

# ACT 2013 - 372

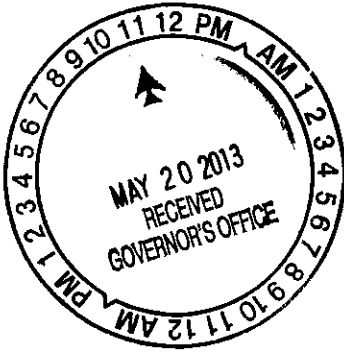
1 HB261

2 148352-4

3 By Representatives Baker, McCutcheon, Hill, Weaver, Harper,  
4 Treadaway, Davis, Burdine, Wallace and Vance

5 RFD: Transportation, Utilities and Infrastructure

6 First Read: 12-FEB-13



1  
2 ENROLLED, An Act,

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

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 40-17-174, 40-17-322, 40-17-329,  
14 40-17-340, and 40-17-362 of the Code of Alabama 1975, are  
15 amended to read as follows:

16 "§40-17-174.

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

1 be diesel fuel exported from this state for which proof of  
2 export is available in the form of a terminal issued shipping  
3 document.

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

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

21 "(d) The payment to the Department of Revenue shall  
22 be accompanied by a sworn statement verified by the person  
23 having knowledge of the facts showing the number of gallons of  
24 diesel fuel sold or imported into the state during the

1 preceding fiscal year. No county license shall be charged  
2 under this section.

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

6 "§40-17-322.

7 "As used in this article and unless the context  
8 requires otherwise, the following terms have the meaning  
9 ascribed herein:

10 "(1) AIRCRAFT. Any airplane or helicopter.

11 "(2) ASSOCIATE JOBBER. A person who acquires motor  
12 fuel from a licensed distributor in this state for subsequent  
13 sale. An associate jobber may obtain a distributor's license  
14 even though it does not acquire fuel from a supplier in this  
15 state.

16 "~~(2)~~ (3) AVIATION FUEL. Aviation gasoline or  
17 aviation jet fuel.

18 "~~(3)~~ (4) AVIATION GASOLINE. Motor fuel designed for  
19 use in the operation of aircraft other than jet aircraft, and  
20 sold or used for that purpose.

21 "~~(4)~~ (5) AVIATION JET FUEL. Motor fuel designed for  
22 use in the operation of jet or turbo-prop aircraft and sold or  
23 used for that purpose.

24 "~~(5)~~ (6) BIODIESEL FUEL. Any motor fuel or mixture  
25 of motor fuels that is derived, in whole or in part, from

1 agricultural products or animal fats, or the wastes of such  
2 products or fats, and is advertised as, offered for sale as,  
3 suitable for use or used as motor fuel in a diesel engine.

4 "~~(6)~~ (7) BLENDED FUEL. A mixture composed of  
5 gasoline or diesel fuel and any other liquid that can be used  
6 as a motor fuel in a highway vehicle.

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

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

19 "~~(9)~~ (10) BULK END USER. A person who receives into  
20 his or her own storage facilities, in transport truck lots,  
21 taxable motor fuel for his or her own consumption.

22 "~~(10)~~ (11) BULK PLANT. A motor fuel storage and  
23 distribution facility that is not a terminal and from which  
24 motor fuel may be removed at a rack.

1           "~~(11)~~ (12) BULK TRANSFER. Any transfer of motor fuel  
2 from one location to another by pipeline tender or marine  
3 delivery within a bulk transfer/terminal system, including,  
4 but not limited to, the following:

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

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

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

12           "d. a two-party exchange between licensed suppliers  
13 or between licensed suppliers and permissive suppliers.

14           "~~(12)~~ (13) BULK TRANSFER/TERMINAL SYSTEM. The motor  
15 fuel distribution system consisting of refineries, pipelines,  
16 marine vessels, and terminals.

17           "(14) CELLULOSIC BIOFUEL. Renewable fuel that is  
18 derived from any cellulose, hemi-cellulose, or lignin, or as  
19 may be defined as cellulosic biofuel by the Renewable Fuel  
20 Standards, 40 C.F.R. Part 80, Subpart M, as amended from time  
21 to time.

22           "~~(13)~~ ~~(14)~~ (15) CODE. The Code of Alabama 1975.

23           "~~(14)~~ ~~(15)~~ (16) COMMISSIONER. The Commissioner of  
24 the Alabama Department of Revenue.

1           "~~(15)~~~~(16)~~ (17) DEPARTMENT. The Alabama Department  
2 of Revenue.

3           "~~(16)~~~~(17)~~ (18) DESTINATION STATE. The state,  
4 territory, or foreign country to which motor fuel is directed  
5 for delivery.

6           "~~(17)~~~~(18)~~ (19) DIESEL FUEL. Any liquid that is  
7 advertised, offered for sale, or sold for use as or used as a  
8 motor fuel in a diesel-powered engine. Diesel fuel includes #1  
9 and #2 fuel oils, kerosene, special fuels, and blended fuels  
10 which contain diesel fuel, but shall not include gasoline or  
11 aviation fuel.

12           "~~(18)~~~~(19)~~ (20) DISTRIBUTOR. A person who acquires  
13 motor fuel from a supplier in this state for subsequent sale.

14           "~~(19)~~~~(20)~~ (21) DYED DIESEL FUEL. Diesel fuel that  
15 meets the dyeing and marking requirements of Section 4082,  
16 Title 26 of the United States Code.

17           "~~(20)~~~~(21)~~ (22) EXPORT. Motor fuel obtained in  
18 Alabama for sale or other distribution in another state,  
19 territory, or foreign country.

20           "~~(21)~~~~(22)~~ (23) EXPORTER. A person who exports motor  
21 fuel.

22           "~~(22)~~~~(23)~~ (24) GASOHOL. A blended motor fuel  
23 composed of gasoline and motor fuel grade alcohol.

24           "~~(23)~~~~(24)~~ (25) GASOLINE. Any product commonly or  
25 commercially known as gasoline, regardless of classification,

1 that is advertised, offered for sale, or sold for use as or  
2 used as motor fuel in an internal combustion engine, including  
3 gasohol and blended fuel which contains gasoline. Gasoline  
4 also includes gasoline blendstocks as defined under Section  
5 4081, Title 26 of the United States Code and the regulations  
6 promulgated thereunder. Gasoline does not include special fuel  
7 or aviation gasoline sold to a licensed aviation fuel  
8 purchaser for use in an aircraft motor.

9 "~~(24)~~ ~~(25)~~ (26) GROSS GALLONS. The total measured  
10 product, exclusive of any temperature or pressure adjustments,  
11 considerations, or deductions, in U.S. gallons.

12 "~~(25)~~ ~~(26)~~ (27) HIGHWAY. Includes, but is not  
13 limited to, every highway, road, street, alley, lane, court,  
14 place, trail, drive, bridge, viaduct, or trestle located  
15 within this state and laid out or erected by the public or  
16 dedicated or abandoned to the public or intended for use by or  
17 for the public. The term shall also apply to and include  
18 driveways upon the grounds of universities, colleges, schools,  
19 and institutions but shall not be deemed to include private  
20 driveways, private roads, or private places not intended for  
21 use by the public.

22 "~~(26)~~ ~~(27)~~ (28) HIGHWAY VEHICLE. Any self-propelled  
23 vehicle that is designed for use on a highway.

24 "~~(27)~~ ~~(28)~~ (29) IMPORT. To bring motor fuel into  
25 this state for sale, use, or storage by any means of



1 conveyance other than in the fuel supply tank of a motor  
2 vehicle. Motor fuel delivered into this state from  
3 out-of-state by or for the seller constitutes an import by the  
4 seller. Motor fuel delivered into this state from out-of-state  
5 by or for the purchaser constitutes an import by the  
6 purchaser.

7 "~~(28)~~ ~~(29)~~ (30) IMPORT VERIFICATION NUMBER. The  
8 number assigned by the department or its designee to an  
9 individual delivery of motor fuel by a transport truck or by  
10 another means of transfer outside the terminal transfer  
11 system.

12 "~~(29)~~ ~~(30)~~ (31) IMPORTER. A person who imports motor  
13 fuel into this state.

14 "~~(30)~~ ~~(31)~~ (32) IN THIS STATE. The area within the  
15 borders of Alabama, including all territory within the borders  
16 of Alabama that is owned by the United States of America.

17 "~~(32)~~ (33) K-1 KEROSENE. A petroleum product having  
18 an A.P.I. gravity of not less than 40 degrees, at a  
19 temperature of 60 degrees Fahrenheit and a minimum flash point  
20 of 100 degrees Fahrenheit, and which meets American Society  
21 for Testing Materials Standard D-3699 as in effect on January  
22 1, 1999.

23 "~~(33)~~ (34) KEROSENE. All grades of kerosene,  
24 including, but not limited to, the two grades of kerosene, No.  
25 1-K and No. 2-K, commonly know as K-1 kerosene and K-2

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

9 "~~(31)~~ ~~(34)~~ (35) LICENSEE. Any person licensed by the  
10 department pursuant to Section 40-17-332.

11 "~~(32)~~ ~~(35)~~ (36) LIQUID. Any substance that is liquid  
12 above its freezing point and at atmospheric pressure.

13 "~~(33)~~ ~~(36)~~ (37) MOTOR FUEL. Gasoline, blended fuel,  
14 aviation fuel, and diesel fuel.

15 "~~(34)~~ ~~(37)~~ (38) MOTOR FUEL TRANSPORTER. A person who  
16 transports motor fuel by pipeline or marine vessel, or outside  
17 the bulk transfer/terminal system by means of a transport  
18 vehicle, or a railroad tank car.

19 "~~(35)~~ ~~(38)~~ (39) MOTOR VEHICLE. Automobiles, motor  
20 carriers, motor trucks, motorcycles, and all other vehicles  
21 which are operated or propelled by combustion of motor fuel.

22 "~~(36)~~ ~~(39)~~ (40) NET GALLONS. The amount of motor  
23 fuel measured in gallons when adjusted to a temperature of 60  
24 degrees Fahrenheit and a pressure of fourteen and seven-tenths  
25 pounds pressure per square inch.

1           "~~(37)~~ ~~(40)~~ (41) PERMISSIVE SUPPLIER. An out-of-state  
2 supplier that elects, but is not required, to have a  
3 supplier's license.

4           "~~(38)~~ ~~(41)~~ (42) PERSON. Any individual, firm,  
5 cooperative, association, corporation, limited liability  
6 corporation, trust, business trust, syndicate, partnership,  
7 limited liability partnership, joint venture, receiver,  
8 trustee in bankruptcy, club, society, or other group or  
9 combination acting as a unit. Any public body, including, but  
10 not limited to, this state, any other state, and any agency,  
11 commissioner, institution, political subdivision, or  
12 instrumentality of this state or any other state shall be  
13 considered a person for the purposes of this article.

14           "~~(39)~~ ~~(42)~~ (43) POSITION HOLDER. The person who  
15 holds the motor fuel inventory position in a terminal, as  
16 reflected on the records of the terminal operator, including a  
17 terminal operator who owns motor fuel in the terminal. A  
18 person holds the inventory position in motor fuel when that  
19 person has a contract with the terminal operator for the use  
20 of storage facilities and terminaling services for motor fuel  
21 at the terminal.

22           "~~(40)~~ ~~(43)~~ (44) RACK. A mechanism for delivering  
23 motor fuel from a refinery, terminal, marine vessel, or bulk  
24 plant into a transport vehicle, railroad tank car, or other

1 means of transfer that is outside the bulk transfer/terminal  
2 system.

3 "~~(41)~~ ~~(44)~~ (45) REFINER. Any person who owns,  
4 operates, or otherwise controls a refinery.

5 "~~(42)~~ ~~(45)~~ (46) REFINERY. A facility, other than  
6 natural gas processing or fractionation plants, used to  
7 produce taxable motor fuel from crude oil, unfinished oils,  
8 natural gas liquids, or other hydrocarbons and from which  
9 taxable motor fuel may be removed by pipeline, by vessel, or  
10 at a rack.

11 "~~(43)~~ ~~(46)~~ (47) REMOVAL. Physical transfer other  
12 than by evaporation, loss, or destruction. A physical transfer  
13 to a transport vehicle or other means of conveyance outside  
14 the bulk transfer/terminal system is complete upon delivery  
15 into the means of conveyance.

16 "~~(44)~~ ~~(47)~~ (48) RETAILER. A person other than a  
17 wholesale distributor that engages in the business of selling  
18 or distributing taxable motor fuel to the end user within this  
19 state.

20 "~~(45)~~ ~~(48)~~ (49) SHIPPING DOCUMENT. Any invoice,  
21 shipping paper, bill of lading, or drop ticket which discloses  
22 the destination state.

23 "~~(46)~~ ~~(49)~~ (50) SPECIAL FUEL. Any ~~gas or liquid~~,  
24 other than gasoline, used or suitable for use as motor fuel in  
25 ~~an internal combustion~~ a diesel-powered engine or motor to

1 propel any form of vehicle, machine, or mechanical  
2 contrivance, and includes products commonly known as ~~natural~~  
3 ~~or casing head gasoline,~~ biodiesel fuel, and transmix. Special  
4 fuel does not include any petroleum product or chemical  
5 compound such as alcohol, industrial solvent, or lubricant,  
6 unless blended in or sold for use as motor fuel in ~~an internal~~  
7 ~~combustion~~ a diesel powered engine.

8 "~~(47)~~ ~~(50)~~ (51) STATE. The State of Alabama.

9 "~~(48)~~ ~~(51)~~ (52) SUPPLIER. A person who is subject to  
10 the general taxing jurisdiction of this state and registered  
11 under Section 4101 of the Internal Revenue Code for  
12 transactions in motor fuel in the bulk transfer/terminal  
13 distribution system and who owns motor fuel in the bulk  
14 transfer/terminal system, or a person who receives motor fuel  
15 in this state pursuant to a two-party exchange. A terminal  
16 operator shall not be considered a supplier based solely on  
17 the fact that the terminal operator handles motor fuel  
18 consigned to it within a terminal.

19 "~~(49)~~ ~~(52)~~ (53) TERMINAL. A motor fuel storage and  
20 distribution facility into which motor fuel is supplied by  
21 pipeline or marine vessel, and from which motor fuel may be  
22 removed at a rack.

23 "~~(50)~~ ~~(53)~~ (54) TERMINAL OPERATOR. A person who  
24 owns, operates, or otherwise controls a terminal.

1           "~~(51)~~~~(54)~~ (55) TRANSMIX. A mixture of finished  
2 fuels that no longer meets the specifications for a fuel that  
3 can be used or sold without further processing.

4           "~~(52)~~~~(55)~~ (56) TRANSPORT VEHICLE. A vehicle  
5 designed or used to carry motor fuel over the highway,  
6 including, but not limited to, a straight truck, a straight  
7 truck/trailer combination, and a semitrailer combination rig.

8           "~~(53)~~~~(56)~~ (57) TRUSTEE. A person who is licensed as  
9 a supplier or a permissive supplier and receives tax payments  
10 from and on behalf of another pursuant to Section 40-17-344.

11           "~~(54)~~~~(57)~~ (58) TWO-PARTY EXCHANGE. A transaction in  
12 which motor fuel is transferred from one licensed supplier or  
13 permissive supplier to another licensed supplier or permissive  
14 supplier pursuant to an exchange agreement; and

15           a. includes a transfer from the person who holds the  
16 inventory position in taxable motor fuel in the terminal as  
17 reflected on the records of the terminal operator;

18           b. is completed ~~prior to~~ before or contemporaneous  
19 with the removal of the product from the terminal by the  
20 receiving exchange partner; and

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

1           "~~(55)~~ ~~(58)~~ (59) UNDYED DIESEL FUEL. Diesel fuel that  
2 has not been dyed in accordance with Internal Revenue Service  
3 fuel dyeing provisions.

4           "\$40-17-329.

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

9           "(1) All motor fuel exported from this state for  
10 which proof of export is available in the form of a terminal  
11 issued destination state shipping document that is a. exported  
12 by a supplier who is licensed in the destination state or b.  
13 is sold by a supplier to a licensed exporter for immediate  
14 export to a state for which the applicable destination state  
15 motor fuel excise tax has been collected by the supplier who  
16 is licensed to remit the tax to the destination state. This  
17 exemption shall not apply to any motor fuel which is  
18 transported and delivered outside this state in the motor fuel  
19 supply tank of a highway vehicle.

20           "(2) All K-1 Kerosene or aviation jet fuel that is  
21 produced at a refinery in this state and is either exported  
22 from this state directly by the operator of that refinery or  
23 is sold for immediate export by the operator to a licensed  
24 exporter. In either case proof of export is to be available in  
25 the form of a terminal destination state shipping document and

1 in addition all relevant sales documents are to reference the  
2 product known as "K-1 Kerosene or "aviation jet fuel," as  
3 applicable."

4 "~~(2)~~ (3) All sales of dyed diesel fuel.

5 "~~(3)~~ (4) Gasoline blendstocks or cellulosic biofuel  
6 when sold to a. a licensed supplier or b. a person who will  
7 not be using the blendstocks or cellulosic biofuel in the  
8 manufacture of gasoline or as a motor fuel, as evidenced by  
9 the exemption certificate prescribed under regulations  
10 promulgated under Section 4081, Title 26 of the United States  
11 Code.

12 "~~(4)~~ (5) All motor fuel sold by a licensed supplier  
13 or licensed permissive supplier to an exempt agency electing  
14 to be licensed under Section 40-17-332.

15 "~~(5)~~ (6) Motor fuel that is delivered by a licensed  
16 supplier from one terminal to another terminal when ownership  
17 in the motor fuel has not changed, or by a licensed supplier  
18 from a terminal to a refinery operated by the licensed  
19 supplier.

20 "~~(6)~~ (7) Aviation jet fuel sold by a licensed  
21 supplier to an air carrier that purchases jet fuel in a  
22 Foreign Trade Zone located within this state and uses the jet  
23 fuel to propel aircraft powered by jet or turbine engines  
24 operated in scheduled all-cargo operations being conducted on  
25 international flights or in international commerce. For the



1 purposes of this subdivision, the following words or terms  
2 shall be defined and interpreted as follows:

3 "a. Air Carrier. Any person, firm, corporation, or  
4 entity undertaking by any means, directly or indirectly, to  
5 provide air transportation.

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

11 "c. International Commerce. Any air carrier engaged  
12 in all-cargo operations transporting goods for compensation or  
13 hire on international flights.

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

22 "(b) Having first paid the tax owed under this  
23 article, a licensed distributor shall have the right to apply  
24 to the department on a monthly basis for a refund of the taxes  
25 paid on the gallons sold by that licensed distributor to the

1 exempt agencies listed under subsection (e), provided the  
2 exempt agency has elected to obtain a license under Section  
3 40-17-332.

4 "(c) Having first paid the tax owed under this  
5 article, an exporter shall have the right to apply to the  
6 department on a monthly basis for a refund of the taxes paid  
7 to this state on the gallons of motor fuel that are ultimately  
8 exported by the exporter. The department will require the  
9 exporter to provide proof of payment of the applicable  
10 destination state excise taxes before issuing a refund.

11 "(d) Having first paid the tax owed under this  
12 article, a licensed aviation fuel purchaser shall have the  
13 right to apply to the department on a monthly basis for a  
14 refund of the taxes paid to this state on the gallons of jet  
15 fuel sold to an air carrier that purchases jet fuel in a  
16 foreign trade zone located within this state and uses the jet  
17 fuel to propel aircraft powered by jet or turbine engines  
18 operated in scheduled all-cargo operations being conducted on  
19 international flights or in international commerce. For the  
20 purposes of this subsection, the following words or terms  
21 shall be defined and interpreted as follows:

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

1           "(2) ALL-CARGO OPERATIONS. Any flight conducted by  
2 an air carrier for compensation or hire other than a passenger  
3 carrying flight, except passengers as specified in Section  
4 121.583 (a) or 135.85 of the Federal Aviation Regulations, as  
5 amended.

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

9           "(4) INTERNATIONAL FLIGHTS. Any air carrier  
10 conducting scheduled all-cargo operations between any point  
11 within the 50 states of the United States and the District of  
12 Columbia and any point outside the 50 states of the United  
13 States and the District of Columbia, including any interim  
14 stops within the United States so long as the ultimate origin  
15 or destination of the aircraft is outside the United States  
16 and the District of Columbia.

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

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

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

24           "(3) Any incorporated municipal governing body of  
25 this state.

1           "(4) City and county boards of education of this  
2 state.

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

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

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

23           "(1) There originates from the location 15 or more  
24 flight departures and five or more different first-stop

1 destinations five days per week for six or more months during  
2 the calendar year; and

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

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

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

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

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

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

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

9 "\$40-17-340.

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

15 "(b) Other than importers, the tax levied by this  
16 article shall be paid to the department by each taxpayer on or  
17 before the 22nd day of each calendar month for the preceding  
18 month and shall be accompanied by any required returns. The  
19 department may require all or certain taxpayers to file tax  
20 returns and payments electronically.

21 "(c) Importers importing motor fuel from a bulk  
22 plant or some other non-terminal storage location shall pay  
23 the tax levied by this article to the department on or before  
24 the ~~20th day of each calendar month for the preceding month~~  
25 3rd business day following the day of importation, and the

1 payment shall be accompanied by any required returns. The  
 2 department may require all or certain taxpayers to file tax  
 3 returns and payments electronically.

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

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

15 "§40-17-362.

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

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

21 "(2) RESURFACING, RESTORATION, AND REHABILITATION.  
 22 Work undertaken primarily to preserve an existing facility.  
 23 Restoration and rehabilitation is work required to return the  
 24 existing pavement or bridge deck, including shoulders, to a  
 25 condition of adequate structural support or to a condition

1       adequate for placement of an additional state of construction.  
2       Resurfacing consists of the placement of additional surface  
3       material over the existing, restored, or rehabilitated roadway  
4       or bridge deck to improve serviceability or to provide  
5       additional strength. Resurfacing, restoration, and  
6       rehabilitation work may include changes to geometric features,  
7       such as minor widening, flattening curves, or improving sight  
8       distances.

9               "(b) It is the intent of the Legislature that the  
10       proceeds of the tax collected on ~~motor fuel~~ the additional six  
11       cents (\$.06) diesel fuel excise tax and the additional four  
12       cents (\$.04) gasoline excise tax under the provisions of this  
13       article shall be used in the following manner:

14               "(1) Where the use is by the Department of  
15       Transportation, the use shall, with the approval of the  
16       Governor, be for the construction and maintenance of public  
17       roads and bridges on the state highway system.

18               "(2) Where the use is by a county, the use shall be  
19       for the resurfacing, restoration, and rehabilitation of the  
20       paved county roads and bridges or bridge replacement on the  
21       county road system. These funds shall not be used for new  
22       construction unless 90 percent of the county's paved road  
23       system has achieved a grade of 85 percent based on the State  
24       of Alabama Department of Transportation's annual maintenance  
25       report of county roads and bridges. These funds shall not be



1 used for the purchase of equipment. The net tax proceeds  
2 distributed to the county shall not be commingled with other  
3 funds of the county, including any other gasoline tax  
4 revenues, and shall be kept and disbursed by the county from a  
5 special fund only for the purposes hereinabove provided.

6 "(3) Where the use is by a municipality, the use  
7 shall be for resurfacing, restoration, and rehabilitation of  
8 roads, bridges, and streets within the municipality. The use  
9 may also be for bridge replacement within the municipality.  
10 From time to time, the funds may also be used to construct new  
11 roads and streets within the municipality. These funds shall  
12 not be commingled with other funds of the municipality,  
13 including any other gasoline tax revenues, and shall be kept  
14 and disbursed by the municipality from a special fund only for  
15 the purposes hereinabove provided."

16 Section 2. This act shall become effective on the  
17 first day of the third month following its passage and  
18 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

*Kay Ivey*

\_\_\_\_\_

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 19-MAR-13, as amended.

Jeff Woodard  
Clerk

\_\_\_\_\_

Senate

20-MAY-13

Passed

APPROVED

*May 23, 2013*

TIME

*4:51 p.m.*

*Robert Bentley*

GOVERNOR

Alabama Secretary Of State

Act Num....: 2013-372  
Bill Num....: H-261

Recv'd 05/24/13 12:39pmSLF

DATE: 4-14 2014

RD 1 RFD (7+)

This Bill was referred to the Standing Committee of the Senate on 4/14/14 and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) 4 w/sub 0 by a vote of 4 yeas 0 nays 0 abstain 0 this 11 day of April 2013 David C. Lee Chairperson

DATE: 4-18 2014

RF FAV RD 2 CAL

DATE: 20\_\_

RE-REFERRED  RE-COMMITTED

Committee \_\_\_\_\_

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB \_\_\_\_\_

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_

PATRICK HARRIS, Secretary

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 261

YEAS 101 NAYS 0

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. \_\_\_\_\_ AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees \_\_\_\_\_

Richard

Clatsorn

Will

Monte

James

Burdette

Wallace

James