

SB86 INTRODUCED



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



SYNOPSIS:

Under existing law, certain sellers and fleet producers of compressed or liquefied natural gas and certain suppliers, importers, exporters, distributors, blenders, and terminal operators of motor fuels have 30 days to file a new or replacement bond once notified by the Alabama Department of Revenue.

This bill would extend the current 30-day filing period for new or replacement bonds.

Under existing law, when an entity unlawfully imports into or transports, delivers, stores, or sells motor fuels in Alabama, the Alabama Department of Revenue will make an assessment, including interest and penalties, which must be paid within 30 days.

This bill would extend the current 30-day payment period for assessments made on unlawfully imported or transported motor fuels.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED



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AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§40-17-168.5

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

(b) The department shall review the bond amounts every five years beginning January 2023 to ensure that each public seller of CNG/LNG and each fleet producer of CNG/LNG has posted a surety bond sufficient to cover twice the average monthly tax liability as referenced in subdivision (a). Based upon this review, or if at any time that the department determines that the bond amount is insufficient to cover twice



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the average monthly tax liability, the commissioner may require an additional surety bond from any licensee ~~if under one or more of the following circumstances:~~

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

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

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

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

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

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

(2) The department may immediately cancel the licensee's license upon the expiration of the ~~30~~ 60-day period



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set out ~~above~~in subdivision(1) if the licensee fails to either provide the new or additional bond requested by the department or timely appeal to the Alabama Tax Tribunal.

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

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

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

(e) A surety providing a bond must be authorized to engage in business within this state. The surety bonds are conditioned upon faithful compliance with this article, including the filing of returns and the payment of all tax prescribed ~~herein~~in this article. The commissioner shall approve surety bonds ~~shall be approved by the commissioner as to sufficiency~~that are sufficient in content and form, and the



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surety bonds shall indemnify the state against any loss arising from the failure of the licensee to pay, for any cause, the motor fuel excise tax levied by this article.

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

"§40-17-335

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

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

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

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

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



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141 bond.

142 (5) Only one bond shall be required of an applicant for
143 multiple licenses. Except as provided under subdivision (3),
144 the bond amount shall be based on the highest average monthly
145 tax liability of the separate licenses, but shall cover all
146 licenses.

147 (b) The commissioner may require an additional surety
148 bond from any licensee if: ~~(1)~~ (i) the commissioner determines
149 that the surety on an existing bond is unsatisfactory; ~~(2)~~ (ii)
150 a surety notifies the department that it intends to cancel a
151 bond as provided in subsection (d); or ~~(3)~~ (iii) the
152 commissioner, after reviewing the financial condition of the
153 licensee, determines that the existing bond of the licensee is
154 insufficient in an amount to insure the prompt payment of all
155 excise taxes that are due or may become due the state by the
156 licensee upon the sale or withdrawal of motor fuel. However,
157 in no case shall a new or additional bond be more than two
158 months of average excise tax owed by the licensee.

159 (c) The department shall notify a licensee at his or
160 her last known address by first class U.S. mail or, at the
161 option of the department, certified mail, return receipt
162 requested, that ~~it~~ the department is requiring ~~such~~ a new or
163 additional bond for any reason as provided above, and the
164 licensee, within ~~30~~ 60 days from the date ~~such~~ the notice is
165 mailed by the department, shall either: ~~(1)~~ (i) file the new or
166 additional bond as requested by the department, ~~;~~ ; or ~~(2)~~ (ii)
167 file a notice of appeal with the Alabama Tax Tribunal as
168 allowed in Chapter 2B of this title. The department may



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169 immediately cancel the licensee's license upon the expiration
170 of the ~~30~~60-day period ~~set out above~~ if the licensee fails to
171 either provide the new or additional bond requested by the
172 department or timely appeal to the Alabama Tax Tribunal.

173 (d) Any surety on an existing bond furnished by a
174 licensee may notify the department in writing of its intent to
175 cancel the bond. The department shall immediately notify the
176 licensee of the intent of the surety to cancel and the
177 licensee shall have ~~30~~60 days from the date the notice is
178 mailed by the department to provide a sufficient replacement
179 bond as requested by the department. The department may
180 immediately cancel the licensee's license upon expiration of
181 the ~~30~~60-day period ~~set out above~~ if the licensee fails to
182 either provide a new replacement bond as requested by the
183 department or appeal the proposed revocation to the Alabama
184 Tax Tribunal within the ~~30~~60 days as allowed by Chapter 2B of
185 this title. The surety requesting to be released shall remain
186 liable for any liability already accrued or which shall accrue
187 during the ~~30~~60-day period ~~set out above~~, but shall not be
188 responsible for any liability which accrues after the ~~30~~60-day
189 period.

190 (e) A surety providing a bond must be authorized to
191 engage in business within this state. The surety bonds are
192 conditioned upon faithful compliance with ~~the provisions of~~
193 this article, including the filing of returns and the payment
194 of all tax prescribed ~~herein~~ in this article. The commissioner
195 shall approve surety bonds ~~shall be approved by the~~
196 ~~commissioner as to sufficiency~~ that are sufficient in content



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and form, and the surety bonds shall indemnify the state against any loss arising from the failure of the licensee to pay, for any cause, the motor fuel excise tax levied by this article and Article 12A, Chapter 17 of this title."

"§40-17-353

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

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

(c) All motor fuel and any property, tangible or intangible, which is found upon the person or in any vehicle which the person is using, including the vehicle itself, to transport or sell illegally transported, delivered, stored, sold, imported, or acquired motor fuel, and any property found in the immediate vicinity, including motor vehicles, tanks, and other storage devices, used to aid in the illegal transportation or sale of motor fuel, shall be considered contraband and shall be forfeited to this state."

Section 2. This act shall become effective immediately.