

1 HB261
2 148352-3
3 By Representatives Baker, McCutcheon, Hill, Weaver, Harper,
4 Treadaway, Davis, Burdine, Wallace and Vance
5 RFD: Transportation, Utilities and Infrastructure
6 First Read: 12-FEB-13

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Sections 40-17-174, 40-17-322, 40-17-329,
9 40-17-340, and 40-17-362 of the Code of Alabama 1975, relating
10 to the Alabama Wholesale Oil License Tax Fee; to exempt the
11 Alabama Wholesale Oil License fee from exported gallons of oil
12 and on transmix; to clarify the definition of the terms
13 "special fuel," and "Two-Party Exchange"; to define the terms
14 "kerosene," "K-1 kerosene," and "associate jobber"; and to
15 exempt K-1 kerosene refined in this state for immediate export
16 from destination state taxes.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 40-17-174, 40-17-322, 40-17-329,
19 40-17-340, and 40-17-362 of the Code of Alabama 1975, are
20 amended to read as follows:

21 "§40-17-174.

22 "(a) Each person, firm, corporation, or agency
23 selling diesel fuel, other than transmix, across the rack at a
24 terminal within this state shall pay to the Department of
25 Revenue for the use of the state, within two weeks from the
26 beginning of the fiscal year, a wholesale oil license fee
27 equal to three-fourths of one cent per gallon for each gallon

1 of diesel fuel so sold during the preceding fiscal year,
2 including all diesel fuel whether manufactured or imported
3 into the state prior to the sale. Exempted from this fee shall
4 be diesel fuel exported from this state for which proof of
5 export is available in the form of a terminal issued shipping
6 document.

7 "(b) Each importer of diesel fuel, other than
8 transmix, into this state, other than by a bulk transfer, for
9 delivery to a destination in this state ~~for resale~~ shall pay
10 to the Department of Revenue for the use of the state within
11 two weeks from the beginning of the fiscal year, an import
12 license fee equal to three-fourths of one cent per gallon for
13 each gallon of diesel fuel imported during the preceding
14 fiscal year; excluding any gallons for which a permissive
15 supplier collected the fee from the importer, in accordance
16 with subsection (c).

17 "(c) A permissive supplier shall collect the import
18 license fee imposed by subsection (b) from the person who
19 purchases the diesel fuel, other than transmix, for import
20 into this state. The permissive supplier shall remit the fee
21 within two weeks from the beginning of the fiscal year, for
22 each gallon of diesel fuel sold during the preceding fiscal
23 year.

24 "(d) The payment to the Department of Revenue shall
25 be accompanied by a sworn statement verified by the person
26 having knowledge of the facts showing the number of gallons of
27 diesel fuel sold or imported into the state during the

1 preceding fiscal year. No county license shall be charged
2 under this section.

3 (e) The sale of biodiesel fuel to a licensed
4 supplier when delivered to a terminal shall be exempted from
5 the wholesale oil license fee imposed under this section.

6 "§40-17-322.

7 "As used in this article and unless the context
8 requires otherwise, the following terms have the meaning
9 ascribed herein:

10 "(1) AIRCRAFT. Any airplane or helicopter.

11 "(2) ASSOCIATE JOBBER. A person who acquires motor
12 fuel from a licensed distributor in this state for subsequent
13 sale. An associate jobber may obtain a distributor's license
14 even though it does not acquire fuel from a supplier in this
15 state.

16 "~~(2)~~ (3) AVIATION FUEL. Aviation gasoline or
17 aviation jet fuel.

18 "~~(3)~~ (4) AVIATION GASOLINE. Motor fuel designed for
19 use in the operation of aircraft other than jet aircraft, and
20 sold or used for that purpose.

21 "~~(4)~~ (5) AVIATION JET FUEL. Motor fuel designed for
22 use in the operation of jet or turbo-prop aircraft and sold or
23 used for that purpose.

24 "~~(5)~~ (6) BIODIESEL FUEL. Any motor fuel or mixture
25 of motor fuels that is derived, in whole or in part, from
26 agricultural products or animal fats, or the wastes of such

1 products or fats, and is advertised as, offered for sale as,
2 suitable for use or used as motor fuel in a diesel engine.

3 "~~(6)~~ (7) BLENDED FUEL. A mixture composed of
4 gasoline or diesel fuel and any other liquid that can be used
5 as a motor fuel in a highway vehicle.

6 "~~(7)~~ (8) BLENDER. A person who produces blended
7 motor fuel outside the bulk transfer/terminal system.

8 "~~(8)~~ (9) BLENDING. The mixing of one or more
9 petroleum products, with or without another product,
10 regardless of the original character of the product blended,
11 if the product obtained by the blending is capable of use in
12 the generation of power for the propulsion of a motor vehicle,
13 an airplane, or a marine vessel. Blending does not include
14 mixing that occurs in the process of refining by a refiner of
15 crude petroleum and applicable feedstocks and blendstocks, or
16 the blending of products known as lubricating oil in the
17 production of lubricating oils and greases.

18 "~~(9)~~ (10) BULK END USER. A person who receives into
19 his or her own storage facilities, in transport truck lots,
20 taxable motor fuel for his or her own consumption.

21 "~~(10)~~ (11) BULK PLANT. A motor fuel storage and
22 distribution facility that is not a terminal and from which
23 motor fuel may be removed at a rack.

24 "~~(11)~~ (12) BULK TRANSFER. Any transfer of motor fuel
25 from one location to another by pipeline tender or marine
26 delivery within a bulk transfer/terminal system, including,
27 but not limited to, the following:

1 "a. The movement of motor fuel from a refinery or
2 terminal to a terminal by marine vessel or barge;

3 "b. the movement of motor fuel from a refinery or
4 terminal to a terminal by pipeline;

5 "c. the book or in-tank transfer of motor fuel
6 within a terminal between licensed suppliers prior to the
7 completion of removal across the rack; and

8 "d. a two-party exchange between licensed suppliers
9 or between licensed suppliers and permissive suppliers.

10 "~~(12)~~ (13) BULK TRANSFER/TERMINAL SYSTEM. The motor
11 fuel distribution system consisting of refineries, pipelines,
12 marine vessels, and terminals.

13 "(14) CELLULOSIC BIOFUEL. Renewable fuel that is
14 derived from any cellulose, hemi-cellulose, or lignin, or as
15 may be defined as cellulosic biofuel by the Renewable Fuel
16 Standards, 40 C.F.R. Part 80, Subpart M, as amended from time
17 to time.

18 "~~(13)~~~~(14)~~ (15) CODE. The Code of Alabama 1975.

19 "~~(14)~~~~(15)~~ (16) COMMISSIONER. The Commissioner of
20 the Alabama Department of Revenue.

21 "~~(15)~~~~(16)~~ (17) DEPARTMENT. The Alabama Department
22 of Revenue.

23 "~~(16)~~~~(17)~~ (18) DESTINATION STATE. The state,
24 territory, or foreign country to which motor fuel is directed
25 for delivery.

26 "~~(17)~~~~(18)~~ (19) DIESEL FUEL. Any liquid that is
27 advertised, offered for sale, or sold for use as or used as a

1 motor fuel in a diesel-powered engine. Diesel fuel includes #1
2 and #2 fuel oils, kerosene, special fuels, and blended fuels
3 which contain diesel fuel, but shall not include gasoline or
4 aviation fuel.

5 "~~(18)~~~~(19)~~ (20) DISTRIBUTOR. A person who acquires
6 motor fuel from a supplier in this state for subsequent sale.

7 "~~(19)~~~~(20)~~ (21) DYED DIESEL FUEL. Diesel fuel that
8 meets the dyeing and marking requirements of Section 4082,
9 Title 26 of the United States Code.

10 "~~(20)~~~~(21)~~ (22) EXPORT. Motor fuel obtained in
11 Alabama for sale or other distribution in another state,
12 territory, or foreign country.

13 "~~(21)~~~~(22)~~ (23) EXPORTER. A person who exports motor
14 fuel.

15 "~~(22)~~~~(23)~~ (24) GASOHOL. A blended motor fuel
16 composed of gasoline and motor fuel grade alcohol.

17 "~~(23)~~~~(24)~~ (25) GASOLINE. Any product commonly or
18 commercially known as gasoline, regardless of classification,
19 that is advertised, offered for sale, or sold for use as or
20 used as motor fuel in an internal combustion engine, including
21 gasohol and blended fuel which contains gasoline. Gasoline
22 also includes gasoline blendstocks as defined under Section
23 4081, Title 26 of the United States Code and the regulations
24 promulgated thereunder. Gasoline does not include special fuel
25 or aviation gasoline sold to a licensed aviation fuel
26 purchaser for use in an aircraft motor.

1 "~~(24)~~ ~~(25)~~ (26) GROSS GALLONS. The total measured
2 product, exclusive of any temperature or pressure adjustments,
3 considerations, or deductions, in U.S. gallons.

4 "~~(25)~~ ~~(26)~~ (27) HIGHWAY. Includes, but is not
5 limited to, every highway, road, street, alley, lane, court,
6 place, trail, drive, bridge, viaduct, or trestle located
7 within this state and laid out or erected by the public or
8 dedicated or abandoned to the public or intended for use by or
9 for the public. The term shall also apply to and include
10 driveways upon the grounds of universities, colleges, schools,
11 and institutions but shall not be deemed to include private
12 driveways, private roads, or private places not intended for
13 use by the public.

14 "~~(26)~~ ~~(27)~~ (28) HIGHWAY VEHICLE. Any self-propelled
15 vehicle that is designed for use on a highway.

16 "~~(27)~~ ~~(28)~~ (29) IMPORT. To bring motor fuel into
17 this state for sale, use, or storage by any means of
18 conveyance other than in the fuel supply tank of a motor
19 vehicle. Motor fuel delivered into this state from
20 out-of-state by or for the seller constitutes an import by the
21 seller. Motor fuel delivered into this state from out-of-state
22 by or for the purchaser constitutes an import by the
23 purchaser.

24 "~~(28)~~ ~~(29)~~ (30) IMPORT VERIFICATION NUMBER. The
25 number assigned by the department or its designee to an
26 individual delivery of motor fuel by a transport truck or by

1 another means of transfer outside the terminal transfer
2 system.

3 ~~"(29) (30)~~ (31) IMPORTER. A person who imports motor
4 fuel into this state.

5 ~~"(30) (31)~~ (32) IN THIS STATE. The area within the
6 borders of Alabama, including all territory within the borders
7 of Alabama that is owned by the United States of America.

8 ~~"(32)~~ (33) K-1 KEROSENE. A petroleum product having
9 an A.P.I. gravity of not less than 40 degrees, at a
10 temperature of 60 degrees Fahrenheit and a minimum flash point
11 of 100 degrees Fahrenheit, and which meets American Society
12 for Testing Materials Standard D-3699 as in effect on January
13 1, 1999.

14 ~~"(33)~~ (34) KEROSENE. All grades of kerosene,
15 including, but not limited to, the two grades of kerosene, No.
16 1-K and No. 2-K, commonly know as K-1 kerosene and K-2
17 kerosene, respectively, described in the American Society for
18 Testing Materials Standard D-3699, in effect on January 1,
19 1999, and kerosene-type jet fuel described in the American
20 Society for Testing Materials Standard D-1655 and military
21 specifications MIL-t-5624r and MIL-t-83133d (grades jp-5 and
22 jp8), and any grade described as kerosene or kerosene-type jet
23 fuel by the Internal Revenue Code and administrative guidance
24 promulgated thereunder.

25 ~~"(31) (34)~~ (35) LICENSEE. Any person licensed by the
26 department pursuant to Section 40-17-332.

1 "~~(32)~~~~(35)~~ (36) LIQUID. Any substance that is liquid
2 above its freezing point and at atmospheric pressure.

3 "~~(33)~~~~(36)~~ (37) MOTOR FUEL. Gasoline, blended fuel,
4 aviation fuel, and diesel fuel.

5 "~~(34)~~~~(37)~~ (38) MOTOR FUEL TRANSPORTER. A person who
6 transports motor fuel by pipeline or marine vessel, or outside
7 the bulk transfer/terminal system by means of a transport
8 vehicle, or a railroad tank car.

9 "~~(35)~~~~(38)~~ (39) MOTOR VEHICLE. Automobiles, motor
10 carriers, motor trucks, motorcycles, and all other vehicles
11 which are operated or propelled by combustion of motor fuel.

12 "~~(36)~~~~(39)~~ (40) NET GALLONS. The amount of motor
13 fuel measured in gallons when adjusted to a temperature of 60
14 degrees Fahrenheit and a pressure of fourteen and seven-tenths
15 pounds pressure per square inch.

16 "~~(37)~~~~(40)~~ (41) PERMISSIVE SUPPLIER. An out-of-state
17 supplier that elects, but is not required, to have a
18 supplier's license.

19 "~~(38)~~~~(41)~~ (42) PERSON. Any individual, firm,
20 cooperative, association, corporation, limited liability
21 corporation, trust, business trust, syndicate, partnership,
22 limited liability partnership, joint venture, receiver,
23 trustee in bankruptcy, club, society, or other group or
24 combination acting as a unit. Any public body, including, but
25 not limited to, this state, any other state, and any agency,
26 commissioner, institution, political subdivision, or

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

3 "~~(39)~~~~(42)~~ (43) POSITION HOLDER. The person who
4 holds the motor fuel inventory position in a terminal, as
5 reflected on the records of the terminal operator, including a
6 terminal operator who owns motor fuel in the terminal. A
7 person holds the inventory position in motor fuel when that
8 person has a contract with the terminal operator for the use
9 of storage facilities and terminaling services for motor fuel
10 at the terminal.

11 "~~(40)~~~~(43)~~ (44) RACK. A mechanism for delivering
12 motor fuel from a refinery, terminal, marine vessel, or bulk
13 plant into a transport vehicle, railroad tank car, or other
14 means of transfer that is outside the bulk transfer/terminal
15 system.

16 "~~(41)~~~~(44)~~ (45) REFINER. Any person who owns,
17 operates, or otherwise controls a refinery.

18 "~~(42)~~~~(45)~~ (46) REFINERY. A facility, other than
19 natural gas processing or fractionation plants, used to
20 produce taxable motor fuel from crude oil, unfinished oils,
21 natural gas liquids, or other hydrocarbons and from which
22 taxable motor fuel may be removed by pipeline, by vessel, or
23 at a rack.

24 "~~(43)~~~~(46)~~ (47) REMOVAL. Physical transfer other
25 than by evaporation, loss, or destruction. A physical transfer
26 to a transport vehicle or other means of conveyance outside

1 the bulk transfer/terminal system is complete upon delivery
2 into the means of conveyance.

3 "~~(44)~~~~(47)~~ (48) RETAILER. A person other than a
4 wholesale distributor that engages in the business of selling
5 or distributing taxable motor fuel to the end user within this
6 state.

7 "~~(45)~~~~(48)~~ (49) SHIPPING DOCUMENT. Any invoice,
8 shipping paper, bill of lading, or drop ticket which discloses
9 the destination state.

10 "~~(46)~~~~(49)~~ (50) SPECIAL FUEL. Any ~~gas or~~ liquid,
11 other than gasoline, used or suitable for use as motor fuel in
12 ~~an internal combustion~~ a diesel-powered engine or motor to
13 propel any form of vehicle, machine, or mechanical
14 contrivance, and includes products commonly known as ~~natural~~
15 ~~or casing-head gasoline,~~ biodiesel fuel, and transmix. Special
16 fuel does not include any petroleum product or chemical
17 compound such as alcohol, industrial solvent, or lubricant,
18 unless blended in or sold for use as motor fuel in ~~an internal~~
19 ~~combustion~~ a diesel powered engine.

20 "~~(47)~~~~(50)~~ (51) STATE. The State of Alabama.

21 "~~(48)~~~~(51)~~ (52) SUPPLIER. A person who is subject to
22 the general taxing jurisdiction of this state and registered
23 under Section 4101 of the Internal Revenue Code for
24 transactions in motor fuel in the bulk transfer/terminal
25 distribution system and who owns motor fuel in the bulk
26 transfer/terminal system, or a person who receives motor fuel
27 in this state pursuant to a two-party exchange. A terminal

1 operator shall not be considered a supplier based solely on
2 the fact that the terminal operator handles motor fuel
3 consigned to it within a terminal.

4 "~~(49)~~ ~~(52)~~ (53) TERMINAL. A motor fuel storage and
5 distribution facility into which motor fuel is supplied by
6 pipeline or marine vessel, and from which motor fuel may be
7 removed at a rack.

8 "~~(50)~~ ~~(53)~~ (54) TERMINAL OPERATOR. A person who
9 owns, operates, or otherwise controls a terminal.

10 "~~(51)~~ ~~(54)~~ (55) TRANSMIX. A mixture of finished
11 fuels that no longer meets the specifications for a fuel that
12 can be used or sold without further processing.

13 "~~(52)~~ ~~(55)~~ (56) TRANSPORT VEHICLE. A vehicle
14 designed or used to carry motor fuel over the highway,
15 including, but not limited to, a straight truck, a straight
16 truck/trailer combination, and a semitrailer combination rig.

17 "~~(53)~~ ~~(56)~~ (57) TRUSTEE. A person who is licensed as
18 a supplier or a permissive supplier and receives tax payments
19 from and on behalf of another pursuant to Section 40-17-344.

20 "~~(54)~~ ~~(57)~~ (58) TWO-PARTY EXCHANGE. A transaction in
21 which motor fuel is transferred from one licensed supplier or
22 permissive supplier to another licensed supplier or permissive
23 supplier pursuant to an exchange agreement; and

24 a. includes a transfer from the person who holds the
25 inventory position in taxable motor fuel in the terminal as
26 reflected on the records of the terminal operator;

1 b. is completed ~~prior to~~ before or contemporaneous
2 with the removal of the product from the terminal by the
3 receiving exchange partner; and

4 c. is recorded on the terminal operator's books and
5 records with the receiving exchange partner as the supplier
6 that removes the motor fuel across the terminal rack for
7 purposes of reporting the transaction to this state.

8 "~~(55) (58)~~ (59) UNDYED DIESEL FUEL. Diesel fuel that
9 has not been dyed in accordance with Internal Revenue Service
10 fuel dyeing provisions.

11 "§40-17-329.

12 "(a) Unless otherwise provided for in this
13 subsection, sales of motor fuel to the following are exempt
14 from the tax levied by subsection (a) of Section 40-17-325 and
15 shall not be paid at the rack:

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

1 "(2) All K-1 Kerosene or aviation jet fuel that is
2 produced at a refinery in this state and is either exported
3 from this state directly by the operator of that refinery or
4 is sold for immediate export by the operator to a licensed
5 exporter. In either case proof of export is to be available in
6 the form of a terminal destination state shipping document and
7 in addition all relevant sales documents are to reference the
8 product known as "K-1 Kerosene or "aviation jet fuel," as
9 applicable."

10 "~~(2)~~ (3) All sales of dyed diesel fuel.

11 "~~(3)~~ (4) Gasoline blendstocks or cellulosic biofuel
12 when sold to a. a licensed supplier or b. a person who will
13 not be using the blendstocks or cellulosic biofuel in the
14 manufacture of gasoline or as a motor fuel, as evidenced by
15 the exemption certificate prescribed under regulations
16 promulgated under Section 4081, Title 26 of the United States
17 Code.

18 "~~(4)~~ (5) All motor fuel sold by a licensed supplier
19 or licensed permissive supplier to an exempt agency electing
20 to be licensed under Section 40-17-332.

21 "~~(5)~~ (6) Motor fuel that is delivered by a licensed
22 supplier from one terminal to another terminal when ownership
23 in the motor fuel has not changed, or by a licensed supplier
24 from a terminal to a refinery operated by the licensed
25 supplier.

26 "~~(6)~~ (7) Aviation jet fuel sold by a licensed
27 supplier to an air carrier that purchases jet fuel in a

1 Foreign Trade Zone located within this state and uses the jet
2 fuel to propel aircraft powered by jet or turbine engines
3 operated in scheduled all-cargo operations being conducted on
4 international flights or in international commerce. For the
5 purposes of this subdivision, the following words or terms
6 shall be defined and interpreted as follows:

7 "a. Air Carrier. Any person, firm, corporation, or
8 entity undertaking by any means, directly or indirectly, to
9 provide air transportation.

10 "b. All-Cargo Operations. Any flight conducted by an
11 air carrier for compensation or hire other than a passenger
12 carrying flight, except passengers as specified in Section
13 121.583 (a) or 135.85 of the Federal Aviation Regulations, as
14 amended.

15 "c. International Commerce. Any air carrier engaged
16 in all-cargo operations transporting goods for compensation or
17 hire on international flights.

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

26 "(b) Having first paid the tax owed under this
27 article, a licensed distributor shall have the right to apply

1 to the department on a monthly basis for a refund of the taxes
2 paid on the gallons sold by that licensed distributor to the
3 exempt agencies listed under subsection (e), provided the
4 exempt agency has elected to obtain a license under Section
5 40-17-332.

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

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

24 "(1) AIR CARRIER. Any person, firm, corporation, or
25 entity undertaking by any means, directly or indirectly, to
26 provide air transportation.

1 "(2) ALL-CARGO OPERATIONS. Any flight conducted by
2 an air carrier for compensation or hire other than a passenger
3 carrying flight, except passengers as specified in Section
4 121.583 (a) or 135.85 of the Federal Aviation Regulations, as
5 amended.

6 "(3) INTERNATIONAL COMMERCE. Any air carrier engaged
7 in all-cargo operations transporting goods for compensation or
8 hire on international flights.

9 "(4) INTERNATIONAL FLIGHTS. Any air carrier
10 conducting scheduled all-cargo operations between any point
11 within the 50 states of the United States and the District of
12 Columbia and any point outside the 50 states of the United
13 States and the District of Columbia, including any interim
14 stops within the United States so long as the ultimate origin
15 or destination of the aircraft is outside the United States
16 and the District of Columbia.

17 "(e) Having first paid the tax to its vendor, the
18 following entities shall have the right to apply to the
19 department for a refund on a quarterly basis for any purchases
20 of motor fuel:

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

23 "(2) Any county governing body of this state.

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

26 "(4) City and county boards of education of this
27 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, and which
4 offer essentially the same curriculum as offered in grades
5 K-12 in the public schools of this state.

6 "(f) If the sale of taxable motor fuel to exempt
7 entities listed in subsection (e) occurs at a fixed retail
8 pump available to the general public and is charged to a
9 credit card issued to the exempt entity, the issuer of the
10 card, having billed the exempt entity without the tax, may
11 apply on a quarterly basis for a refund of the motor fuel
12 excise taxes by submitting the application and supporting
13 documentation as prescribed by the department.

14 "(g) Having first paid the tax, a licensed air
15 carrier with a hub operation within this state shall have the
16 right to apply to the department for a refund on a quarterly
17 basis for any purchases of jet fuel used to propel aircraft.
18 For the purposes of this subsection, the words "hub operation
19 within this state" shall be construed to have all of the
20 following criteria:

21 "(1) There originates from the location 15 or more
22 flight departures and five or more different first-stop
23 destinations five days per week for six or more months during
24 the calendar year; and

25 "(2) Passengers and/or property are regularly
26 exchanged at the location between flights of the same or a
27 different certificated or licensed air carrier.

1 "(h) End users who first pay the tax levied by
2 subdivision (2) of subsection (a) of Section 40-17-325 on all
3 gallons of diesel fuel used in designated off-road vehicles,
4 other off-road equipment, or for other off-road use may apply
5 to the department for a refund on a quarterly basis.

6 "(i) End users who first pay the tax levied by
7 subdivision (1) of subsection (a) of Section 40-17-325 on
8 gallons of gasoline blendstocks not used in the manufacture of
9 gasoline or as a motor fuel may apply to the department for a
10 refund on a quarterly basis.

11 "(j) Tax paid on motor fuel that (1) is lost or
12 destroyed as a direct result of a sudden and unexpected
13 casualty, or (2) becomes unsalable or unusable as highway fuel
14 due to such things as the contamination by dye or mixture of
15 gasoline and diesel shall be refundable.

16 "(k) Tax paid on transmix not used as a motor fuel
17 or that is delivered to a refinery for further processing
18 shall be refundable, with the person so using the transmix
19 being eligible to file for the refund on a quarterly basis or
20 if a licensed supplier, a credit may be taken on its monthly
21 supplier return.

22 "(l) Tax paid on motor fuel within the bulk transfer
23 system may be refunded upon sufficient proof that (1) a second
24 tax had been paid pursuant to Section 40-17-325 or (2) the
25 fuel was exported to another state or country. The party
26 paying the second tax or exporting the fuel may file for a
27 refund on a monthly basis.

1 "§40-17-340.

2 "(a) Each supplier, importer, blender, permissive
3 supplier, and exporter shall file the monthly return required
4 herein, in a format prescribed by the commissioner, on or
5 before the 22nd day of each calendar month for the preceding
6 month.

7 "(b) Other than importers, the tax levied by this
8 article shall be paid to the department by each taxpayer on or
9 before the 22nd day of each calendar month for the preceding
10 month and shall be accompanied by any required returns. The
11 department may require all or certain taxpayers to file tax
12 returns and payments electronically.

13 "(c) Importers importing motor fuel from a bulk
14 plant or some other non-terminal storage location shall pay
15 the tax levied by this article to the department on or before
16 ~~the 20th day of each calendar month for the preceding month~~
17 3rd business day following the day of importation, and the
18 payment shall be accompanied by any required returns. The
19 department may require all or certain taxpayers to file tax
20 returns and payments electronically.

21 "(d) Importers importing motor fuel acquired at an
22 out-of-state terminal from a supplier who has not precollected
23 the tax imposed under Section 40-17-325 at the time of such
24 removal shall pay the tax so levied to the department on or
25 before the 3rd business day following the day of importation,
26 and the payment shall be accompanied by any required returns.

1 "(e) A supplier or permissive supplier who timely
2 files a return with the payment due may deduct from the amount
3 of tax payable with the return an administrative discount of
4 one half of one percent (.005) of the amount of tax payable to
5 the state.

6 "§40-17-362.

7 "(a) For the purposes of this section, the following
8 words and phrases shall have the following meanings:

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

12 "(2) RESURFACING, RESTORATION, AND REHABILITATION.
13 Work undertaken primarily to preserve an existing facility.
14 Restoration and rehabilitation is work required to return the
15 existing pavement or bridge deck, including shoulders, to a
16 condition of adequate structural support or to a condition
17 adequate for placement of an additional state of construction.
18 Resurfacing consists of the placement of additional surface
19 material over the existing, restored, or rehabilitated roadway
20 or bridge deck to improve serviceability or to provide
21 additional strength. Resurfacing, restoration, and
22 rehabilitation work may include changes to geometric features,
23 such as minor widening, flattening curves, or improving sight
24 distances.

25 "(b) It is the intent of the Legislature that the
26 proceeds of the tax collected on ~~motor fuel~~ the additional six
27 cents (\$.06) diesel fuel excise tax and the additional four

1 cents (\$.04) gasoline excise tax under the provisions of this
2 article shall be used in the following manner:

3 "(1) Where the use is by the Department of
4 Transportation, the use shall, with the approval of the
5 Governor, be for the construction and maintenance of public
6 roads and bridges on the state highway system.

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

20 "(3) Where the use is by a municipality, the use
21 shall be for resurfacing, restoration, and rehabilitation of
22 roads, bridges, and streets within the municipality. The use
23 may also be for bridge replacement within the municipality.
24 From time to time, the funds may also be used to construct new
25 roads and streets within the municipality. These funds shall
26 not be commingled with other funds of the municipality,
27 including any other gasoline tax revenues, and shall be kept

1 and disbursed by the municipality from a special fund only for
2 the purposes hereinabove provided."

3 Section 2. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Transportation,
Utilities and Infrastructure 12-FEB-13

Read for the second time and placed
on the calendar 1 amendment 21-FEB-13

Read for the third time and passed
as amended..... 19-MAR-13

Yeas 96, Nays 1, Abstains 1

Jeff Woodard
Clerk