

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.

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

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

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

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

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

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

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

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

15           (14) CODE. The Code of Alabama 1975.

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

18           (16) DEPARTMENT. The Alabama Department of Revenue.

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

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

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

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

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

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

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

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

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

25          (26) HIGHWAY. Includes, but is not limited to, every  
26 highway, road, street, alley, lane, court, place, trail,  
27 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.

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

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

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

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

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

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

19           (39) PERSON. Any individual, firm, cooperative,  
20 association, corporation, limited liability corporation,  
21 trust, business trust, syndicate, partnership, limited  
22 liability partnership, joint venture, receiver, trustee in  
23 bankruptcy, club, society, or other group or combination  
24 acting as a unit. Any public body, including, but not limited  
25 to, this state, any other state, and any agency, commissioner,  
26 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.

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

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

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

17 (48) STATE. The State of Alabama.

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

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

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

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

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

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

18 (55) TWO-PARTY EXCHANGE. A transaction in which  
19 motor fuel is transferred from one licensed supplier or  
20 permissive supplier to another licensed supplier or permissive  
21 supplier pursuant to an exchange agreement; and a. includes a  
22 transfer from the person who holds the inventory position in  
23 taxable motor fuel in the terminal as reflected on the records  
24 of the terminal operator; b. is completed prior to removal of  
25 the product from the terminal by the receiving exchange  
26 partner; and c. is recorded on the terminal operator's books  
27 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.

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

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

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

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

24                   (c) A tax is imposed on the sale or transfer of  
25 motor fuel in the bulk transfer/terminal system in this state  
26 by a supplier to a person who is not registered under Section  
27 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

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

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

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

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

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

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

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

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

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

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

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

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

12           (2) All sales of dyed diesel fuel.

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

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

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

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

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

12                   b. All-cargo operations. Any flight conducted by an  
13 air carrier for compensation or hire other than a passenger  
14 carrying flight, except passengers as specified in Sections  
15 121.583 (a) or 135.85 of the Federal Aviation Regulations, as  
16 amended.

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

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

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

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

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

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

26 b. All-cargo operations. Any flight conducted by an  
27 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.

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

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

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

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

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

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

26           (h) End users who first pay the tax levied by  
27 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.

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

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

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

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

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

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

24 (1) No tax was imposed on the motor fuel under  
25 Sections 40-17-2, 40-17-31, and 40-17-220, Code of Alabama  
26 1975, as of September 1, 2008; and

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

4           (b) The rate of the tax imposed by this section  
5 shall be the amount of tax imposed under Sections 40-17-2,  
6 40-17-31, and 40-17-220, Code of Alabama 1975, on September 1,  
7 2008.

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

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

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

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

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

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

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

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

25 (h) Each person other than a licensed supplier who  
26 purchases taxable motor fuel for resale within this state from  
27 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           (1) All fees collected under this section, except  
2 those refunded, shall be paid into the State Treasury to the  
3 credit of the State Public Road and Bridge Fund.

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

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

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

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

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

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

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

25           (c) A licensed permissive supplier acknowledges that  
26 this state imposes the requirements listed in subsection (b)  
27 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.

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

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

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

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

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

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

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

21           Section 19. (a) A licensee who discontinues in its  
22 entirety the business for which a license was authorized by  
23 this act shall notify the department in writing at least 10  
24 days prior to the time of the discontinuance, sale, or  
25 transfer takes effect, and shall surrender the license to the  
26 department. The notice shall state the effective date of the  
27 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.

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

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

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

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

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

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

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

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

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

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

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

12          Section 22. (a) Each distributor or importer shall  
13          remit to the supplier or permissive supplier, as applicable,  
14          the motor fuel tax levied by Section 6 due on motor fuel  
15          removed at a terminal rack. At the election of a licensed  
16          distributor or licensed importer, the supplier or permissive  
17          supplier may not require the licensed distributor or licensed  
18          importer to pay the tax levied by Section 6 earlier than one  
19          business day before the date the supplier or permissive  
20          supplier is required to pay the tax to this state. An election  
21          under this subsection is subject to the condition that  
22          remittances by the licensed distributor or licensed importer  
23          of all tax due to the supplier or permissive supplier shall be  
24          paid by electronic funds transfer. An election under this  
25          subsection may be terminated by the supplier or permissive  
26          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.

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

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

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

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

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

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

23           (5) The date of the shipments.

24           (6) The carrier name and FEIN.

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

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

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

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

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

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

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

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

23 (b) Each person operating a terminal in this state  
24 shall file an annual report for each terminal within this  
25 state on forms provided by the department. The report must be  
26 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.

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

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

21 (1) No person shall haul, transport, or convey motor  
22 fuel in boats or barges over any of the navigable waters of  
23 the state except in boats or barges plainly visibly marked on  
24 both sides and above the water line thereof with the word  
25 "gasoline" or other name of the motor fuel being transported,  
26 in letters at least four inches high and of correspondingly  
27 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.

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

3                   a. Appear on both sides of the vehicle.

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

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

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

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

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

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

24                  (1)(1) Officers or employees of the State of  
25 Alabama, or law enforcement officers of any county or  
26 municipality in the State of Alabama, upon the presentation of  
27 appropriate credentials and a written notice to the owner,

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

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

11 a. A terminal.

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

14 c. A retail motor fuel facility.

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

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

23 a. Physically inspect, examine, or otherwise search  
24 any tank, reservoir, or other container that can or may be  
25 used for the production, storage, or transportation of motor  
26 fuel, fuel dyes, or fuel markers. Inspection may also be made  
27 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

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

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

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

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

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

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

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

24 Section 33. (a) Any person who willfully does any of  
25 the following is guilty of a misdemeanor and upon conviction  
26 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.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

26           (c) All motor fuel and any property, tangible or  
27 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).

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

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

8           (10) STATE. The State of Alabama.

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

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

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

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

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

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

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

25           b. An amount equal to seventy-one hundredths of one  
26 percent of all state-imposed taxes levied pursuant to this  
27 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

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

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

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

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

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

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



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

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

22                  (3) Where the use is by a municipality, the use  
23                  shall be for transportation planning, the construction,  
24                  reconstruction, maintenance, widening, alteration, and  
25                  improvement of public roads, bridges, streets, and other  
26                  public ways, including payment of the principal of and  
27                  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.

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

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

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

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

25                 a. A portion of the local subdivisions' shares of  
26                 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.

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

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

8           (2) For payment of the principal of and interest on  
9           bonds issued after October 1, 1969, and prior to December 1,  
10          1977, by the Alabama Highway Authority, a public corporation  
11          and instrumentality of the state, all in the manner and to the  
12          extent and subject to the priorities as to rank as are  
13          provided in the respective statutes under which the bonds were  
14          issued.

15          (3) For payment of the principal of and interest on  
16          bonds and other obligations, including refunding obligations,  
17          issued after December 1, 1977, by a public corporation  
18          existing at the time of issuance under the laws of Alabama  
19          pursuant to then existing statutory or constitutional  
20          authorization, or by the State of Alabama pursuant to  
21          authorization, effective at the time of issuance, under the  
22          Constitution and laws of the state, and for which the excise  
23          tax imposed by this act shall have been appropriated and  
24          pledged in a then effective statute or constitutional  
25          provision, including any enabling act under a constitutional  
26          provision, all in the manner and to the extent and subject to  
27          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.



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

4           Provided, that for the first five full fiscal years  
5 commencing October 1, 2012, if distributions to the counties  
6 and municipalities provided for in subdivisions (1) and (2)  
7 above are insufficient to ensure, in combination with the  
8 distributions provided in Section 8-17-91, Code of Alabama  
9 1975, that the counties and municipalities receive no less  
10 than the distributions received for fiscal year 2003 under the  
11 previous provisions of Section 8-17-91, then the above  
12 percentages shall be adjusted accordingly. After the first  
13 five full fiscal years, the above percentages shall not be  
14 adjusted.

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

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

21           (2) RESURFACING, RESTORATION, AND REHABILITATION.  
22 Work undertaken primarily to preserve an existing facility.  
23 Restoration and rehabilitation is work required to return the  
24 existing pavement or bridge deck, including shoulders, to a  
25 condition of adequate structural support or to a condition  
26 adequate for placement of an additional state of construction.  
27 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.

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

11           Section 44. Sections 40-17-171, 40-17-174,  
12 40-17-220, 40-17-221, and 40-17-223 of the Code of Alabama  
13 1975, are hereby amended to read as follows:

14           "§40-17-171.

15           "Every distributor, manufacturer, retail dealer, or  
16 storer of lubricating oil, as herein defined, shall pay an  
17 excise tax of \$.02 per gallon upon the selling, distributing,  
18 or withdrawing from storage in this state for any use  
19 lubricating oil as herein defined; provided, that this excise  
20 tax shall neither be levied upon the sale of lubricating oil  
21 in interstate commerce nor upon any sale of lubricating oil  
22 destined for out-of-state use which is transacted in a manner  
23 whereby an out-of-state purchaser takes delivery of such oil  
24 at a distributor's plant within this state and transports it  
25 out-of-state; and provided further that this excise tax shall  
26 not be levied on lubricating oil sold to city and county  
27 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 therefor 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.