

1 HB261
2 148352-1
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

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8 SYNOPSIS: Under existing law the Alabama Wholesale Oil
9 License Fee is applicable to exported gallons of
10 oil and on transmix.

11 This bill would exempt the Alabama Wholesale
12 Oil License Fee from exported gallons of oil and on
13 transmix.

14 This bill would clarify the definition of
15 the terms "special fuel" and on "Two-Party
16 Exchange."

17 This bill would define the terms "kerosene,"
18 "K-1 kerosene," and "associate jobber."

19 This bill would exempt K-1 kerosene refined
20 in this state for immediate export from destination
21 state taxes.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 To amend Sections 40-17-174, 40-17-322, 40-17-329,
2 40-17-340, and 40-17-362 of the Code of Alabama 1975, relating
3 to the Alabama Wholesale Oil License Tax Fee; to exempt the
4 Alabama Wholesale Oil License fee from exported gallons of oil
5 and on transmix; to clarify the definition of the terms
6 "special fuel," and "Two-Party Exchange"; to define the terms
7 "kerosene," "K-1 kerosene," and "associate jobber"; and to
8 exempt K-1 kerosene refined in this state for immediate export
9 from destination state taxes.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 40-17-174, 40-17-322, 40-17-329,
12 40-17-340, and 40-17-362 of the Code of Alabama 1975, are
13 amended to read as follows:

14 "§40-17-174.

15 "(a) Each person, firm, corporation, or agency
16 selling diesel fuel, other than transmix, across the rack at a
17 terminal within this state shall pay to the Department of
18 Revenue for the use of the state, within two weeks from the
19 beginning of the fiscal year, a wholesale oil license fee
20 equal to three-fourths of one cent per gallon for each gallon
21 of diesel fuel so sold during the preceding fiscal year,
22 including all diesel fuel whether manufactured or imported
23 into the state prior to the sale. Exempted from this fee shall
24 be diesel fuel exported from this state for which proof of
25 export is available in the form of a terminal issued shipping
26 document.

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

11 "(c) A permissive supplier shall collect the import
12 license fee imposed by subsection (b) from the person who
13 purchases the diesel fuel, other than transmix, for import
14 into this state. The permissive supplier shall remit the fee
15 within two weeks from the beginning of the fiscal year, for
16 each gallon of diesel fuel sold during the preceding fiscal
17 year.

18 "(d) The payment to the Department of Revenue shall
19 be accompanied by a sworn statement verified by the person
20 having knowledge of the facts showing the number of gallons of
21 diesel fuel sold or imported into the state during the
22 preceding fiscal year. No county license shall be charged
23 under this section.

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

27 "§40-17-322.

1 "As used in this article and unless the context
2 requires otherwise, the following terms have the meaning
3 ascribed herein:

4 "~~(1)~~ AIRCRAFT. Any airplane or helicopter.

5 "(2) ASSOCIATE JOBBER. A person who acquires motor
6 fuel from a licensed distributor in this state for subsequent
7 sale. An associate jobber may obtain a distributor's license
8 even though it does not acquire fuel from a supplier in this
9 state.

10 "~~(2)~~ (3) AVIATION FUEL. Aviation gasoline or
11 aviation jet fuel.

12 "~~(3)~~ (4) AVIATION GASOLINE. Motor fuel designed for
13 use in the operation of aircraft other than jet aircraft, and
14 sold or used for that purpose.

15 "~~(4)~~ (5) AVIATION JET FUEL. Motor fuel designed for
16 use in the operation of jet or turbo-prop aircraft and sold or
17 used for that purpose.

18 "~~(5)~~ (6) BIODIESEL FUEL. Any motor fuel or mixture
19 of motor fuels that is derived, in whole or in part, from
20 agricultural products or animal fats, or the wastes of such
21 products or fats, and is advertised as, offered for sale as,
22 suitable for use or used as motor fuel in a diesel engine.

23 "~~(6)~~ (7) BLENDED FUEL. A mixture composed of
24 gasoline or diesel fuel and any other liquid that can be used
25 as a motor fuel in a highway vehicle.

26 "~~(7)~~ (8) BLENDER. A person who produces blended
27 motor fuel outside the bulk transfer/terminal system.

1 "~~(8)~~ (9) BLENDING. The mixing of one or more
2 petroleum products, with or without another product,
3 regardless of the original character of the product blended,
4 if the product obtained by the blending is capable of use in
5 the generation of power for the propulsion of a motor vehicle,
6 an airplane, or a marine vessel. Blending does not include
7 mixing that occurs in the process of refining by a refiner of
8 crude petroleum and applicable feedstocks and blendstocks, or
9 the blending of products known as lubricating oil in the
10 production of lubricating oils and greases.

11 "~~(9)~~ (10) BULK END USER. A person who receives into
12 his or her own storage facilities, in transport truck lots,
13 taxable motor fuel for his or her own consumption.

14 "~~(10)~~ (11) BULK PLANT. A motor fuel storage and
15 distribution facility that is not a terminal and from which
16 motor fuel may be removed at a rack.

17 "~~(11)~~ (12) BULK TRANSFER. Any transfer of motor fuel
18 from one location to another by pipeline tender or marine
19 delivery within a bulk transfer/terminal system, including,
20 but not limited to, the following:

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

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

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

1 "d. a two-party exchange between licensed suppliers
2 or between licensed suppliers and permissive suppliers.

3 "~~(12)~~ (13) BULK TRANSFER/TERMINAL SYSTEM. The motor
4 fuel distribution system consisting of refineries, pipelines,
5 marine vessels, and terminals.

6 "~~(13)~~ (14) CODE. The Code of Alabama 1975.

7 "~~(14)~~ (15) COMMISSIONER. The Commissioner of the
8 Alabama Department of Revenue.

9 "~~(15)~~ (16) DEPARTMENT. The Alabama Department of
10 Revenue.

11 "~~(16)~~ (17) DESTINATION STATE. The state, territory,
12 or foreign country to which motor fuel is directed for
13 delivery.

14 "~~(17)~~ (18) DIESEL FUEL. Any liquid that is
15 advertised, offered for sale, or sold for use as or used as a
16 motor fuel in a diesel-powered engine. Diesel fuel includes #1
17 and #2 fuel oils, kerosene, special fuels, and blended fuels
18 which contain diesel fuel, but shall not include gasoline or
19 aviation fuel.

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

22 "~~(19)~~ (20) DYED DIESEL FUEL. Diesel fuel that meets
23 the dyeing and marking requirements of Section 4082, Title 26
24 of the United States Code.

25 "~~(20)~~ (21) EXPORT. Motor fuel obtained in Alabama
26 for sale or other distribution in another state, territory, or
27 foreign country.

1 "~~(21)~~ (22) EXPORTER. A person who exports motor
2 fuel.

3 "~~(22)~~ (23) GASOHOL. A blended motor fuel composed of
4 gasoline and motor fuel grade alcohol.

5 "~~(23)~~ (24) GASOLINE. Any product commonly or
6 commercially known as gasoline, regardless of classification,
7 that is advertised, offered for sale, or sold for use as or
8 used as motor fuel in an internal combustion engine, including
9 gasohol and blended fuel which contains gasoline. Gasoline
10 also includes gasoline blendstocks as defined under Section
11 4081, Title 26 of the United States Code and the regulations
12 promulgated thereunder. Gasoline does not include special fuel
13 or aviation gasoline sold to a licensed aviation fuel
14 purchaser for use in an aircraft motor.

15 "~~(24)~~ (25) GROSS GALLONS. The total measured
16 product, exclusive of any temperature or pressure adjustments,
17 considerations, or deductions, in U.S. gallons.

18 "~~(25)~~ (26) HIGHWAY. Includes, but is not limited to,
19 every highway, road, street, alley, lane, court, place, trail,
20 drive, bridge, viaduct, or trestle located within this state
21 and laid out or erected by the public or dedicated or
22 abandoned to the public or intended for use by or for the
23 public. The term shall also apply to and include driveways
24 upon the grounds of universities, colleges, schools, and
25 institutions but shall not be deemed to include private
26 driveways, private roads, or private places not intended for
27 use by the public.

1 "~~(26)~~ (27) HIGHWAY VEHICLE. Any self-propelled
2 vehicle that is designed for use on a highway.

3 "~~(27)~~ (28) IMPORT. To bring motor fuel into this
4 state for sale, use, or storage by any means of conveyance
5 other than in the fuel supply tank of a motor vehicle. Motor
6 fuel delivered into this state from out-of-state by or for the
7 seller constitutes an import by the seller. Motor fuel
8 delivered into this state from out-of-state by or for the
9 purchaser constitutes an import by the purchaser.

10 "~~(28)~~ (29) IMPORT VERIFICATION NUMBER. The number
11 assigned by the department or its designee to an individual
12 delivery of motor fuel by a transport truck or by another
13 means of transfer outside the terminal transfer system.

14 "~~(29)~~ (30) IMPORTER. A person who imports motor fuel
15 into this state.

16 "~~(30)~~ (31) IN THIS STATE. The area within the
17 borders of Alabama, including all territory within the borders
18 of Alabama that is owned by the United States of America.

19 "(32) K-1 KEROSENE. A petroleum product having an
20 A.P.I. gravity of not less than 40 degrees, at a temperature
21 of 60 degrees Fahrenheit and a minimum flash point of 100
22 degrees Fahrenheit, and which meets American Society for
23 Testing Materials Standard D-3699 as in effect on January 1,
24 1999.

25 "(33) KEROSENE. All grades of kerosene, including,
26 but not limited to, the two grades of kerosene, No. 1-K and
27 No. 2-K, commonly know as K-1 kerosene and K-2 kerosene,

1 respectively, described in the American Society for Testing
2 Materials Standard D-3699, in effect on January 1, 1999, and
3 kerosene-type jet fuel described in the American Society for
4 Testing Materials Standard D-1655 and military specifications
5 MIL-t-5624r and MIL-t-83133d (grades jp-5 and jp8), and any
6 grade described as kerosene or kerosene-type jet fuel by the
7 Internal Revenue Code and administrative guidance promulgated
8 thereunder.

9 "~~(31)~~ (34) LICENSEE. Any person licensed by the
10 department pursuant to Section 40-17-332.

11 "~~(32)~~ (35) LIQUID. Any substance that is liquid
12 above its freezing point and at atmospheric pressure.

13 "~~(33)~~ (36) MOTOR FUEL. Gasoline, blended fuel,
14 aviation fuel, and diesel fuel.

15 "~~(34)~~ (37) MOTOR FUEL TRANSPORTER. A person who
16 transports motor fuel by pipeline or marine vessel, or outside
17 the bulk transfer/terminal system by means of a transport
18 vehicle, or a railroad tank car.

19 "~~(35)~~ (38) MOTOR VEHICLE. Automobiles, motor
20 carriers, motor trucks, motorcycles, and all other vehicles
21 which are operated or propelled by combustion of motor fuel.

22 "~~(36)~~ (39) NET GALLONS. The amount of motor fuel
23 measured in gallons when adjusted to a temperature of 60
24 degrees Fahrenheit and a pressure of fourteen and seven-tenths
25 pounds pressure per square inch.

1 "~~(37)~~ (40) PERMISSIVE SUPPLIER. An out-of-state
2 supplier that elects, but is not required, to have a
3 supplier's license.

4 "~~(38)~~ (41) PERSON. Any individual, firm,
5 cooperative, association, corporation, limited liability
6 corporation, trust, business trust, syndicate, partnership,
7 limited liability partnership, joint venture, receiver,
8 trustee in bankruptcy, club, society, or other group or
9 combination acting as a unit. Any public body, including, but
10 not limited to, this state, any other state, and any agency,
11 commissioner, institution, political subdivision, or
12 instrumentality of this state or any other state shall be
13 considered a person for the purposes of this article.

14 "~~(39)~~ (42) POSITION HOLDER. The person who holds the
15 motor fuel inventory position in a terminal, as reflected on
16 the records of the terminal operator, including a terminal
17 operator who owns motor fuel in the terminal. A person holds
18 the inventory position in motor fuel when that person has a
19 contract with the terminal operator for the use of storage
20 facilities and terminaling services for motor fuel at the
21 terminal.

22 "~~(40)~~ (43) RACK. A mechanism for delivering motor
23 fuel from a refinery, terminal, marine vessel, or bulk plant
24 into a transport vehicle, railroad tank car, or other means of
25 transfer that is outside the bulk transfer/terminal system.

26 "~~(41)~~ (44) REFINER. Any person who owns, operates,
27 or otherwise controls a refinery.

1 "~~(42)~~ (45) REFINERY. A facility, other than natural
2 gas processing or fractionation plants, used to produce
3 taxable motor fuel from crude oil, unfinished oils, natural
4 gas liquids, or other hydrocarbons and from which taxable
5 motor fuel may be removed by pipeline, by vessel, or at a
6 rack.

7 "~~(43)~~ (46) REMOVAL. Physical transfer other than by
8 evaporation, loss, or destruction. A physical transfer to a
9 transport vehicle or other means of conveyance outside the
10 bulk transfer/terminal system is complete upon delivery into
11 the means of conveyance.

12 "~~(44)~~ (47) RETAILER. A person other than a wholesale
13 distributor that engages in the business of selling or
14 distributing taxable motor fuel to the end user within this
15 state.

16 "~~(45)~~ (48) SHIPPING DOCUMENT. Any invoice, shipping
17 paper, bill of lading, or drop ticket which discloses the
18 destination state.

19 "~~(46)~~ (49) SPECIAL FUEL. Any ~~gas or~~ liquid, other
20 than gasoline, used or suitable for use as motor fuel in ~~an~~
21 ~~internal combustion~~ a diesel-powered engine or motor to
22 propel any form of vehicle, machine, or mechanical
23 contrivance, and includes products commonly known as ~~natural~~
24 ~~or casing-head gasoline~~, biodiesel fuel, and transmix. Special
25 fuel does not include any petroleum product or chemical
26 compound such as alcohol, industrial solvent, or lubricant,

1 unless blended in or sold for use as motor fuel in ~~an internal~~
2 ~~combustion~~ a diesel powered engine.

3 "~~(47)~~ (50) STATE. The State of Alabama.

4 "~~(48)~~ (51) SUPPLIER. A person who is subject to the
5 general taxing jurisdiction of this state and registered under
6 Section 4101 of the Internal Revenue Code for transactions in
7 motor fuel in the bulk transfer/terminal distribution system
8 and who owns motor fuel in the bulk transfer/terminal system,
9 or a person who receives motor fuel in this state pursuant to
10 a two-party exchange. A terminal operator shall not be
11 considered a supplier based solely on the fact that the
12 terminal operator handles motor fuel consigned to it within a
13 terminal.

14 "~~(49)~~ (52) TERMINAL. A motor fuel storage and
15 distribution facility into which motor fuel is supplied by
16 pipeline or marine vessel, and from which motor fuel may be
17 removed at a rack.

18 "~~(50)~~ (53) TERMINAL OPERATOR. A person who owns,
19 operates, or otherwise controls a terminal.

20 "~~(51)~~ (54) TRANSMIX. A mixture of finished fuels
21 that no longer meets the specifications for a fuel that can be
22 used or sold without further processing.

23 "~~(52)~~ (55) TRANSPORT VEHICLE. A vehicle designed or
24 used to carry motor fuel over the highway, including, but not
25 limited to, a straight truck, a straight truck/trailer
26 combination, and a semitrailer combination rig.

1 "~~(53)~~ (56) TRUSTEE. A person who is licensed as a
2 supplier or a permissive supplier and receives tax payments
3 from and on behalf of another pursuant to Section 40-17-344.

4 "~~(54)~~ (57) TWO-PARTY EXCHANGE. A transaction in
5 which motor fuel is transferred from one licensed supplier or
6 permissive supplier to another licensed supplier or permissive
7 supplier pursuant to an exchange agreement; and

8 a. includes a transfer from the person who holds the
9 inventory position in taxable motor fuel in the terminal as
10 reflected on the records of the terminal operator;

11 b. is completed ~~prior to~~ before or contemporaneous
12 with the removal of the product from the terminal by the
13 receiving exchange partner; and

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

18 "~~(55)~~ (58) UNDYED DIESEL FUEL. Diesel fuel that has
19 not been dyed in accordance with Internal Revenue Service fuel
20 dyeing provisions.

21 "§40-17-329.

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

26 "(1) All motor fuel exported from this state for
27 which proof of export is available in the form of a terminal

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

10 "(2) All K-1 Kerosene that is produced at a refinery
11 in this state and is either exported from this state directly
12 by the operator of that refinery or is sold for immediate
13 export by the operator to a licensed exporter. In either case
14 proof of export is to be available in the form of a terminal
15 destination state shipping document and in addition all
16 relevant sales documents are to reference the product known as
17 "K-1 Kerosene."

18 ~~"(2)~~ (3) All sales of dyed diesel fuel.

19 ~~"(3)~~ (4) Gasoline blendstocks when sold to a. a
20 licensed supplier or b. a person who will not be using the
21 blendstocks in the manufacture of gasoline or as a motor fuel,
22 as evidenced by the exemption certificate prescribed under
23 regulations promulgated under Section 4081, Title 26 of the
24 United States Code.

25 ~~"(4)~~ (5) All motor fuel sold by a licensed supplier
26 or licensed permissive supplier to an exempt agency electing
27 to be licensed under Section 40-17-332.

1 "~~(5)~~ (6) Motor fuel that is delivered by a licensed
2 supplier from one terminal to another terminal when ownership
3 in the motor fuel has not changed, or by a licensed supplier
4 from a terminal to a refinery operated by the licensed
5 supplier.

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

14 "a. Air Carrier. Any person, firm, corporation, or
15 entity undertaking by any means, directly or indirectly, to
16 provide air transportation.

17 "b. All-Cargo Operations. Any flight conducted by an
18 air carrier for compensation or hire other than a passenger
19 carrying flight, except passengers as specified in Section
20 121.583 (a) or 135.85 of the Federal Aviation Regulations, as
21 amended.

22 "c. International Commerce. Any air carrier engaged
23 in all-cargo operations transporting goods for compensation or
24 hire on international flights.

25 "d. International Flights. Any air carrier
26 conducting scheduled all-cargo operations between any point
27 within the 50 states of the United States and the District of

1 Columbia and any point outside the 50 states of the United
2 States and the District of Columbia, including any interim
3 stops within the United States so long as the ultimate origin
4 or destination of the aircraft is outside the United States
5 and the District of Columbia.

6 "(b) Having first paid the tax owed under this
7 article, a licensed distributor shall have the right to apply
8 to the department on a monthly basis for a refund of the taxes
9 paid on the gallons sold by that licensed distributor to the
10 exempt agencies listed under subsection (e), provided the
11 exempt agency has elected to obtain a license under Section
12 40-17-332.

13 "(c) Having first paid the tax owed under this
14 article, an exporter shall have the right to apply to the
15 department on a monthly basis for a refund of the taxes paid
16 to this state on the gallons of motor fuel that are ultimately
17 exported by the exporter. The department will require the
18 exporter to provide proof of payment of the applicable
19 destination state excise taxes before issuing a refund.

20 "(d) Having first paid the tax owed under this
21 article, a licensed aviation fuel purchaser shall have the
22 right to apply to the department on a monthly basis for a
23 refund of the taxes paid to this state on the gallons of jet
24 fuel sold to an air carrier that purchases jet fuel in a
25 foreign trade zone located within this state and uses the jet
26 fuel to propel aircraft powered by jet or turbine engines
27 operated in scheduled all-cargo operations being conducted on

1 international flights or in international commerce. For the
2 purposes of this subsection, the following words or terms
3 shall be defined and interpreted as follows:

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

7 "(2) ALL-CARGO OPERATIONS. Any flight conducted by
8 an air carrier for compensation or hire other than a passenger
9 carrying flight, except passengers as specified in Section
10 121.583 (a) or 135.85 of the Federal Aviation Regulations, as
11 amended.

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

15 "(4) INTERNATIONAL FLIGHTS. Any air carrier
16 conducting scheduled all-cargo operations between any point
17 within the 50 states of the United States and the District of
18 Columbia and any point outside the 50 states of the United
19 States and the District of Columbia, including any interim
20 stops within the United States so long as the ultimate origin
21 or destination of the aircraft is outside the United States
22 and the District of Columbia.

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

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

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

4 "(3) Any incorporated municipal governing body of
5 this state.

6 "(4) City and county boards of education of this
7 state.

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

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

21 "(g) Having first paid the tax, a licensed air
22 carrier with a hub operation within this state shall have the
23 right to apply to the department for a refund on a quarterly
24 basis for any purchases of jet fuel used to propel aircraft.
25 For the purposes of this subsection, the words "hub operation
26 within this state" shall be construed to have all of the
27 following criteria:

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

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

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

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

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

23 "(k) Tax paid on transmix not used as a motor fuel
24 or that is delivered to a refinery for further processing
25 shall be refundable, with the person so using the transmix
26 being eligible to file for the refund on a quarterly basis or

1 if a licensed supplier, a credit may be taken on its monthly
2 supplier return.

3 "(1) Tax paid on motor fuel within the bulk transfer
4 system may be refunded upon sufficient proof that (1) a second
5 tax had been paid pursuant to Section 40-17-325 or (2) the
6 fuel was exported to another state or country. The party
7 paying the second tax or exporting the fuel may file for a
8 refund on a monthly basis.

9 "§40-17-340.

10 "(a) Each supplier, importer, blender, permissive
11 supplier, and exporter shall file the monthly return required
12 herein, in a format prescribed by the commissioner, on or
13 before the 22nd day of each calendar month for the preceding
14 month.

15 "(b) Other than importers, the tax levied by this
16 article shall be paid to the department by each taxpayer on or
17 before the 22nd day of each calendar month for the preceding
18 month and 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 "(c) Importers importing motor fuel from a bulk
22 plant or some other non-terminal storage location shall pay
23 the tax levied by this article to the department on or before
24 ~~the 20th day of each calendar month for the preceding month~~
25 3rd business day following the day of importation, and the
26 payment shall be accompanied by any required returns. The

1 department may require all or certain taxpayers to file tax
2 returns and payments electronically.

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

9 "(e) A supplier or permissive supplier who timely
10 files a return with the payment due may deduct from the amount
11 of tax payable with the return an administrative discount of
12 one half of one percent (.005) of the amount of tax payable to
13 the state.

14 "§40-17-362.

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

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

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

1 or bridge deck to improve serviceability or to provide
2 additional strength. Resurfacing, restoration, and
3 rehabilitation work may include changes to geometric features,
4 such as minor widening, flattening curves, or improving sight
5 distances.

6 "(b) It is the intent of the Legislature that the
7 proceeds of the tax collected on ~~motor fuel~~ the additional six
8 cents (\$.06) diesel fuel excise tax and the additional four
9 cents (\$.04) gasoline excise tax under the provisions of this
10 article shall be used in the following 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 2. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.