

1 HB672
2 167612-4
3 By Representative Warren (N & P)
4 RFD: Local Legislation
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ENROLLED, An Act,

Relating to the Macon County Commission; authorizing the county commission to impose an excise tax on persons, corporations, partnerships, companies, agencies, associations, trusts, estates, and other entities engaged in the business of selling, distributing, storing, or withdrawing from storage, gasoline and motor fuel in Macon County in an amount not to exceed two cents (\$0.02) per gallon and to provide for exception; to provide for the collection and payment of the tax and to provide the distribution of the funds derived therefrom; to authorize the county commission to make rules and regulations for the collection of the tax; to provide for the enforcement and to fix a penalty for the violation of this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

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10 stored, or withdrawn from storage in the county for use in the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

12 (5) PERSON. Persons, corporations, partnerships,
13 companies, agencies, associations, incorporated or otherwise,
14 trusts, estates, and other entities.

15 (6) REFINER. Any person who manufactures, distills,
16 blends, compounds, or mixes products in the production of
17 gasoline or motor fuel.

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

21 (8) STORER. Any person who ships or causes to be
22 shipped or receives gasoline or motor fuel in any quantities
23 and who stores, withdraws, or uses gasoline or motor fuel for
24 any purpose.

1 (9) USER. Any person who uses or consumes gasoline
2 or motor fuel. The term shall not include any refiner who has
3 a refinery when using gasoline or motor fuel in the
4 manufacturing or refining process, or any person who holds a
5 federal permit to blend motor fuels and who pays the federal
6 excise tax on the motor fuels directly to the federal
7 government, when the person uses gasoline in the blending
8 process.

9 Section 3. (a) Notwithstanding any provision of law,
10 there is levied in addition to any other taxes an additional
11 excise tax on persons selling, distributing, storing, or
12 withdrawing from storage gasoline and motor fuel in an amount
13 not to exceed two cents (\$0.02) per gallon and may require
14 every distributor, retail dealer, or storer to pay the excise
15 tax. The additional excise tax imposed pursuant to this act
16 may not be imposed upon the sale of gasoline or motor fuel
17 used in interstate **commerce.** If the additional excise tax has
18 been paid by a distributor, retail dealer, or storer, the
19 payment shall be sufficient, the intention being that the tax
20 shall not be paid but once. The additional excise tax shall
21 apply to persons, retail dealers, or distributors storing
22 gasoline or motor fuel and distributing or withdrawing from
23 storage, whether the withdrawal is for sale or other use.
24 Sellers of gasoline or motor fuel paying the tax herein
25 provided may pay the tax computed and paid on the basis of

1 sales, and storers and distributors shall compute and pay the
2 tax on the basis of withdrawals or distributions. The county
3 commission shall not impose any tax upon any gasoline or motor
4 fuel when used in essential governmental functions by the
5 State of Alabama or any agency thereof, the federal government
6 or any agency thereof, or county commissions, municipalities,
7 or boards of education.

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

15 Section 4. On or before the 20th day of each month
16 after the county commission has imposed the additional excise
17 tax, each person upon whom the excise tax is imposed shall
18 furnish to the county commission on forms prescribed by it a
19 true and correct statement of all sales and withdrawals of
20 gasoline or motor fuel made by that person during the
21 preceding month. Each person shall furnish to the county
22 commission any additional information required by the county
23 commission and shall pay to the tax collector an amount of
24 money equal to the excise tax due under this act. The
25 statement made by the distributor, retail dealer, or storer

1 shall be sworn to before an officer authorized to administer
2 oaths and any false statement sworn to shall constitute
3 perjury and, upon conviction, the person so convicted shall be
4 punished as provided by law.

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

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

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

10 Section 8. The county commission shall enforce this
11 act and may examine the books, reports, and accounts of every
12 distributor, retail dealer, or storer of gasoline or motor
13 fuel on which the tax has been imposed. The county commission
14 may make any and all rules and regulations deemed necessary
15 and proper for the collection of the tax. Upon a resolution of
16 the county commission, the State Department of Revenue may
17 collect the tax imposed by the county pursuant to this act.
18 All persons, firms, businesses, and corporations owing the tax
19 shall pay it to the Department of Revenue and the payment
20 shall be a full and complete discharge of all liability for
21 the tax owed the county. The Department of Revenue shall
22 promulgate reasonable rules and regulations to facilitate the
23 orderly and efficient collection of the tax imposed pursuant
24 to this act. The Department of Revenue may recover all costs
25 of collecting the tax, not to exceed five percent of the

1 proceeds and shall pay the net amount remaining thereafter to
2 the county commission.

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

24 Section 10. The acceptance of any amount paid
25 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

1 distributed to the Macon County Economic Development
2 Authority.

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

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

