

SB86 ENROLLED



1 SB86
2 FK8BR5D-2
3 By Senator Carnley
4 RFD: State Governmental Affairs
5 First Read: 13-Jan-26



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1 Enrolled, An Act,

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5 Relating to surety bonds and motor fuel assessments; to
6 amend Sections 40-17-168.5 and 40-17-335 to extend the filing
7 period for new or replacement surety bonds; to amend Section
8 40-17-353 to extend the payment period for assessments made on
9 certain unlawful transactions of motor fuels; and to make
10 nonsubstantive, technical revisions to update the existing
11 code language to current style.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 40-17-168.5, 40-17-335, and
14 40-17-353, Code of Alabama 1975, are amended to read as
15 follows:

16 "§40-17-168.5

17 (a) Upon approval of the application by the department,
18 the applicant must file with the department a surety bond. The
19 bond amount for an applicant for a license as a public seller
20 of CNG/LNG or a fleet producer of CNG/LNG shall be a minimum
21 of twenty-five thousand dollars (\$25,000) or in the
22 approximate amount of twice the average monthly tax liability,
23 whichever is greater.

24 (b) The department shall review the bond amounts every
25 five years beginning January 2023 to ensure that each public
26 seller of CNG/LNG and each fleet producer of CNG/LNG has
27 posted a surety bond sufficient to cover twice the average
28 monthly tax liability as referenced in subdivision (a). Based



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29 upon this review, or if at any time that the department
30 determines that the bond amount is insufficient to cover twice
31 the average monthly tax liability, the commissioner may
32 require an additional surety bond from any licensee if~~under~~
33 ~~one or more of the following circumstances:~~

34 (1) The commissioner determines that the surety on an
35 existing bond is unsatisfactory~~;~~ ;

36 (2) A surety notifies the department that it intends to
37 cancel a bond as provided in subsection (d)~~;~~ or

38 (3) The commissioner, after reviewing the payment
39 history of the licensee, determines that the existing bond of
40 the licensee is insufficient in an amount to insure the prompt
41 payment of all excise taxes that are due or may become due to
42 the state by the licensee upon the sale or withdrawal of
43 compressed natural gas or liquefied natural gas. However, in
44 no case shall a new or additional bond be more than two months
45 of average excise tax owed by the licensee.

46 (c) (1) The department shall notify a licensee at his or
47 her last known address by first class U.S. mail or, at the
48 option of the department, certified mail, return receipt
49 requested, that it is requiring such new or additional bond
50 for any reason as provided ~~above~~ in subsection (b), and the
51 licensee, within ~~30~~ 60 days from the date the notice is mailed
52 by the department, shall ~~do either of the following:~~

53 a. File the new or additional bond as requested by the
54 department~~;~~ or

55 b. File a notice of appeal with the Alabama Tax
56 Tribunal as allowed in Chapter 2A.



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57 (2) The department may immediately cancel the
58 licensee's license upon the expiration of the ~~30~~60-day period
59 set out ~~above~~in subdivision(1) if the licensee fails to either
60 provide the new or additional bond requested by the department
61 or timely appeal to the Alabama Tax Tribunal.

62 (d) (1) Any surety on an existing bond furnished by a
63 licensee may notify the department in writing of its intent to
64 cancel the bond. The department shall immediately notify the
65 licensee of the intent of the surety to cancel the surety
66 bond, and the licensee shall have ~~30~~60 days from the date the
67 notice is mailed by the department to provide a sufficient
68 replacement bond as requested by the department.

69 (2) The department may immediately cancel the
70 licensee's license upon expiration of the ~~30~~60-day period set
71 out ~~above~~in subdivision(1) if the licensee fails to either
72 provide a new replacement bond as requested by the department
73 or appeal the proposed revocation to the Alabama Tax Tribunal
74 within the ~~30~~60 days as allowed by Chapter 2A.

75 (3) The surety requesting to be released shall remain
76 liable for any liability already accrued or which shall accrue
77 during the ~~30~~60-day period set out ~~above~~in subdivision(1), but
78 shall not be responsible for any liability which accrues after
79 the ~~30~~60-day period.

80 (e) A surety providing a bond must be authorized to
81 engage in business within this state. The surety bonds are
82 conditioned upon faithful compliance with this article,
83 including the filing of returns and the payment of all tax
84 prescribed ~~herein~~in this article. The commissioner shall



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85 ~~approve surety bonds shall be approved by the commissioner as~~
86 ~~to sufficiency~~that are sufficient in content and form, and the
87 surety bonds shall indemnify the state against any loss
88 arising from the failure of the licensee to pay, for any
89 cause, the motor fuel excise tax levied by this article.

90 (f) A personal producer of CNG is not required to post
91 a bond."

92 "§40-17-335

93 (a) Upon approval of the application by the department,
94 the applicant shall file with the department a surety bond ~~as~~
95 ~~herein provided:.~~

96 (1) ~~Except as provided under subdivision (3), the~~The
97 bond amount for an applicant for a license as a supplier,
98 permissive supplier, or terminal operator shall be in the
99 approximate amount of twice the average monthly tax liability,
100 not to exceed two million dollars (\$2,000,000), except as
101 provided under subdivision (3).

102 (2) ~~Except as provided under subdivision (3), the~~The
103 bond amount for an applicant for a license as an exporter,
104 blender, importer, or distributor shall be a minimum of two
105 thousand dollars (\$2,000) or the approximate amount of twice
106 the average monthly tax liability, whichever is greater,
107 except as provided under subdivision (3).

108 (3) The bond for distributors, suppliers, and
109 permissive suppliers who are licensed with the department on
110 October 1, 2012, shall remain at the amount that is filed with
111 the department on that date, except as provided under
112 subsection (b).

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113 (4) For an applicant for a license only as a motor fuel
114 transporter or aviation fuel purchaser, there shall be no
115 bond.

116 (5) Only one bond shall be required of an applicant for
117 multiple licenses. Except as provided under subdivision (3),
118 the bond amount shall be based on the highest average monthly
119 tax liability of the separate licenses, but shall cover all
120 licenses.

121 (b) The commissioner may require an additional surety
122 bond from any licensee if: ~~(1)~~(i) the commissioner determines
123 that the surety on an existing bond is unsatisfactory; ~~(2)~~(ii)
124 a surety notifies the department that it intends to cancel a
125 bond as provided in subsection (d); or ~~(3)~~(iii) the
126 commissioner, after reviewing the financial condition of the
127 licensee, determines that the existing bond of the licensee is
128 insufficient in an amount to insure the prompt payment of all
129 excise taxes that are due or may become due the state by the
130 licensee upon the sale or withdrawal of motor fuel. However,
131 in no case shall a new or additional bond be more than two
132 months of average excise tax owed by the licensee.

133 (c) The department shall notify a licensee at his or
134 her last known address by first class U.S. mail or, at the
135 option of the department, certified mail, return receipt
136 requested, that ~~it~~the department is requiring ~~such~~a new or
137 additional bond for any reason as provided above, and the
138 licensee, within ~~30~~60 days from the date ~~such~~the notice is
139 mailed by the department, shall either: ~~(1)~~(i) file the new or
140 additional bond as requested by the department; ~~or~~ ~~(2)~~(ii)



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141 file a notice of appeal with the Alabama Tax Tribunal as
142 allowed in Chapter 2B of this title. The department may
143 immediately cancel the licensee's license upon the expiration
144 of the ~~3060~~-day period ~~set out above~~ if the licensee fails to
145 either provide the new or additional bond requested by the
146 department or timely appeal to the Alabama Tax Tribunal.

147 (d) Any surety on an existing bond furnished by a
148 licensee may notify the department in writing of its intent to
149 cancel the bond. The department shall immediately notify the
150 licensee of the intent of the surety to cancel and the
151 licensee shall have ~~3060~~ days from the date the notice is
152 mailed by the department to provide a sufficient replacement
153 bond as requested by the department. The department may
154 immediately cancel the licensee's license upon expiration of
155 the ~~3060~~-day period ~~set out above~~ if the licensee fails to
156 either provide a new replacement bond as requested by the
157 department or appeal the proposed revocation to the Alabama
158 Tax Tribunal within the ~~3060~~ days as allowed by Chapter 2B of
159 this title. The surety requesting to be released shall remain
160 liable for any liability already accrued or which shall accrue
161 during the ~~3060~~-day period ~~set out above~~, but shall not be
162 responsible for any liability which accrues after the ~~3060~~-day
163 period.

164 (e) A surety providing a bond must be authorized to
165 engage in business within this state. The surety bonds are
166 conditioned upon faithful compliance with ~~the provisions of~~
167 this article, including the filing of returns and the payment
168 of all tax prescribed ~~herein~~ in this article. The commissioner



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169 ~~shall approve surety bonds shall be approved by the~~
170 ~~commissioner as to sufficiency~~that are sufficient in content
171 and form, and the surety bonds shall indemnify the state
172 against any loss arising from the failure of the licensee to
173 pay, for any cause, the motor fuel excise tax levied by this
174 article and Article 12A, Chapter 17 of this title."

175 "§40-17-353

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

182 (b) If the assessment for the ~~above~~ tax described in
183 subsection(a) is not paid within ~~30~~60 days, the commissioner,
184 in addition to the other remedies in this article, may sell
185 the motor fuel and use the proceeds of the sale to satisfy the
186 assessment due, with any excess funds after payment of the
187 assessment and costs of the sale being returned to the owner
188 of the motor fuel.

189 (c) All motor fuel and any property, tangible or
190 intangible, which is found upon the person or in any vehicle
191 which the person is using, including the vehicle itself, to
192 transport or sell illegally transported, delivered, stored,
193 sold, imported, or acquired motor fuel, and any property found
194 in the immediate vicinity, including motor vehicles, tanks,
195 and other storage devices, used to aid in the illegal
196 transportation or sale of motor fuel, shall be considered



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197 contraband and shall be forfeited to this state."

198 Section 2. This act shall become effective immediately.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

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Senate 05-Feb-26

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives

Passed: 07-Apr-26

By: Senator Carnley