21 ~~section shall have been paid to the state by a distributor or~~
22 ~~supplier the payment shall be sufficient, the intent being~~
23 ~~that the tax shall be paid to the state but once. Motor fuel~~
24 ~~that is indelibly dyed and chemically marked in accordance~~
25 ~~with regulations issued by the Secretary of the Treasury of~~
26 ~~the United States under 26 U.S.C. §4082 shall be exempt from~~
27 ~~the tax imposed by this subsection.~~

1 "(f) A licensed distributor may take a credit or
2 request a refund pursuant to the provisions of Section
3 40-2A-7, for the following sales of motor fuel on which the
4 tax has been imposed by this article:

5 "(1) Motor fuel sold to the United States.

6 "(2) Motor fuel used to propel aircraft powered by
7 jet or turbine engines.

8 "(3) Motor fuel sold to governing bodies of counties
9 and incorporated municipalities.

10 "(4) Motor fuel sold to city and county boards of
11 education.

12 "(5) Motor fuel sold to the Alabama Institute for
13 Deaf and Blind, the Department of Youth Services school
14 district, and to private and church school systems as defined
15 in Section 16-28-1, and which offer essentially the same
16 curriculum as offered in grades K-12 in the public schools of
17 this state.

18 "(6) Motor fuel sold as kerosene for lighting or
19 heating purposes.

20 "(7) Motor fuel that is sold from one Alabama
21 licensed distributor to another Alabama licensed distributor.

22 "(8) Motor fuel which is exported by the licensed
23 distributor.

24 "(9) Motor fuel used for off-road agricultural
25 purposes on the farm.

26 "(g) The use of motor fuel on which the tax has been
27 imposed and paid under the provisions of this article shall be

1 exempt from the tax imposed by this article and the user shall
2 be entitled to a refund when motor fuel is used in designated
3 off-road vehicles, or other off-road equipment (except marine
4 use), or for commercial marine use as defined by the federal
5 government or for any of the uses described in subsection (f).
6 The end user shall be entitled to apply for a refund on a
7 quarterly basis for excise taxes paid according to the
8 provisions of this article, subject to the following
9 limitations:

10 "(1) Applications for refund shall be completed by
11 the end user on forms prescribed by the Commissioner of
12 Revenue and sworn to by the applicant before some officer
13 authorized to administer oaths.

14 "(2) The statute of limitations for filing refunds
15 is within three years of the date that the motor fuel was
16 purchased.

17 "(h) Any applicant for the refund of the taxes
18 levied herein who willfully files an inaccurate petition or
19 false claim for a refund shall be subject to a penalty of 100%
20 of the refund claimed, along with interest assessed according
21 to the provisions of Section 40-1-44.

22 "(i) Notwithstanding the foregoing provisions of
23 this section, all motor fuel used by off-road equipment used
24 for agricultural purposes shall be exempt from the tax imposed
25 by this article at the time of sale. Provided, however, clear
26 motor fuel shall only be sold for such purposes if no dyed
27 motor fuel is available from the agricultural users supplier.

1 "(j) Any person shall pay to the Department of
2 Revenue an excise tax of \$.06 per gallon, on:

3 "(1) Motor fuel which was allowed as a credit under
4 the provisions of this article which is sold for a use not
5 allowed as a credit by the provisions of this article.

6 "(2) Motor fuel on which no tax has been paid under
7 the provisions of this article when it is used to operate a
8 highway vehicle not exempted under the provisions of this
9 article.

10 "(3) Motor fuel on which tax imposed by this article
11 has been refunded when it is used to operate a highway vehicle
12 not exempted under the provisions of this article.

13 "(4) Dyed motor fuel used to operate any on-road
14 vehicles other than city and county vehicles or used in marine
15 craft not used for commercial purposes.

16 "§40-17-221.

17 "(a) The provisions of this article pertaining to
18 gasoline and the tax herein levied on gasoline shall be
19 administered and collected in accordance with Sections
20 40-17-30, 40-17-32 through 40-17-37, 40-17-38, 40-17-39
21 through 40-17-49, 40-17-52, and 40-17-220, or as otherwise
22 provided in this title.

23 "(b) The provisions of this article pertaining to
24 motor fuel and the tax herein levied on motor fuel shall be
25 administered and collected in accordance with Sections
26 40-17-1, 40-17-5 through 40-17-9, 40-17-14 through 40-17-20,
27 or as otherwise provided in this title.

1 "(c) The provisions of this article pertaining to
2 lubricating oil and the tax herein levied on lubricating oil
3 shall be administered and collected in accordance with
4 Sections 40-17-170, 40-17-173, 40-17-176 through 40-17-186, or
5 as otherwise provided in this title.

6 "§40-17-223.

7 "All revenues received or collected by the
8 Department of Revenue upon the selling, use or consumption,
9 distributing, storing, or withdrawing from storage in this
10 state of ~~gasoline~~ and lubricating oil remaining after the
11 payment of the expense of administration and enforcement of
12 this article are hereby allocated and appropriated in the
13 following manner:

14 "(1) Forty-five percent of the net tax proceeds is
15 hereby allocated and appropriated for state highway purposes
16 and as the state's share of the net tax proceeds. ~~The said 45~~
17 ~~percent of the net tax proceeds shall to~~ be covered into the
18 State Treasury to the credit of the Public Road and Bridge
19 Fund and ~~shall be~~ disbursed as provided in this article.

20 "(2) Fifty-five percent of the net tax proceeds is
21 hereby allocated and appropriated to be used for highway
22 purposes by the counties and municipalities. ~~The said 55~~
23 ~~percent of the net tax proceeds shall to~~ be covered into the
24 State Treasury and ~~shall be~~ disbursed and allocated as
25 hereinafter provided in this section.

26 "a. A portion of the local subdivisions' share of
27 the net tax proceeds that is equal to 25 percent of the net

1 tax proceeds shall be allocated equally among the 67 counties
2 of the state.

3 "b. The entire residue of the local subdivisions'
4 share of the net tax proceeds, being an amount equal to 30
5 percent of the net tax proceeds shall be allocated among the
6 67 counties of the state on the basis of the ratio of the
7 population of each ~~such~~ county to the total population of the
8 state according to the then next preceding federal decennial
9 census, or any special federal census heretofore held in any
10 county subsequent to the effective date of the 1970 Federal
11 Decennial Census. The allocation provided for in this
12 subsection shall be made on or prior to the tenth day of each
13 month with respect to receipts of the ~~highway gasoline~~
14 lubricating oil tax by the state during the preceding month.

15 "c. The distributions provided for in this
16 subdivision shall be made monthly. The amounts allocated or
17 apportioned to each county shall be disposed of as follows:

18 "1. Ten percent of the amount so allocated or
19 apportioned to each county shall be distributed among the
20 municipalities in the county with respect to which the
21 allocation or apportionment is made, each ~~such~~ distribution
22 among the ~~said~~ municipalities to be made on the basis of the
23 ratio of the population of each ~~such~~ municipality to the total
24 population of all municipalities in the applicable county
25 according to the then next preceding federal decennial census.
26 ~~Provided, however, any local laws or general laws of local~~
27 ~~application now in effect regarding the distribution of the~~

1 ~~tax levied by Section 40-17-31 shall govern the distribution~~
2 ~~of the amounts allocated or apportioned within every county by~~
3 ~~this section; provided further, that the Legislature may by~~
4 ~~general or local laws prescribe other distributions within~~
5 ~~counties to local governments; and~~

6 "2. The remaining portion of the amount so allocated
7 or apportioned to each county shall be distributed to the
8 county with respect to which ~~such the~~ allocation or
9 apportionment is made.

10 "d. The population of any municipality incorporated
11 subsequent to the taking of the then next preceding federal
12 decennial census shall be deemed to be the population shown by
13 the census for that municipality taken pursuant to the
14 requirements of Section 11-41-4. Any municipality incorporated
15 after September 30, 1978 shall not participate in the
16 distribution provided for in this section until the fiscal
17 year next succeeding the fiscal year during which it is
18 incorporated, the first distribution to ~~such that~~ municipality
19 to be made in respect of receipts of the ~~highway gasoline~~
20 lubricating oil tax by the state during October of the fiscal
21 year next succeeding ~~the said its~~ incorporation.

22 "e. When requested to do so by any municipality, the
23 Department of Transportation may at its discretion make
24 available the services and advice of its engineers and other
25 employees with respect to any work for which that municipality
26 proposes to expend moneys distributed to it under this
27 subdivision. Any ~~such~~ services and advice that may be so made

1 available shall be provided under ~~such~~ the terms and
2 conditions as may be mutually agreeable to the Department of
3 Transportation and the municipality."

4 Section 45. All general laws or parts of general
5 laws that conflict with this act are repealed. The following
6 sections of the Code of Alabama 1975, are specifically
7 repealed: Sections 40-12-190, 40-12-191, 40-12-192, 40-12-193,
8 40-12-194, 40-12-195, 40-12-196, 40-12-197, 40-12-198,
9 40-12-199, 40-12-200, 40-12-201, 40-12-202, 40-12-204,
10 40-12-205, 40-12-206, 40-17-1, 40-17-2, 40-17-5, 40-17-6,
11 40-17-7, 40-17-8, 40-17-9, 40-17-13, 40-17-14, 40-17-18,
12 40-17-19, 40-17-20, 40-17-22, 40-17-30, 40-17-31, 40-17-32,
13 40-17-33, 40-17-34, 40-17-35, 40-17-36, 40-17-37, 40-17-38,
14 40-17-39, 40-17-40, 40-17-43, 40-17-45, 40-17-49, 40-17-50,
15 40-17-51, 40-17-52, 40-17-70, 40-17-71, 40-17-72, 40-17-73,
16 40-17-74, 40-17-74.1, 40-17-75, 40-17-76, 40-17-77, 40-17-78,
17 40-17-79, 40-17-80, 40-17-81, 40-17-82, 40-17-100, 40-17-101,
18 40-17-102, 40-17-103, 40-17-104, 40-17-105, 40-17-106,
19 40-17-107, 40-17-108, 40-17-120, 40-17-121, 40-17-122,
20 40-17-124, 40-17-125, 40-17-200, 40-17-201, 40-17-203,
21 40-17-222, 40-17-240, 40-17-250, 40-17-290, and 40-17-291.

22 Section 46. There is appropriated to the Department
23 of Revenue, as a first charge against the revenues collected
24 under the provisions of this act for the fiscal year ending
25 September 30, 2012, one hundred fifty thousand dollars
26 (\$150,000), to be utilized for the implementation and
27 administration of this act, and every year thereafter as a

1 first charge against the revenues collected under the
2 provisions of this act, an amount of revenue shall be
3 appropriated to the department to offset its costs in the
4 administration of this act.

5 Section 47. Although this bill would have as its
6 purpose or effect the requirement of a new or increased
7 expenditure of local funds, the bill is excluded from further
8 requirements and application under Amendment 621, now
9 appearing as Section 111.05 of the Official Recompilation of
10 the Constitution of Alabama of 1901, as amended, because the
11 bill defines a new crime or amends the definition of an
12 existing crime.

13 Section 48. This act shall become effective October
14 1, 2012, following its passage and approval by the Governor,
15 or its otherwise becoming law.