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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR FUEL TAX

Introduced By: Senators Pichardo, Jabour, Ciccone, and Perry

Date Introduced: February 11, 2010

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 31-36-7 and 31-36-20 of the General Laws in Chapter 31-36
2 entitled "Motor Fuel Tax" are hereby amended to read as follows:

3 **31-36-7. Monthly report of distributors -- Payment of tax. --** (a) State requirements. -
4 Every distributor shall, on or before the twentieth (20th) day of each month, render a report to the
5 tax administrator, upon forms to be obtained from the tax administrator, of the amount (number
6 of gallons) of fuels purchased, sold, or used by the distributor within this state and the amount of
7 fuels sold by the distributor without this state from fuels within this state during the preceding
8 calendar month, and, if required by the tax administrator as to purchases, the name or names of
9 the person or persons from whom purchased and the date and amount of each purchase, and as to
10 sales, the name or names of the person or persons to whom sold and the amount of each sale, and
11 shall pay at the same time to the administrator tax at the rate of ~~thirty cents (\$.30)~~ thirty-two cents
12 (\$.32) per gallon on all taxable gallons of fuel sold or used in this state.

13 (1) Provided, however, commencing on July 1, 2009, and on the first day of every month
14 thereafter when the tax administrator determines that the average retail price of gasoline has risen
15 to or above three dollars (\$3.00) per gallon based on the American Automobile Association's
16 Daily Fuel Gauge Report, the rate shall be ten cents (\$.10) per gallon on all taxable gallons of fuel
17 sold or used in this state.

18 (b) Federal requirements. - In the event the federal government requires a certain portion
19 of the gasoline tax to be dedicated for highway improvements, then the state controller is directed

1 to establish a restricted receipt account and deposit that portion of gasoline tax receipts which
2 brings the state into federal compliance.

3 **31-36-20. Disposition of proceeds.** -- (a) Notwithstanding any other provision of law to
4 the contrary, all moneys paid into the general treasury under the provisions of this chapter or
5 chapter 37 of this title shall be applied to and held in a separate fund and be deposited in any
6 depositories that may be selected by the general treasurer to the credit of the fund, which fund
7 shall be known as the Intermodal Surface Transportation Fund; provided, that ~~in fiscal year 2004~~
8 ~~for the months of July through April six and eighty five hundredth cents (\$0.0685)~~ for fiscal year
9 2010 and thereafter seven and twenty-five hundredths cents (\$0.0725) per gallon of the tax
10 imposed and accruing for the liability under the provisions of section 31-36-7, less refunds and
11 credits, shall be transferred to the Rhode Island public transit authority as provided under section
12 39-18-21. ~~For the months of May and June in fiscal year 2004, the allocation shall be five and~~
13 ~~five hundredth cents (\$0.0505). Thereafter, until fiscal year 2006, the allocation shall be six and~~
14 ~~twenty five hundredth cents (\$0.0625). For fiscal year 2006 and thereafter the allocation shall be~~
15 ~~seven and twenty five hundredth cents (\$0.0725)~~ Whenever the provisions of subdivision 31-36-
16 7(a)(1) apply, the allocation to the Rhode Island public transit authority as provided under section
17 39-18-21 shall be two and twenty-five hundredths cents (\$0.0225); provided, that expenditures
18 shall include the costs of a market survey of non-transit users and a management study of the
19 agency to include the feasibility of moving the Authority into the Department of Transportation,
20 both to be conducted under the auspices of the state budget officer. The state budget officer shall
21 hire necessary consultants to perform the studies, and shall direct payment by the Authority. Both
22 studies shall be transmitted by the Budget Officer to the 2006 session of the General Assembly,
23 with comments from the Authority. For the fiscal year 2009 the allocation shall be seven and
24 seventy-five hundredths cents (\$0.0775), of which one-half cent (\$0.005) shall be derived from
25 one cent (\$0.01) per gallon environmental protection fee pursuant to section 46-12.911. For fiscal
26 years 2010 and thereafter, the allocation shall be nine and seventy-five hundredths cents
27 (\$0.0975), of which of one-half cent (\$0.005) shall be derived from the one cent (\$0.01) per
28 gallon environmental protection fee pursuant to section 46-12.9-11. One cent (\$0.01) per gallon
29 shall be transferred to the Elderly/Disabled Transportation Program of the department of elderly
30 affairs, and the remaining cents per gallon shall be available for general revenue as determined by
31 the following schedule:

32 (i) For the fiscal year 2000, three and one fourth cents (\$0.0325) shall be available for
33 general revenue.

34 (ii) For the fiscal year 2001, one and three-fourth cents (\$0.0175) shall be available for

1 general revenue.

2 (iii) For the fiscal year 2002, one-fourth cent (\$0.0025) shall be available for general
3 revenue.

4 (iv) For the fiscal year 2003, two and one-fourth cent (\$0.0225) shall be available for
5 general revenue.

6 (v) For the months of July through April in fiscal year 2004, one and four-tenths cents
7 (\$0.014) shall be available for general revenue. For the months of May through June in fiscal year
8 2004, three and two-tenths cents (\$0.032) shall be available for general revenue, and thereafter,
9 until fiscal year 2006, two cents (\$0.02) shall be available for general revenue. For fiscal year
10 2006 through fiscal year 2009 one cent (\$0.01) shall be available for general revenue.

11 (2) All deposits and transfers of funds made by the tax administrator under this section,
12 including those to the Rhode Island public transit authority, the department of elderly affairs and
13 the general fund, shall be made within twenty-four (24) hours of receipt or previous deposit of the
14 funds in question.

15 (3) Commencing in fiscal year 2004, the Director of the Rhode Island Department of
16 Transportation is authorized to remit, on a monthly or less frequent basis as shall be determined
17 by the Director of the Rhode Island Department of Transportation, or his or her designee, or at the
18 election of the Director of the Rhode Island Department of Transportation, with the approval of
19 the Director of the Department of Administration, to an indenture trustee, administrator, or other
20 third party fiduciary, in an amount not to exceed two cents (\$0.02) per gallon of the gas tax
21 imposed, in order to satisfy debt service payments on aggregate bonds issued pursuant to a Joint
22 Resolution and Enactment Approving the Financing of Various Department of Transportation
23 Projects adopted during the 2003 session of the General Assembly, and approved by the
24 Governor.

25 (b) Notwithstanding any other provision of law to the contrary, all other funds in the
26 fund shall be dedicated to the department of transportation, subject to annual appropriation by the
27 general assembly. The director of transportation shall submit to the general assembly, budget
28 office and office of the governor annually an accounting of all amounts deposited in and credited
29 to the fund together with a budget for proposed expenditures for the succeeding fiscal year in
30 compliance with sections 35-3-1 and 35-3-4. On order of the director of transportation, the state
31 controller is authorized and directed to draw his or her orders upon the general treasurer for the
32 payments of any sum or portion of the sum that may be required from time to time upon receipt
33 of properly authenticated vouchers.

34 (c) At any time the amount of the fund is insufficient to fund the expenditures of the

1 department of transportation, not to exceed the amount authorized by the general assembly, the
2 general treasurer is authorized, with the approval of the governor and the director of
3 administration, in anticipation of the receipts of monies enumerated in section 31-36-20 to
4 advance sums to the fund, for the purposes specified in section 31-36-20, any funds of the state
5 not specifically held for any particular purpose. However, all the advances made to the fund shall
6 be returned to the general fund immediately upon the receipt by the fund of proceeds resulting
7 from the receipt of monies to the extent of the advances.

8 SECTION 2. Section 44-18-30 of the General Laws in Chapter 44-18 entitled "Sales and
9 Use Taxes - Liability and Computation" is hereby amended to read as follows:

10 **44-18-30. Gross receipts exempt from sales and use taxes.** -- There are exempted from
11 the taxes imposed by this chapter the following gross receipts:

12 (1) Sales and uses beyond constitutional power of state. - From the sale and from the
13 storage, use, or other consumption in this state of tangible personal property the gross receipts
14 from the sale of which, or the storage, use, or other consumption of which, this state is prohibited
15 from taxing under the Constitution of the United States or under the constitution of this state.

16 (2) Newspapers.

17 (i) From the sale and from the storage, use, or other consumption in this state of any
18 newspaper.

19 (ii) "Newspaper" means an unbound publication printed on newsprint, which contains
20 news, editorial comment, opinions, features, advertising matter, and other matters of public
21 interest.

22 (iii) "Newspaper" does not include a magazine, handbill, circular, flyer, sales catalog, or
23 similar item unless the item is printed for and distributed as a part of a newspaper.

24 (3) School meals. - From the sale and from the storage, use, or other consumption in this
25 state of meals served by public, private, or parochial schools, school districts, colleges,
26 universities, student organizations, and parent teacher associations to the students or teachers of a
27 school, college, or university whether the meals are served by the educational institutions or by a
28 food service or management entity under contract to the educational institutions.

29 (4) Containers.

30 (i) From the sale and from the storage, use, or other consumption in this state of:

31 (A) Non-returnable containers, including boxes, paper bags, and wrapping materials
32 which are biodegradable and all bags and wrapping materials utilized in the medical and healing
33 arts, when sold without the contents to persons who place the contents in the container and sell
34 the contents with the container.

1 (B) Containers when sold with the contents if the sale price of the contents is not
2 required to be included in the measure of the taxes imposed by this chapter.

3 (C) Returnable containers when sold with the contents in connection with a retail sale of
4 the contents or when resold for refilling.

5 (ii) As used in this subdivision, the term "returnable containers" means containers of a
6 kind customarily returned by the buyer of the contents for reuse. All other containers are "non-
7 returnable containers."

8 (5) (i) Charitable, educational, and religious organizations. - From the sale to as in
9 defined in this section, and from the storage, use, and other consumption in this state or any other
10 state of the United States of America of tangible personal property by hospitals not operated for a
11 profit, "educational institutions" as defined in subdivision (18) not operated for a profit, churches,
12 orphanages, and other institutions or organizations operated exclusively for religious or charitable
13 purposes, interest free loan associations not operated for profit, nonprofit organized sporting
14 leagues and associations and bands for boys and girls under the age of nineteen (19) years, the
15 following vocational student organizations that are state chapters of national vocational students
16 organizations: Distributive Education Clubs of America, (DECA); Future Business Leaders of
17 America, phi beta lambda (FBLA/PBL); Future Farmers of America (FFA); Future Homemakers
18 of America/Home Economics Related Occupations (FHA/HERD); and Vocational Industrial
19 Clubs of America (VICA), organized nonprofit golden age and senior citizens clubs for men and
20 women, and parent teacher associations.

21 (ii) In the case of contracts entered into with the federal government, its agencies or
22 instrumentalities, this state or any other state of the United States of America, its agencies, any
23 city, town, district, or other political subdivision of the states, hospitals not operated for profit,
24 educational institutions not operated for profit, churches, orphanages, and other institutions or
25 organizations operated exclusively for religious or charitable purposes, the contractor may
26 purchase such materials and supplies (materials and/or supplies are defined as those which are
27 essential to the project) that are to be utilized in the construction of the projects being performed
28 under the contracts without payment of the tax.

29 (iii) The contractor shall not charge any sales or use tax to any exempt agency,
30 institution, or organization but shall in that instance provide his or her suppliers with certificates
31 in the form as determined by the division of taxation showing the reason for exemption; and the
32 contractor's records must substantiate the claim for exemption by showing the disposition of all
33 property so purchased. If any property is then used for a nonexempt purpose, the contractor must
34 pay the tax on the property used.

1 (6) Gasoline. - From the sale and from the storage, use, or other consumption in this state
2 of: (i) gasoline and other products taxed under chapter 36 of title 31, and (ii) fuels used for the
3 propulsion of airplanes.

4 (A) Except that, on July 1, 2009, and on the first of every month thereafter when the tax
5 administrator determines that the average retail price of gasoline has risen to or above three
6 dollars (\$3.00) per gallon, based on the American Automobile Association's Daily Fuel Gauge
7 Report, sale of gasoline and other products taxed under chapter 36 of title 31 shall no longer be
8 exempt from taxation upon sale.

9 (B) Disposition of proceeds. - Notwithstanding any other provision of law to the
10 contrary, all moneys paid into the general treasury under the provisions of subparagraph 44-18-
11 30(6)(A) shall be applied to and held in a separate fund and deposited in any depositories that
12 may be selected by the general treasurer to the credit of the fund, which fund shall be known as
13 the Intermodal Surface Transportation Fund; provided, that beginning in fiscal year 2010, and
14 thereafter, an amount equivalent to two cents (\$.02) of the sales and use tax collected under the
15 provisions of subparagraph 44-18-30-(6)(A), less refunds and credits, shall be transferred to the
16 Rhode Island public transit authority as provided under section 39-18-21.

17 (7) Purchase for manufacturing purposes.

18 (i) From the sale and from the storage, use, or other consumption in this state of
19 computer software, tangible personal property, electricity, natural gas, artificial gas, steam,
20 refrigeration, and water, when the property or service is purchased for the purpose of being
21 manufactured into a finished product for resale, and becomes an ingredient, component, or
22 integral part of the manufactured, compounded, processed, assembled, or prepared product, or if
23 the property or service is consumed in the process of manufacturing for resale computer software,
24 tangible personal property, electricity, natural gas, artificial gas, steam, refrigeration, or water.

25 (ii) "Consumed" means destroyed, used up, or worn out to the degree or extent that the
26 property cannot be repaired, reconditioned, or rendered fit for further manufacturing use.

27 (iii) "Consumed" includes mere obsolescence.

28 (iv) "Manufacturing" means and includes manufacturing, compounding, processing,
29 assembling, preparing, or producing.

30 (v) "Process of manufacturing" means and includes all production operations performed
31 in the producing or processing room, shop, or plant, insofar as the operations are a part of and
32 connected with the manufacturing for resale of tangible personal property, electricity, natural gas,
33 artificial gas, steam, refrigeration, or water and all production operations performed insofar as the
34 operations are a part of and connected with the manufacturing for resale of computer software.

1 (vi) "Process of manufacturing" does not mean or include administration operations such
2 as general office operations, accounting, collection, sales promotion, nor does it mean or include
3 distribution operations which occur subsequent to production operations, such as handling,
4 storing, selling, and transporting the manufactured products, even though the administration and
5 distribution operations are performed by or in connection with a manufacturing business.

6 (8) State and political subdivisions. - From the sale to, and from the storage, use, or other
7 consumption by, this state, any city, town, district, or other political subdivision of this state.
8 Every redevelopment agency created pursuant to chapter 31 of title 45 is deemed to be a
9 subdivision of the municipality where it is located.

10 (9) Food and food ingredients. - From the sale and storage, use, or other consumption in
11 this state of food and food ingredients as defined in section 44-18-7.1(l).

12 For the purposes of this exemption "food and food ingredients" shall not include candy,
13 soft drinks, dietary supplements, alcoholic beverages, tobacco, food sold through vending
14 machines or prepared food (as those terms are defined in section 44-18-7.1, unless the prepared
15 food is:

16 (i) Sold by a seller whose primary NAICS classification is manufacturing in sector 311,
17 except sub-sector 3118 (bakeries);

18 (ii) Sold in an unheated state by weight or volume as a single item;

19 (iii) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries,
20 donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas; and

21 is not sold with utensils provided by the seller, including plates, knives, forks, spoons,
22 glasses, cups, napkins, or straws.

23 (10) Medicines, drugs and durable medical equipment. - From the sale and from the
24 storage, use, or other consumption in this state, of;

25 (i) "Drugs" as defined in section 44-18-7.1(h)(i), sold on prescriptions, medical oxygen,
26 and insulin whether or not sold on prescription, and over-the-counter drugs as defined in section
27 44-18-7.1(h)(ii). For purposes of this exemption over-the-counter drugs shall not include
28 grooming and hygiene products as defined in section 44-18-7.1(h)(iii).

29 (ii) Durable medical equipment as defined in section 44-18-7.1(k) for home use only,
30 including, but not limited to, syringe infusers, ambulatory drug delivery pumps, hospital beds,
31 convalescent chairs, and chair lifts. Supplies used in connection with syringe infusers and
32 ambulatory drug delivery pumps which are sold on prescription to individuals to be used by them
33 to dispense or administer prescription drugs, and related ancillary dressings and supplies used to
34 dispense or administer prescription drugs shall also be exempt from tax.

1 (11) Prosthetic devices and mobility enhancing equipment. - From the sale and from the
2 storage, use, or other consumption in this state, of prosthetic devices as defined in section 44-18-
3 7.1(t), sold on prescription, including but not limited to, artificial limbs, dentures, spectacles and
4 eyeglasses, and artificial eyes; artificial hearing devices and hearing aids, whether or not sold on
5 prescription and mobility enhancing equipment as defined in section 44-18-7.1(p) including
6 wheelchairs, crutches and canes.

7 (12) Coffins, caskets, and burial garments. - From the sale and from the storage, use, or
8 other consumption in this state of coffins or caskets, and shrouds or other burial garments which
9 are ordinarily sold by a funeral director as part of the business of funeral directing.

10 (13) Motor vehicles sold to nonresidents.

11 (i) From the sale, subsequent to June 30, 1958, of a motor vehicle to a bona fide
12 nonresident of this state who does not register the motor vehicle in this state, whether the sale or
13 delivery of the motor vehicle is made in this state or at the place of residence of the nonresident.
14 A motor vehicle sold to a bona fide nonresident whose state of residence does not allow a like
15 exemption to its nonresidents is not exempt from the tax imposed under section 44-18-20. In that
16 event the bona fide nonresident pays a tax to Rhode Island on the sale at a rate equal to the rate
17 that would be imposed in his or her state of residence not to exceed the rate that would have been
18 imposed under section 44-18-20. Notwithstanding any other provisions of law, a licensed motor
19 vehicle dealer shall add and collect the tax required under this subdivision and remit the tax to the
20 tax administrator under the provisions of chapters 18 and 19 of this title. When a Rhode Island
21 licensed motor vehicle dealer is required to add and collect the sales and use tax on the sale of a
22 motor vehicle to a bona fide nonresident as provided in this section, the dealer in computing the
23 tax takes into consideration the law of the state of the nonresident as it relates to the trade-in of
24 motor vehicles.

25 (ii) The tax administrator, in addition to the provisions of sections 44-19-27 and 44-19-
26 28, may require any licensed motor vehicle dealer to keep records of sales to bona fide
27 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
28 provided in this subdivision, including the affidavit of a licensed motor vehicle dealer that the
29 purchaser of the motor vehicle was the holder of, and had in his or her possession a valid out of
30 state motor vehicle registration or a valid out of state driver's license.

31 (iii) Any nonresident who registers a motor vehicle in this state within ninety (90) days
32 of the date of its sale to him or her is deemed to have purchased the motor vehicle for use,
33 storage, or other consumption in this state, and is subject to, and liable for the use tax imposed
34 under the provisions of section 44-18-20.

1 (14) Sales in public buildings by blind people. - From the sale and from the storage, use,
2 or other consumption in all public buildings in this state of all products or wares by any person
3 licensed under section 40-9-11.1.

4 (15) Air and water pollution control facilities. - From the sale, storage, use, or other
5 consumption in this state of tangible personal property or supplies acquired for incorporation into
6 or used and consumed in the operation of a facility, the primary purpose of which is to aid in the
7 control of the pollution or contamination of the waters or air of the state, as defined in chapter 12
8 of title 46 and chapter 25 of title 23, respectively, and which has been certified as approved for
9 that purpose by the director of environmental management. The director of environmental
10 management may certify to a portion of the tangible personal property or supplies acquired for
11 incorporation into those facilities or used and consumed in the operation of those facilities to the
12 extent that that portion has as its primary purpose the control of the pollution or contamination of
13 the waters or air of this state. As used in this subdivision, "facility" means any land, facility,
14 device, building, machinery, or equipment.

15 (16) Camps. - From the rental charged for living quarters, or sleeping or housekeeping
16 accommodations at camps or retreat houses operated by religious, charitable, educational, or
17 other organizations and associations mentioned in subdivision (5), or by privately owned and
18 operated summer camps for children.

19 (17) Certain institutions. - From the rental charged for living or sleeping quarters in an
20 institution licensed by the state for the hospitalization, custodial, or nursing care of human beings.

21 (18) Educational institutions. - From the rental charged by any educational institution for
22 living quarters, or sleeping or housekeeping accommodations or other rooms or accommodations
23 to any student or teacher necessitated by attendance at an educational institution. "Educational
24 institution" as used in this section means an institution of learning not operated for profit which is
25 empowered to confer diplomas, educational, literary, or academic degrees, which has a regular
26 faculty, curriculum, and organized body of pupils or students in attendance throughout the usual
27 school year, which keeps and furnishes to students and others records required and accepted for
28 entrance to schools of secondary, collegiate, or graduate rank, no part of the net earnings of which
29 inures to the benefit of any individual.

30 (19) Motor vehicle and adaptive equipment for persons with disabilities.

31 (i) From the sale of: (A) special adaptations, (B) the component parts of the special
32 adaptations, or (C) a specially adapted motor vehicle; provided, that the owner furnishes to the
33 tax administrator an affidavit of a licensed physician to the effect that the specially adapted motor
34 vehicle is necessary to transport a family member with a disability or where the vehicle has been

1 specially adapted to meet the specific needs of the person with a disability. This exemption
2 applies to not more than one motor vehicle owned and registered for personal, noncommercial
3 use.

4 (ii) For the purpose of this subsection the term "special adaptations" includes, but is not
5 limited to: wheelchair lifts; wheelchair carriers; wheelchair ramps; wheelchair securements; hand
6 controls; steering devices; extensions, relocations, and crossovers of operator controls; power-
7 assisted controls; raised tops or dropped floors; raised entry doors; or alternative signaling
8 devices to auditory signals.

9 (iii) From the sale of: (a) special adaptations, (b) the component parts of the special
10 adaptations, for a "wheelchair accessible taxicab" as defined in section 39-14-1 and/or a
11 "wheelchair accessible public motor vehicle" as defined in section 39-14.1-1.

12 (iv) For the purpose of this subdivision the exemption for a "specially adapted motor
13 vehicle" means a use tax credit not to exceed the amount of use tax that would otherwise be due
14 on the motor vehicle, exclusive of any adaptations. The use tax credit is equal to the cost of the
15 special adaptations, including installation.

16 (20) Heating fuels. - From the sale and from the storage, use, or other consumption in
17 this state of every type of fuel used in the heating of homes and residential premises.

18 (21) Electricity and gas. - From the sale and from the storage, use, or other consumption
19 in this state of electricity and gas furnished for domestic use by occupants of residential premises.

20 (22) Manufacturing machinery and equipment.

21 (i) From the sale and from the storage, use, or other consumption in this state of tools,
22 dies, and molds, and machinery and equipment (including replacement parts), and related items to
23 the extent used in an industrial plant in connection with the actual manufacture, conversion, or
24 processing of tangible personal property, or to the extent used in connection with the actual
25 manufacture, conversion or processing of computer software as that term is utilized in industry
26 numbers 7371, 7372, and 7373 in the standard industrial classification manual prepared by the
27 technical committee on industrial classification, office of statistical standards, executive office of
28 the president, United States bureau of the budget, as revised from time to time, to be sold, or that
29 machinery and equipment used in the furnishing of power to an industrial manufacturing plant.
30 For the purposes of this subdivision, "industrial plant" means a factory at a fixed location
31 primarily engaged in the manufacture, conversion, or processing of tangible personal property to
32 be sold in the regular course of business;

33 (ii) Machinery and equipment and related items are not deemed to be used in connection
34 with the actual manufacture, conversion, or processing of tangible personal property, or in

1 connection with the actual manufacture, conversion or processing of computer software as that
2 term is utilized in industry numbers 7371, 7372, and 7373 in the standard industrial classification
3 manual prepared by the technical committee on industrial classification, office of statistical
4 standards, executive office of the president, United States bureau of the budget, as revised from
5 time to time, to be sold to the extent the property is used in administration or distribution
6 operations;

7 (iii) Machinery and equipment and related items used in connection with the actual
8 manufacture, conversion, or processing of any computer software or any tangible personal
9 property which is not to be sold and which would be exempt under subdivision (7) or this
10 subdivision if purchased from a vendor or machinery and equipment and related items used
11 during any manufacturing, converting or processing function is exempt under this subdivision
12 even if that operation, function, or purpose is not an integral or essential part of a continuous
13 production flow or manufacturing process;

14 (iv) Where a portion of a group of portable or mobile machinery is used in connection
15 with the actual manufacture, conversion, or processing of computer software or tangible personal
16 property to be sold, as previously defined, that portion, if otherwise qualifying, is exempt under
17 this subdivision even though the machinery in that group is used interchangeably and not
18 otherwise identifiable as to use.

19 (23) Trade-in value of motor vehicles. - From the sale and from the storage, use, or other
20 consumption in this state of so much of the purchase price paid for a new or used automobile as is
21 allocated for a trade-in allowance on the automobile of the buyer given in trade to the seller or of
22 the proceeds applicable only to the motor vehicle as are received from an insurance claim as a
23 result of a stolen or damaged motor vehicle, or of the proceeds applicable only to the automobile
24 as are received from the manufacturer of automobiles for the repurchase of the automobile
25 whether the repurchase was voluntary or not towards the purchase of a new or used automobile
26 by the buyer; provided, that the proceeds from an insurance claim or repurchase is in lieu of the
27 benefit prescribed in section 44-18-21 for the total loss or destruction of the automobile; and
28 provided, further, that the tax has not been reimbursed as part of the insurance claim or
29 repurchase. For the purpose of this subdivision, the word "automobile" means a private passenger
30 automobile not used for hire and does not refer to any other type of motor vehicle.

31 (24) Precious metal bullion.

32 (i) From the sale and from the storage, use, or other consumption in this state of precious
33 metal bullion, substantially equivalent to a transaction in securities or commodities.

34 (ii) For purposes of this subdivision, "precious metal bullion" means any elementary

1 precious metal which has been put through a process of smelting or refining, including, but not
2 limited to, gold, silver, platinum, rhodium, and chromium, and which is in a state or condition
3 that its value depends upon its content and not upon its form.

4 (iii) The term does not include fabricated precious metal which has been processed or
5 manufactured for some one or more specific and customary industrial, professional, or artistic
6 uses.

7 (25) Commercial vessels. - From sales made to a commercial ship, barge, or other vessel
8 of fifty (50) tons burden or over, primarily engaged in interstate or foreign commerce, and from
9 the repair, alteration, or conversion of the vessels, and from the sale of property purchased for the
10 use of the vessels including provisions, supplies, and material for the maintenance and/or repair
11 of the vessels.

12 (26) Commercial fishing vessels. - From the sale and from the storage, use, or other
13 consumption in this state of vessels and other water craft which are in excess of five (5) net tons
14 and which are used exclusively for "commercial fishing", as defined in this subdivision, and from
15 the repair, alteration, or conversion of those vessels and other watercraft, and from the sale of
16 property purchased for the use of those vessels and other watercraft including provisions,
17 supplies, and material for the maintenance and/or repair of the vessels and other watercraft and
18 the boats nets, cables, tackle, and other fishing equipment appurtenant to or used in connection
19 with the commercial fishing of the vessels and other watercraft. "Commercial fishing" means the
20 taking or the attempting to take any fish, shellfish, crustacea, or bait species with the intent of
21 disposing of them for profit or by sale, barter, trade, or in commercial channels. The term does
22 not include subsistence fishing, i.e., the taking for personal use and not for sale or barter; or sport
23 fishing; but shall include vessels and other watercraft with a Rhode Island party and charter boat
24 license issued by the department of environmental management pursuant to section 20-2-27.1
25 which meet the following criteria: (i) the operator must have a current U.S.C.G. license to carry
26 passengers for hire; (ii) U.S.C.G. vessel documentation in the coast wide fishery trade; (iii)
27 U.S.C.G. vessel documentation as to proof of Rhode Island home port status or a Rhode Island
28 boat registration to prove Rhode Island home port status; (iv) the vessel must be used as a
29 commercial passenger carrying fishing vessel to carry passengers for fishing. The vessel must be
30 able to demonstrate that at least fifty percent (50%) of its annual gross income derives from
31 charters or provides documentation of a minimum of one hundred (100) charter trips annually; (v)
32 the vessel must have a valid Rhode Island party and charter boat license. The tax administrator
33 shall implement the provisions of this subdivision by promulgating rules and regulations relating
34 thereto.

1 (27) Clothing and footwear. - From the sales of articles of clothing, including footwear,
2 intended to be worn or carried on or about the human body. For the purposes of this section,
3 "clothing or footwear" does not include clothing accessories or equipment or special clothing or
4 footwear primarily designed for athletic activity or protective use as these terms are defined in
5 section 44-18-7.1(f).

6 (28) Water for residential use. - From the sale and from the storage, use, or other
7 consumption in this state of water furnished for domestic use by occupants of residential
8 premises.

9 (29) Bibles. - [Unconstitutional; see Ahlburn v. Clark, 728 A.2d 449 (R.I. 1999); see
10 Notes to Decisions.]From the sale and from the storage, use, or other consumption in the state of
11 any canonized scriptures of any tax-exempt nonprofit religious organization including, but not
12 limited to, the Old Testament and the New Testament versions.

13 (30) Boats.

14 (i) From the sale of a boat or vessel to a bona fide nonresident of this state who does not
15 register the boat or vessel in this state, or document the boat or vessel with the United States
16 government at a home port within the state, whether the sale or delivery of the boat or vessel is
17 made in this state or elsewhere; provided, that the nonresident transports the boat within thirty
18 (30) days after delivery by the seller outside the state for use thereafter solely outside the state.

19 (ii) The tax administrator, in addition to the provisions of sections 44-19-17 and 44-19-
20 28, may require the seller of the boat or vessel to keep records of the sales to bona fide
21 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
22 provided in this subdivision, including the affidavit of the seller that the buyer represented
23 himself or herself to be a bona fide nonresident of this state and of the buyer that he or she is a
24 nonresident of this state.

25 (31) Youth activities equipment. - From the sale, storage, use, or other consumption in
26 this state of items for not more than twenty dollars (\$20.00) each by nonprofit Rhode Island
27 eleemosynary organizations, for the purposes of youth activities which the organization is formed
28 to sponsor and support; and by accredited elementary and secondary schools for the purposes of
29 the schools or of organized activities of the enrolled students.

30 (32) Farm equipment. - From the sale and from the storage or use of machinery and
31 equipment used directly for commercial farming and agricultural production; including, but not
32 limited to, tractors, ploughs, harrows, spreaders, seeders, milking machines, silage conveyors,
33 balers, bulk milk storage tanks, trucks with farm plates, mowers, combines, irrigation equipment,
34 greenhouses and greenhouse coverings, graders and packaging machines, tools and supplies and

1 other farming equipment, including replacement parts, appurtenant to or used in connection with
2 commercial farming and tools and supplies used in the repair and maintenance of farming
3 equipment. "Commercial farming" means the keeping or boarding of five (5) or more horses or
4 the production within this state of agricultural products, including, but not limited to, field or
5 orchard crops, livestock, dairy, and poultry, or their products, where the keeping, boarding, or
6 production provides at least two thousand five hundred dollars (\$2,500) in annual gross sales to
7 the operator, whether an individual, a group, a partnership, or a corporation for exemptions issued
8 prior to July 1, 2002; for exemptions issued or renewed after July 1, 2002, there shall be two (2)
9 levels. Level I shall be based on proof of annual gross sales from commercial farming of at least
10 twenty-five hundred dollars (\$2,500) and shall be valid for purchases subject to the exemption
11 provided in this subdivision except for motor vehicles with an excise tax value of five thousand
12 dollars (\$5,000) or greater; Level II shall be based on proof of annual gross sales from
13 commercial farming of at least ten thousand dollars (\$10,000) or greater and shall be valid for
14 purchases subject to the exemption provided in this subdivision including motor vehicles with an
15 excise tax value of five thousand dollars (\$5,000) or greater. For the initial issuance of the
16 exemptions, proof of the requisite amount of annual gross sales from commercial farming shall be
17 required for the prior year; for any renewal of an exemption granted in accordance with this
18 subdivision at either Level I or Level II, proof of gross annual sales from commercial farming at
19 the requisite amount shall be required for each of the prior two (2) years. Certificates of
20 exemption issued or renewed after July 1, 2002, shall clearly indicate the level of the exemption
21 and be valid for four (4) years after the date of issue. This exemption applies even if the same
22 equipment is used for ancillary uses, or is temporarily used for a non-farming or a non-
23 agricultural purpose, but shall not apply to motor vehicles acquired after July 1, 2002, unless the
24 vehicle is a farm vehicle as defined pursuant to section 31-1-8 and is eligible for registration
25 displaying farm plates as provided for in section 31-3-31.

26 (33) Compressed air. - From the sale and from the storage, use, or other consumption in
27 the state of compressed air.

28 (34) Flags. - From the sale and from the storage, consumption, or other use in this state
29 of United States, Rhode Island or POW-MIA flags.

30 (35) Motor vehicle and adaptive equipment to certain veterans. - From the sale of a
31 motor vehicle and adaptive equipment to and for the use of a veteran with a service-connected
32 loss of or the loss of use of a leg, foot, hand, or arm, or any veteran who is a double amputee,
33 whether service connected or not. The motor vehicle must be purchased by and especially
34 equipped for use by the qualifying veteran. Certificate of exemption or refunds of taxes paid is

1 granted under rules or regulations that the tax administrator may prescribe.

2 (36) Textbooks. - From the sale and from the storage, use, or other consumption in this
3 state of textbooks by an "educational institution" as defined in subdivision (18) of this section and
4 as well as any educational institution within the purview of section 16-63-9(4) and used textbooks
5 by any purveyor.

6 (37) Tangible personal property and supplies used in on-site hazardous waste recycling,
7 reuse, or treatment. - From the sale, storage, use, or other consumption in this state of tangible
8 personal property or supplies used or consumed in the operation of equipment, the exclusive
9 function of which is the recycling, reuse, or recovery of materials (other than precious metals, as
10 defined in subdivision (24)(ii) of this section) from the treatment of "hazardous wastes", as
11 defined in section 23-19.1-4, where the "hazardous wastes" are generated in Rhode Island solely
12 by the same taxpayer and where the personal property is located at, in, or adjacent to a generating
13 facility of the taxpayer in Rhode Island. The taxpayer shall procure an order from the director of
14 the department of environmental management certifying that the equipment and/or supplies as
15 used, or consumed, qualify for the exemption under this subdivision. If any information relating
16 to secret processes or methods of manufacture, production, or treatment is disclosed to the
17 department of environmental management only to procure an order, and is a "trade secret" as
18 defined in section 28-21-10(b), it is not open to public inspection or publicly disclosed unless
19 disclosure is required under chapter 21 of title 28 or chapter 24.4 of title 23.

20 (38) Promotional and product literature of boat manufacturers. - From the sale and from
21 the storage, use, or other consumption of promotional and product literature of boat
22 manufacturers shipped to points outside of Rhode Island which either: (i) accompany the product
23 which is sold, (ii) are shipped in bulk to out of state dealers for use in the sale of the product, or
24 (iii) are mailed to customers at no charge.

25 (39) Food items paid for by food stamps. - From the sale and from the storage, use, or
26 other consumption in this state of eligible food items payment for which is properly made to the
27 retailer in the form of U.S. government food stamps issued in accordance with the Food Stamp
28 Act of 1977, 7 U.S.C. section 2011 et seq.

29 (40) Transportation charges. - From the sale or hiring of motor carriers as defined in
30 section 39-12-2(1) to haul goods, when the contract or hiring cost is charged by a motor freight
31 tariff filed with the Rhode Island public utilities commission on the number of miles driven or by
32 the number of hours spent on the job.

33 (41) Trade-in value of boats. - From the sale and from the storage, use, or other
34 consumption in this state of so much of the purchase price paid for a new or used boat as is

1 allocated for a trade-in allowance on the boat of the buyer given in trade to the seller or of the
2 proceeds applicable only to the boat as are received from an insurance claim as a result of a stolen
3 or damaged boat, towards the purchase of a new or used boat by the buyer.

4 (42) Equipment used for research and development. - From the sale and from the
5 storage, use, or other consumption of equipment to the extent used for research and development
6 purposes by a qualifying firm. For the purposes of this subdivision, "qualifying firm" means a
7 business for which the use of research and development equipment is an integral part of its
8 operation, and "equipment" means scientific equipment, computers, software, and related items.

9 (43) Coins. - From the sale and from the other consumption in this state of coins having
10 numismatic or investment value.

11 (44) Farm structure construction materials. - Lumber, hardware and other materials used
12 in the new construction of farm structures, including production facilities such as, but not limited
13 to, farrowing sheds, free stall and stanchion barns, milking parlors, silos, poultry barns, laying
14 houses, fruit and vegetable storages, rooting cellars, propagation rooms, greenhouses, packing
15 rooms, machinery storage, seasonal farm worker housing, certified farm markets, bunker and
16 trench silos, feed storage sheds, and any other structures used in connection with commercial
17 farming.

18 (45) Telecommunications carrier access service. - Carrier access service or
19 telecommunications service when purchased by a telecommunications company from another
20 telecommunications company to facilitate the provision of telecommunications service.

21 (46) Boats or vessels brought into the state exclusively for winter storage, maintenance,
22 repair or sale. - Notwithstanding the provisions of sections 44-18-10, 44-18-11, 44-18-20, the tax
23 imposed by section 44-18-20 is not applicable for the period commencing on the first day of
24 October in any year to and including the 30th day of April next succeeding with respect to the use
25 of any boat or vessel within this state exclusively for purposes of: (i) delivery of the vessel to a
26 facility in this state for storage, including dry storage and storage in water by means of apparatus
27 preventing ice damage to the hull, maintenance, or repair; (ii) the actual process of storage,
28 maintenance, or repair of the boat or vessel; or (iii) storage for the purpose of selling the boat or
29 vessel.

30 (47) Jewelry display product. - From the sale and from the storage, use, or other
31 consumption in this state of tangible personal property used to display any jewelry product;
32 provided, that title to the jewelry display product is transferred by the jewelry manufacturer or
33 seller and that the jewelry display product is shipped out of state for use solely outside the state
34 and is not returned to the jewelry manufacturer or seller.

1 (48) Boats or vessels generally. - Notwithstanding the provisions of this chapter, the tax
2 imposed by sections 44-18-20 and 44-18-18 shall not apply with respect to the sale and to the
3 storage, use, or other consumption in this state of any new or used boat. The exemption provided
4 for in this subdivision does not apply after October 1, 1993, unless prior to October 1, 1993, the
5 federal ten percent (10%) surcharge on luxury boats is repealed.

6 (49) Banks and Regulated investment companies interstate toll-free calls. -
7 Notwithstanding the provisions of this chapter, the tax imposed by this chapter does not apply to
8 the furnishing of interstate and international, toll-free terminating telecommunication service that
9 is used directly and exclusively by or for the benefit of an eligible company as defined in this
10 subdivision; provided, that an eligible company employs on average during the calendar year no
11 less than five hundred (500) "full-time equivalent employees", as that term is defined in section
12 42-64.5-2. For purposes of this section, an "eligible company" means a "regulated investment
13 company" as that term is defined in the Internal Revenue Code of 1986, 26 U.S.C. section 1 et
14 seq., or a corporation to the extent the service is provided, directly or indirectly, to or on behalf of
15 a regulated investment company, an employee benefit plan, a retirement plan or a pension plan or
16 a state chartered bank.

17 (50) Mobile and manufactured homes generally. - From the sale and from the storage,
18 use, or other consumption in this state of mobile and/or manufactured homes as defined and
19 subject to taxation pursuant to the provisions of chapter 44 of title 31.

20 (51) Manufacturing business reconstruction materials.

21 (i) From the sale and from the storage, use or other consumption in this state of lumber,
22 hardware, and other building materials used in the reconstruction of a manufacturing business
23 facility which suffers a disaster, as defined in this subdivision, in this state. "Disaster" means any
24 occurrence, natural or otherwise, which results in the destruction of sixty percent (60%) or more
25 of an operating manufacturing business facility within this state. "Disaster" does not include any
26 damage resulting from the willful act of the owner of the manufacturing business facility.

27 (ii) Manufacturing business facility includes, but is not limited to, the structures housing
28 the production and administrative facilities.

29 (iii) In the event a manufacturer has more than one manufacturing site in this state, the
30 sixty percent (60%) provision applies to the damages suffered at that one site.

31 (iv) To the extent that the costs of the reconstruction materials are reimbursed by
32 insurance, this exemption does not apply.

33 (52) Tangible personal property and supplies used in the processing or preparation of
34 floral products and floral arrangements. - From the sale, storage, use, or other consumption in this

1 state of tangible personal property or supplies purchased by florists, garden centers, or other like
2 producers or vendors of flowers, plants, floral products, and natural and artificial floral
3 arrangements which are ultimately sold with flowers, plants, floral products, and natural and
4 artificial floral arrangements or are otherwise used in the decoration, fabrication, creation,
5 processing, or preparation of flowers, plants, floral products, or natural and artificial floral
6 arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral
7 product or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine, flower
8 food, insecticide and fertilizers.

9 (53) Horse food products. - From the sale and from the storage, use, or other
10 consumption in this state of horse food products purchased by a person engaged in the business of
11 the boarding of horses.

12 (54) Non-motorized recreational vehicles sold to nonresidents.

13 (i) From the sale, subsequent to June 30, 2003, of a non-motorized recreational vehicle to
14 a bona fide nonresident of this state who does not register the non-motorized recreational vehicle
15 in this state, whether the sale or delivery of the non-motorized recreational vehicle is made in this
16 state or at the place of residence of the nonresident; provided, that a non-motorized recreational
17 vehicle sold to a bona fide nonresident whose state of residence does not allow a like exemption
18 to its nonresidents is not exempt from the tax imposed under section 44-18-20; provided, further,
19 that in that event the bona fide nonresident pays a tax to Rhode Island on the sale at a rate equal
20 to the rate that would be imposed in his or her state of residence not to exceed the rate that would
21 have been imposed under section 44-18-20. Notwithstanding any other provisions of law, a
22 licensed non-motorized recreational vehicle dealer shall add and collect the tax required under
23 this subdivision and remit the tax to the tax administrator under the provisions of chapters 18 and
24 19 of this title. Provided, that when a Rhode Island licensed non-motorized recreational vehicle
25 dealer is required to add and collect the sales and use tax on the sale of a non-motorized
26 recreational vehicle to a bona fide nonresident as provided in this section, the dealer in computing
27 the tax takes into consideration the law of the state of the nonresident as it relates to the trade-in
28 of motor vehicles.

29 (ii) The tax administrator, in addition to the provisions of sections 44-19-27 and 44-19-
30 28, may require any licensed non-motorized recreational vehicle dealer to keep records of sales to
31 bona fide nonresidents as the tax administrator deems reasonably necessary to substantiate the
32 exemption provided in this subdivision, including the affidavit of a licensed non-motorized
33 recreational vehicle dealer that the purchaser of the non-motorized recreational vehicle was the
34 holder of, and had in his or her possession a valid out-of-state non-motorized recreational vehicle

1 registration or a valid out-of-state driver's license.

2 (iii) Any nonresident who registers a non-motorized recreational vehicle in this state
3 within ninety (90) days of the date of its sale to him or her is deemed to have purchased the non-
4 motorized recreational vehicle for use, storage, or other consumption in this state, and is subject
5 to, and liable for the use tax imposed under the provisions of section 44-18-20.

6 (iv) "Non-motorized recreational vehicle" means any portable dwelling designed and
7 constructed to be used as a temporary dwelling for travel, camping, recreational, and vacation use
8 which is eligible to be registered for highway use, including, but not limited to, "pick-up coaches"
9 or "pick-up campers," "travel trailers," and "tent trailers" as those terms are defined in chapter 1
10 of title 31.

11 (55) Sprinkler and fire alarm systems in existing buildings. - From the sale in this state of
12 sprinkler and fire alarm systems, emergency lighting and alarm systems, and from the sale of the
13 materials necessary and attendant to the installation of hose systems, that are required in
14 buildings and occupancies existing therein in July 2003, in order to comply with any additional
15 requirements for such buildings arising directly from the enactment of the Comprehensive Fire
16 Safety Act of 2003, and that are not required by any other provision of law or ordinance or
17 regulation adopted pursuant to that Act. The exemption provided in this subdivision shall expire
18 on December 31, 2008.

19 (56) Aircraft. - Notwithstanding the provisions of this chapter, the tax imposed by
20 sections 44-18-18 and 44-18-20 shall not apply with respect to the sale and to the storage, use, or
21 other consumption in this state of any new or used aircraft or aircraft parts.

22 (57) Renewable energy products. - Notwithstanding any other provisions of Rhode
23 Island general laws the following products shall also be exempt from sales tax: solar photovoltaic
24 modules or panels, or any module or panel that generates electricity from light; solar thermal
25 collectors, including, but not limited to, those manufactured with flat glass plates, extruded
26 plastic, sheet metal, and/or evacuated tubes; geothermal heat pumps, including both water-to-
27 water and water-to-air type pumps; wind turbines; towers used to mount wind turbines if
28 specified by or sold by a wind turbine manufacturer; DC to AC inverters that interconnect with
29 utility power lines; manufactured mounting racks and ballast pans for solar collector, module or
30 panel installation. Not to include materials that could be fabricated into such racks; monitoring
31 and control equipment, if specified or supplied by a manufacturer of solar thermal, solar
32 photovoltaic, geothermal, or wind energy systems or if required by law or regulation for such
33 systems but not to include pumps, fans or plumbing or electrical fixtures unless shipped from the
34 manufacturer affixed to, or an integral part of, another item specified on this list; and solar storage

1 tanks that are part of a solar domestic hot water system or a solar space heating system. If the tank
2 comes with an external heat exchanger it shall also be tax exempt, but a standard hot water tank is
3 not exempt from state sales tax.

4 (58) Returned property. - The amount charged for property returned by customers upon
5 rescission of the contract of sale when the entire amount exclusive of handling charges paid for
6 the property is refunded in either cash or credit, and where the property is returned within one
7 hundred twenty (120) days from the date of delivery.

8 (59) Dietary Supplements. - From the sale and from the storage, use or other
9 consumption of dietary supplements as defined in section 44-18-7.1(1)(v), sold on prescriptions.

10 (60) Blood. - From the sale and from the storage, use or other consumption of human
11 blood.

12 (61) Prewritten computer software delivered electronically. - From the sale and from the
13 storage, use or other consumption of prewritten computer software delivered electronically or by
14 load and leave.

15 (62) Agricultural products for human consumption. - From the sale and from the storage,
16 use or other consumption of livestock and poultry of the kinds of products of which ordinarily
17 constitute food for human consumption and of livestock of the kind the products of which
18 ordinarily constitute fibers for human use.

19 SECTION 3. This act shall take effect upon passage.

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LC01600
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR FUEL TAX

1 This act would reduce the state gasoline tax from thirty-two cent (\$0.32) per gallon to ten
2 cent (\$0.10) per gallon whenever the average retail price per gallon exceeds three dollars (\$3.00).

3 This act would also increase the allocation of motor fuels tax to the Rhode Island public transit
4 authority from six and eighty-five hundredths cents (\$.0685) to seven and twenty-five hundredths
5 cents (\$.0725).

6 This act would take effect upon passage.

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LC01600
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