

A BILL TO BE ENTITLED 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.

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

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or liquefied gas, kerosene, jet fuel, or any substitutes or devices therefor when sold, distributed, stored, or withdrawn from storage in the county for use in the operation of any motor vehicle on the highways of this state.

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

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

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

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

for any purpose.

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

Section 3.

(a) Notwithstanding any provision of law, there is levied in addition to any other taxes an additional excise tax on persons selling, distributing, storing, or withdrawing from storage gasoline and motor fuel in an amount not to exceed two cents (\$0.02) per gallon and may require every distributor, retail dealer, or storer to pay the excise tax. The additional excise tax imposed pursuant to this act may not be imposed upon the sale of gasoline or motor fuel used in interstate commerce or any form of fuel such as propane gas that is sold for lighting, heating, or industrial use. If the additional excise tax has been paid by a distributor, retail dealer, or storer, the payment shall be sufficient, the intention being that the tax shall not be paid but once. The additional excise tax shall apply to persons, retail dealers, or distributors storing gasoline or motor fuel and distributing or withdrawing from storage, whether the withdrawal is for sale or other use. Sellers of gasoline or motor fuel paying the tax herein provided may pay the tax computed and paid on the basis of sales, and storers and distributors shall compute and pay the tax on the basis of withdrawals or distributions. The county commission shall not impose any tax upon any gasoline or motor fuel when used in essential governmental functions by the State of Alabama or any agency thereof, the federal government or any agency thereof, or county commissions, municipalities, or boards of education.

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

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

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

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

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

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

Section 8. The county commission shall enforce this act and may examine the books, reports, and accounts of every distributor, retail dealer, or storer of gasoline or motor fuel on which the tax has been imposed. The county commission may make any and all rules and regulations deemed necessary and proper for the collection of the tax. Upon a resolution of the county commission, the State Department of Revenue may collect the tax imposed by the county pursuant to this act. All persons, firms, businesses, and corporations owing the tax shall pay it to the Department of Revenue and the payment shall be a full and complete discharge of all liability for the tax owed the county.

The Department of Revenue shall promulgate reasonable rules and regulations to facilitate the orderly and efficient collection of the tax imposed pursuant to this act. The Department of Revenue may recover all costs of collecting the tax, not to exceed five percent of the proceeds and shall pay the net amount remaining thereafter to the county commission.

Section 9. If any distributor, retail dealer, or storer in gasoline or motor fuel fails to make monthly reports or fails to pay the tax imposed under this act, the tax shall be deemed delinquent. A penalty in the amount of 25 percent of the tax liability shall be added to the amount due. If the county commission determines that a good and sufficient cause exists for the delinquency, the penalty may be waived by the county commission. If any person is delinquent in the payment of the tax imposed pursuant to this act, the county commission shall issue execution for the collection of the tax, directed to any sheriff of

the state. The sheriff shall then proceed to collect the tax in the manner now provided by law for the collection of delinquent taxes by the county tax collector and shall make a return of the execution to the county commission. The tax imposed pursuant to this act and any penalties provided herein shall be held as a debt payable to the county by the person against whom the tax has been imposed or against whom the penalties shall have accrued. All taxes and penalties shall be a lien upon the property in the county and elsewhere in this state of the person against whom the tax has been imposed and the penalties have accrued.

Section 10. The acceptance of any amount paid pursuant to this act shall not preclude the collection of the amount which is actually due. The amount actually paid shall constitute a credit against the amount which is actually due.

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

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

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

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

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