

1 SB486
2 169484-1
3 By Senator Beasley (N & P)
4 RFD: Local Legislation
5 First Read: 19-MAY-15

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to the Macon County Commission; authorizing
14 the county commission to impose an excise tax on persons,
15 corporations, partnerships, companies, agencies, associations,
16 trusts, estates, and other entities engaged in the business of
17 selling, distributing, storing, or withdrawing from storage,
18 gasoline and motor fuel in Macon County in an amount not to
19 exceed two cents (\$0.02) per gallon and to provide for
20 exception; to provide for the collection and payment of the
21 tax and to provide the distribution of the funds derived
22 therefrom; to authorize the county commission to make rules
23 and regulations for the collection of the tax; to provide for
24 the enforcement and to fix a penalty for the violation of this
25 act.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall apply only to Macon
2 County.

3 Section 2. For the purposes of this act, the
4 following terms shall have the following meanings:

5 (1) COUNTY COMMISSION. The County Commission of
6 Macon County.

7 (2) DISTRIBUTOR. Any person who engages in the
8 selling of gasoline or motor fuel in this state and not in
9 interstate commerce by wholesale domestic trade.

10 (3) GASOLINE. Gasoline, naphtha, and other liquid
11 motor fuels or any device or substitute therefor which is
12 commonly used in internal combustion engines. The term shall
13 not include those products known commercially as kerosene oil,
14 fuel oil, or crude oil when used for lighting, heating, or
15 industrial purposes.

16 (4) MOTOR FUEL. Diesel oil, tractor fuel, gas oil,
17 distillate or liquefied gas, kerosene, jet fuel, or any
18 substitutes or devices therefor when sold, distributed,
19 stored, or withdrawn from storage in the county for use in the
20 operation of any motor vehicle on the highways of this state.

21 (5) PERSON. Persons, corporations, partnerships,
22 companies, agencies, associations, incorporated or otherwise,
23 trusts, estates, and other entities.

24 (6) REFINER. Any person who manufactures, distills,
25 blends, compounds, or mixes products in the production of
26 gasoline or motor fuel.

1 (7) RETAIL DEALER. Any distributor who is also
2 engaged in the selling of gasoline or motor fuel at any place
3 in this state in broken quantities.

4 (8) STORER. Any person who ships or causes to be
5 shipped or receives gasoline or motor fuel in any quantities
6 and who stores, withdraws, or uses gasoline or motor fuel for
7 any purpose.

8 (9) USER. Any person who uses or consumes gasoline
9 or motor fuel. The term shall not include any refiner who has
10 a refinery when using gasoline or motor fuel in the
11 manufacturing or refining process, or any person who holds a
12 federal permit to blend motor fuels and who pays the federal
13 excise tax on the motor fuels directly to the federal
14 government, when the person uses gasoline in the blending
15 process.

16 Section 3. (a) Notwithstanding any provision of law,
17 there is levied in addition to any other taxes an additional
18 excise tax on persons selling, distributing, storing, or
19 withdrawing from storage gasoline and motor fuel in an amount
20 not to exceed two cents (\$0.02) per gallon and may require
21 every distributor, retail dealer, or storer to pay the excise
22 tax. The additional excise tax imposed pursuant to this act
23 may not be imposed upon the sale of gasoline or motor fuel
24 used in interstate commerce or any form of fuel such as
25 propane gas that is sold for lighting, heating, or industrial
26 use. If the additional excise tax has been paid by a
27 distributor, retail dealer, or storer, the payment shall be

1 sufficient, the intention being that the tax shall not be paid
2 but once. The additional excise tax shall apply to persons,
3 retail dealers, or distributors storing gasoline or motor fuel
4 and distributing or withdrawing from storage, whether the
5 withdrawal is for sale or other use. Sellers of gasoline or
6 motor fuel paying the tax herein provided may pay the tax
7 computed and paid on the basis of sales, and storers and
8 distributors shall compute and pay the tax on the basis of
9 withdrawals or distributions. The county commission shall not
10 impose any tax upon any gasoline or motor fuel when used in
11 essential governmental functions by the State of Alabama or
12 any agency thereof, the federal government or any agency
13 thereof, or county commissions, municipalities, or boards of
14 education.

15 (b) Any company or retailer of fuel products located
16 or under construction in Macon County that has entered into a
17 formal Project Agreement for economic development with a local
18 government of Macon County in the past 24 months from the date
19 of this act shall hereby be exempt from this additional two
20 cent (\$0.02) fuel tax for a period of not less than 24 months
21 from the date of the final engrossment of this act.

22 Section 4. On or before the 20th day of each month
23 after the county commission has imposed the additional excise
24 tax, each person upon whom the excise tax is imposed shall
25 furnish to the county commission on forms prescribed by it a
26 true and correct statement of all sales and withdrawals of
27 gasoline or motor fuel made by that person during the

1 preceding month. Each person shall furnish to the county
2 commission any additional information required by the county
3 commission and shall pay to the tax collector an amount of
4 money equal to the excise tax due under this act. The
5 statement made by the distributor, retail dealer, or storer
6 shall be sworn to before an officer authorized to administer
7 oaths and any false statement sworn to shall constitute
8 perjury and, upon conviction, the person so convicted shall be
9 punished as provided by law.

10 Section 5. Every distributor, retail dealer, or
11 storer shall keep all books, documents, or papers to show the
12 amounts of sale or withdrawals of gasoline and motor fuel for
13 not less than two years.

14 Section 6. Within 30 days after any tax has been
15 imposed pursuant to this act, every distributor, retail
16 dealer, or storer shall make a report to the county
17 commission, on blanks furnished by it, showing the place and
18 post office address at which the distributor, retail dealer,
19 or storer is engaged in the business. The information on the
20 report shall be entered on a book kept for that purpose. If
21 the distributor, retail dealer, or storer moves the place of
22 business from one address to another, the distributor, retail
23 dealer, or storer shall within 30 days thereafter notify the
24 county commission of the move, and shall give the former place
25 and post office address and the place and post office address
26 to which the place of business has moved. After the effective
27 date of this act, no person shall become a distributor,

1 storer, or seller of gasoline or motor fuel in the county
2 until the aforementioned have been made to the county
3 commission.

4 Section 7. If any distributor, retail dealer, or
5 storer of gasoline or motor fuel fails to make the reports,
6 fails to comply with any regulation adopted for the collection
7 of the tax by the county commission within the time required
8 for making the reports, or fails to pay the tax imposed within
9 the time established for the payment, the distributor, retail
10 dealer, or storer shall be guilty of a Class C misdemeanor,
11 and, upon conviction thereof, shall be punished as provided by
12 law.

13 Section 8. The county commission shall enforce this
14 act and may examine the books, reports, and accounts of every
15 distributor, retail dealer, or storer of gasoline or motor
16 fuel on which the tax has been imposed. The county commission
17 may make any and all rules and regulations deemed necessary
18 and proper for the collection of the tax. Upon a resolution of
19 the county commission, the State Department of Revenue may
20 collect the tax imposed by the county pursuant to this act.
21 All persons, firms, businesses, and corporations owing the tax
22 shall pay it to the Department of Revenue and the payment
23 shall be a full and complete discharge of all liability for
24 the tax owed the county. The Department of Revenue shall
25 promulgate reasonable rules and regulations to facilitate the
26 orderly and efficient collection of the tax imposed pursuant
27 to this act. The Department of Revenue may recover all costs

1 of collecting the tax, not to exceed five percent of the
2 proceeds and shall pay the net amount remaining thereafter to
3 the county commission.

4 Section 9. If any distributor, retail dealer, or
5 storer in gasoline or motor fuel fails to make monthly reports
6 or fails to pay the tax imposed under this act, the tax shall
7 be deemed delinquent. A penalty in the amount of 25 percent of
8 the tax liability shall be added to the amount due. If the
9 county commission determines that a good and sufficient cause
10 exists for the delinquency, the penalty may be waived by the
11 county commission. If any person is delinquent in the payment
12 of the tax imposed pursuant to this act, the county commission
13 shall issue execution for the collection of the tax, directed
14 to any sheriff of the state. The sheriff shall then proceed to
15 collect the tax in the manner now provided by law for the
16 collection of delinquent taxes by the county tax collector and
17 shall make a return of the execution to the county commission.
18 The tax imposed pursuant to this act and any penalties
19 provided herein shall be held as a debt payable to the county
20 by the person against whom the tax has been imposed or against
21 whom the penalties shall have accrued. All taxes and penalties
22 shall be a lien upon the property in the county and elsewhere
23 in this state of the person against whom the tax has been
24 imposed and the penalties have accrued.

25 Section 10. The acceptance of any amount paid
26 pursuant to this act shall not preclude the collection of the

1 amount which is actually due. The amount actually paid shall
2 constitute a credit against the amount which is actually due.

3 Section 11. Any distributor, storer, or dealer who
4 violates this act or who fails to comply with any rule or
5 regulation promulgated hereunder, may be restrained, and
6 prosecution instituted by the Attorney General, or by counsel
7 as the county commission directs, from distributing, selling,
8 storing, or withdrawing from storage any gasoline or motor
9 fuel the sale or withdrawal of which is taxable until those
10 persons have complied with this act.

11 Section 12. An agent of any railroad company, bus or
12 truck operator, or other transportation company or agency
13 operating in the county shall report to the county commission
14 on the fifteenth day of January, April, July, and October of
15 each year all shipments of gasoline or motor fuel handled and
16 delivered to any person in the county during the preceding
17 three months. The report shall give the names and addresses of
18 the consignor or consignee shipping and receiving the gasoline
19 or motor fuel and the number of gallons or pounds contained in
20 each and every shipment.

21 Section 13. One-half of the proceeds of the tax
22 imposed under authority of this act shall be paid into the
23 road and bridge fund in the county treasury for use as
24 provided in Section 14 and one-half of the proceeds shall be
25 distributed to the Macon County Economic Development
26 Authority.

1 Section 14. Expenditures from the special fund
2 provided for in Section 13 shall be made exclusively for the
3 purpose of construction, improvement, and maintenance of
4 public highways and bridges including administrative expenses
5 in connection therewith, the retirement of securities
6 evidencing obligations incurred for payment of costs of any
7 construction, improvement, and maintenance, the matching of
8 federal or state funds in the construction of improved roads
9 and bridges in the county in the same manner as other county
10 funds are used to match federal and state funds and for
11 payment of the costs incurred in the administration, and the
12 enforcement of this act.

13 Section 15. This act shall become effective
14 immediately upon its passage and approval by the Governor, or
15 upon its otherwise becoming a law as herein provided.