

1 HB672  
2 167612-2  
3 By Representative Warren (N & P)  
4 RFD: Local Legislation  
5 First Read: 19-MAY-15

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to the Macon County Commission; authorizing  
14 the county commission to impose an excise tax on persons,  
15 corporations, partnerships, companies, agencies, associations,  
16 trusts, estates, and other entities engaged in the business of  
17 selling, distributing, storing, or withdrawing from storage,  
18 gasoline and motor fuel in Macon County in an amount not to  
19 exceed two cents (\$0.02) per gallon and to provide for  
20 exception; to provide for the collection and payment of the  
21 tax and to provide the distribution of the funds derived  
22 therefrom; to authorize the county commission to make rules  
23 and regulations for the collection of the tax; to provide for  
24 the enforcement and to fix a penalty for the violation of this  
25 act.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. This act shall apply only to Macon  
2   County.

3           Section 2. For the purposes of this act, the  
4   following terms shall have the following meanings:

5           (1) COUNTY COMMISSION. The County Commission of  
6   Macon County.

7           (2) DISTRIBUTOR. Any person who engages in the  
8   selling of gasoline or motor fuel in this state and not in  
9   interstate commerce by wholesale domestic trade.

10          (3) GASOLINE. Gasoline, naphtha, and other liquid  
11   motor fuels or any device or substitute therefor which is  
12   commonly used in internal combustion engines. The term shall  
13   not include those products known commercially as kerosene oil,  
14   fuel oil, or crude oil when used for lighting, heating, or  
15   industrial purposes.

16          (4) MOTOR FUEL. Diesel oil, tractor fuel, gas oil,  
17   distillate or liquefied gas, kerosene, jet fuel, or any  
18   substitutes or devices therefor when sold, distributed,  
19   stored, or withdrawn from storage in the county for use in the  
20   operation of any motor vehicle on the highways of this state.

21          (5) PERSON. Persons, corporations, partnerships,  
22   companies, agencies, associations, incorporated or otherwise,  
23   trusts, estates, and other entities.

24          (6) REFINER. Any person who manufactures, distills,  
25   blends, compounds, or mixes products in the production of  
26   gasoline or motor fuel.

1           (7) RETAIL DEALER. Any distributor who is also  
2 engaged in the selling of gasoline or motor fuel at any place  
3 in this state in broken quantities.

4           (8) STORER. Any person who ships or causes to be  
5 shipped or receives gasoline or motor fuel in any quantities  
6 and who stores, withdraws, or uses gasoline or motor fuel for  
7 any purpose.

8           (9) USER. Any person who uses or consumes gasoline  
9 or motor fuel. The term shall not include any refiner who has  
10 a refinery when using gasoline or motor fuel in the  
11 manufacturing or refining process, or any person who holds a  
12 federal permit to blend motor fuels and who pays the federal  
13 excise tax on the motor fuels directly to the federal  
14 government, when the person uses gasoline in the blending  
15 process.

16           Section 3. (a) Notwithstanding any provision of law,  
17 there is levied in addition to any other taxes an additional  
18 excise tax on persons selling, distributing, storing, or  
19 withdrawing from storage gasoline and motor fuel in an amount  
20 not to exceed two cents (\$0.02) per gallon and may require  
21 every distributor, retail dealer, or storer to pay the excise  
22 tax. The additional excise tax imposed pursuant to this act  
23 may not be imposed upon the sale of gasoline or motor fuel  
24 used in interstate commerce. If the additional excise tax has  
25 been paid by a distributor, retail dealer, or storer, the  
26 payment shall be sufficient, the intention being that the tax  
27 shall not be paid but once. The additional excise tax shall

1       apply to persons, retail dealers, or distributors storing  
2       gasoline or motor fuel and distributing or withdrawing from  
3       storage, whether the withdrawal is for sale or other use.  
4       Sellers of gasoline or motor fuel paying the tax herein  
5       provided may pay the tax computed and paid on the basis of  
6       sales, and storers and distributors shall compute and pay the  
7       tax on the basis of withdrawals or distributions. The county  
8       commission shall not impose any tax upon any gasoline or motor  
9       fuel when used in essential governmental functions by the  
10      State of Alabama or any agency thereof, the federal government  
11      or any agency thereof, or county commissions, municipalities,  
12      or boards of education.

13               (b) Any company or retailer of fuel products located  
14      or under construction in Macon County that has entered into a  
15      formal Project Agreement for economic development with a local  
16      government of Macon County in the past 24 months from the date  
17      of this act shall hereby be exempt from this additional two  
18      cent (\$0.02) fuel tax for a period of not less than 24 months  
19      from the date of the final engrossment of this act.

20               Section 4. On or before the 20th day of each month  
21      after the county commission has imposed the additional excise  
22      tax, each person upon whom the excise tax is imposed shall  
23      furnish to the county commission on forms prescribed by it a  
24      true and correct statement of all sales and withdrawals of  
25      gasoline or motor fuel made by that person during the  
26      preceding month. Each person shall furnish to the county  
27      commission any additional information required by the county

1 commission and shall pay to the tax collector an amount of  
2 money equal to the excise tax due under this act. The  
3 statement made by the distributor, retail dealer, or storer  
4 shall be sworn to before an officer authorized to administer  
5 oaths and any false statement sworn to shall constitute  
6 perjury and, upon conviction, the person so convicted shall be  
7 punished as provided by law.

8 Section 5. Every distributor, retail dealer, or  
9 storer shall keep all books, documents, or papers to show the  
10 amounts of sale or withdrawals of gasoline and motor fuel for  
11 not less than two years.

12 Section 6. Within 30 days after any tax has been  
13 imposed pursuant to this act, every distributor, retail  
14 dealer, or storer shall make a report to the county  
15 commission, on blanks furnished by it, showing the place and  
16 post office address at which the distributor, retail dealer,  
17 or storer is engaged in the business. The information on the  
18 report shall be entered on a book kept for that purpose. If  
19 the distributor, retail dealer, or storer moves the place of  
20 business from one address to another, the distributor, retail  
21 dealer, or storer shall within 30 days thereafter notify the  
22 county commission of the move, and shall give the former place  
23 and post office address and the place and post office address  
24 to which the place of business has moved. After the effective  
25 date of this act, no person shall become a distributor,  
26 storer, or seller of gasoline or motor fuel in the county

1       until the aforementioned have been made to the county  
2       commission.

3               Section 7. If any distributor, retail dealer, or  
4       storer of gasoline or motor fuel fails to make the reports,  
5       fails to comply with any regulation adopted for the collection  
6       of the tax by the county commission within the time required  
7       for making the reports, or fails to pay the tax imposed within  
8       the time established for the payment, the distributor, retail  
9       dealer, or storer shall be guilty of a Class C misdemeanor,  
10      and, upon conviction thereof, shall be punished as provided by  
11      law.

12             Section 8. The county commission shall enforce this  
13      act and may examine the books, reports, and accounts of every  
14      distributor, retail dealer, or storer of gasoline or motor  
15      fuel on which the tax has been imposed. The county commission  
16      may make any and all rules and regulations deemed necessary  
17      and proper for the collection of the tax. Upon a resolution of  
18      the county commission, the State Department of Revenue may  
19      collect the tax imposed by the county pursuant to this act.  
20      All persons, firms, businesses, and corporations owing the tax  
21      shall pay it to the Department of Revenue and the payment  
22      shall be a full and complete discharge of all liability for  
23      the tax owed the county. The Department of Revenue shall  
24      promulgate reasonable rules and regulations to facilitate the  
25      orderly and efficient collection of the tax imposed pursuant  
26      to this act. The Department of Revenue may recover all costs  
27      of collecting the tax, not to exceed five percent of the

1 proceeds and shall pay the net amount remaining thereafter to  
2 the county commission.

3 Section 9. If any distributor, retail dealer, or  
4 storer in gasoline or motor fuel fails to make monthly reports  
5 or fails to pay the tax imposed under this act, the tax shall  
6 be deemed delinquent. A penalty in the amount of 25 percent of  
7 the tax liability shall be added to the amount due. If the  
8 county commission determines that a good and sufficient cause  
9 exists for the delinquency, the penalty may be waived by the  
10 county commission. If any person is delinquent in the payment  
11 of the tax imposed pursuant to this act, the county commission  
12 shall issue execution for the collection of the tax, directed  
13 to any sheriff of the state. The sheriff shall then proceed to  
14 collect the tax in the manner now provided by law for the  
15 collection of delinquent taxes by the county tax collector and  
16 shall make a return of the execution to the county commission.  
17 The tax imposed pursuant to this act and any penalties  
18 provided herein shall be held as a debt payable to the county  
19 by the person against whom the tax has been imposed or against  
20 whom the penalties shall have accrued. All taxes and penalties  
21 shall be a lien upon the property in the county and elsewhere  
22 in this state of the person against whom the tax has been  
23 imposed and the penalties have accrued.

24 Section 10. The acceptance of any amount paid  
25 pursuant to this act shall not preclude the collection of the  
26 amount which is actually due. The amount actually paid shall  
27 constitute a credit against the amount which is actually due.

1           Section 11. Any distributor, storer, or dealer who  
2 violates this act or who fails to comply with any rule or  
3 regulation promulgated hereunder, may be restrained, and  
4 prosecution instituted by the Attorney General, or by counsel  
5 as the county commission directs, from distributing, selling,  
6 storing, or withdrawing from storage any gasoline or motor  
7 fuel the sale or withdrawal of which is taxable until those  
8 persons have complied with this act.

9           Section 12. An agent of any railroad company, bus or  
10 truck operator, or other transportation company or agency  
11 operating in the county shall report to the county commission  
12 on the fifteenth day of January, April, July, and October of  
13 each year all shipments of gasoline or motor fuel handled and  
14 delivered to any person in the county during the preceding  
15 three months. The report shall give the names and addresses of  
16 the consignor or consignee shipping and receiving the gasoline  
17 or motor fuel and the number of gallons or pounds contained in  
18 each and every shipment.

19           Section 13. One-half of the proceeds of the tax  
20 imposed under authority of this act shall be paid into the  
21 road and bridge fund in the county treasury for use as  
22 provided in Section 14 and one-half of the proceeds shall be  
23 distributed to the Macon County Economic Development  
24 Authority.

25           Section 14. Expenditures from the special fund  
26 provided for in Section 13 shall be made exclusively for the  
27 purpose of construction, improvement, and maintenance of

1 public highways and bridges including administrative expenses  
2 in connection therewith, the retirement of securities  
3 evidencing obligations incurred for payment of costs of any  
4 construction, improvement, and maintenance, the matching of  
5 federal or state funds in the construction of improved roads  
6 and bridges in the county in the same manner as other county  
7 funds are used to match federal and state funds and for  
8 payment of the costs incurred in the administration, and the  
9 enforcement of this act.

10 Section 15. This act shall become effective  
11 immediately upon its passage and approval by the Governor, or  
12 upon its otherwise becoming a law as herein provided.