

ACT #2017-296

1 HB158
2 181419-2
3 By Representative Martin
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 09-FEB-17



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ENROLLED, An Act,

To amend Sections 8-17-80, 8-17-87, 8-17-96, 8-17-97, 8-17-99 and 8-17-101, Code of Alabama 1975; relating to the bond requirement for applicants for the inspection fee permit.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 8-17-80, 8-17-87, 8-17-96, 8-17-97, 8-17-99 and 8-17-101, Code of Alabama 1975, are amended to read as follows:

"§8-17-80.

"(a) The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"(1) AVIATION GASOLINE. Motor fuel designed for use in the operation of aircraft other than jet aircraft, and sold or used for that purpose.

"(2) BIODIESEL FUEL. Any motor fuel or mixture of motor fuels that is derived, in whole or in part, from agricultural products or animal fats, or the wastes of such products or fats, and is advertised as, offered for sale as, suitable for use as, or used as motor fuel in a diesel engine.

1 "(3) BLENDED FUEL. A mixture composed of gasoline or
2 diesel fuel and any other liquid that can be used as a motor
3 fuel in a highway vehicle.

4 "(4) BOARD. The Alabama Board of Agriculture and
5 Industries.

6 "~~(5) BONDED DISTRIBUTOR. A reseller of dyed diesel~~
7 ~~fuel, dyed kerosene, and/or lubricating oil who elects to be~~
8 ~~bonded in accordance with Section 8-17-96.~~

9 "~~(6)~~ (5) BRAND. The trade name or other designation
10 under which a particular petroleum product is sold, offered
11 for sale, or otherwise identified.

12 "~~(7)~~ (6) BULK TRANSFER. Any transfer of motor fuel
13 from one location to another by pipeline tender or marine
14 delivery within a bulk transfer/terminal system, including,
15 but not limited to, the following:

16 "a. The movement of motor fuel from a refinery or
17 terminal to a terminal by marine vessel or barge.

18 "b. The movement of motor fuel from a refinery or
19 terminal to a terminal by pipeline.

20 "c. The book or in-tank transfer of motor fuel
21 within a terminal between licensed suppliers prior to the
22 completion of removal across the rack.

23 "d. A two-party exchange between licensed suppliers
24 or between licensed suppliers and permissive suppliers.

1 "~~(8)~~ (7) BULK TRANSFER/TERMINAL SYSTEM. The motor
2 fuel distribution system consisting of refineries, pipelines,
3 marine vessels, and terminals.

4 "~~(9)~~ (8) BULK USER. A person who receives into his or
5 her own storage facilities, in transport truck lots, taxable
6 motor fuel for his or her own consumption.

7 "~~(10)~~ (9) COMMISSIONER. The Alabama Commissioner of
8 Agriculture and Industries.

9 "~~(11)~~ (10) DEPARTMENT. The Alabama Department of
10 Agriculture and Industries.

11 "~~(12)~~ (11) DIESEL FUEL. Any liquid that is
12 advertised, offered for sale, or sold for use as or used as a
13 motor fuel in a diesel-powered engine. Diesel fuel includes #1
14 and #2 fuel oils, kerosene, special fuels, and blended fuels
15 which contain diesel fuel, but shall not include gasoline or
16 aviation fuel.

17 "~~(13)~~ (12) DYED DIESEL FUEL. Diesel fuel that meets
18 the dyeing and marking requirements of Section 4082, Title 26
19 of the United States Code.

20 "~~(14)~~ (13) DYED KEROSENE. Kerosene that meets the
21 dyeing and marking requirements of Section 4082, Title 26 of
22 the United States Code.

23 "~~(15)~~ (14) GASOHOL. A blended motor fuel composed of
24 gasoline and motor fuel grade alcohol.

1 "~~(16)~~(15) GASOLINE. Any product commonly or
2 commercially known as gasoline, regardless of classification,
3 that is advertised, offered for sale, or sold for use as or
4 used as motor fuel in an internal combustion engine, including
5 gasohol and blended fuel which contains gasoline. Gasoline
6 also includes gasoline blendstocks as defined under Section
7 4081, Title 26 of the United States Code and the regulations
8 promulgated thereunder. Gasoline does not include special fuel
9 or aviation gasoline sold to a licensed aviation fuel
10 purchaser for use in an aircraft motor.

11 "~~(17)~~(16) IMPORT. To bring petroleum products into
12 this state for sale, use, or storage by any means of
13 conveyance other than in the fuel supply tank of a motor
14 vehicle. Petroleum products delivered into this state from
15 out-of-state by or for the seller constitutes an import by the
16 seller. Petroleum products delivered into this state from
17 out-of-state by or for the purchaser constitutes an import by
18 the purchaser.

19 "~~(18)~~(17) IMPORTER. A person who imports petroleum
20 products into this state.

21 "(18) INSPECTION FEE PERMIT HOLDER. A person to whom
22 the Department of Revenue has issued an inspection fee permit.

23 "(19) K-1 KEROSENE. A petroleum product having an
24 A.P.I. gravity of not less than 40 degrees, at a temperature

1 of 60 degrees Fahrenheit and a minimum flash point of 100
2 degrees Fahrenheit, and which meets American Society for
3 Testing Materials Standard D-3699 as in effect on January 1,
4 1999.

5 "(20) KEROSENE. All grades of kerosene, including,
6 but not limited to, the two grades of kerosene, No. 1-K and
7 No. 2-K, commonly known as K-1 kerosene and K-2 kerosene,
8 respectively, described in the American Society for Testing
9 Materials Standard D-3699, in effect on January 1, 1999, and
10 kerosene-type jet fuel described in the American Society for
11 Testing Materials Standard D-1655 and military specifications
12 MIL-t-5624r and MIL-t-83133d (grades jp-5 and jp8) and any
13 grade described as kerosene or kerosene-type jet fuel by the
14 Internal Revenue Code and administrative guidance promulgated
15 thereunder.

16 "(21) LUBRICATING OIL. Those products of petroleum
17 that are commonly used in lubricating or oiling engines and
18 any devices or substitutes for such products of petroleum.

19 "(22) NET GALLONS. The amount of dyed diesel fuel
20 and dyed kerosene measured in gallons when adjusted to a
21 temperature of 60 degrees Fahrenheit and a pressure of
22 fourteen and seven-tenths pounds pressure per square inch.

23 "(23) PERMISSIVE SUPPLIER. An out-of-state supplier
24 that elects, but is not required, to have a supplier's license
25 as required in Section 40-17-332.

1 "(24) PERSON. Any natural person, firm, partnership,
2 association, corporation, receiver, trust, estate, or other
3 entity as well as any other group or combination thereof
4 acting as a unit.

5 "(25) PERSON FIRST SELLING. Any person, as herein
6 defined, who first sells dyed diesel fuel, dyed kerosene,
7 and/or lubricating oil in Alabama on which an inspection fee
8 is imposed by this article. The first seller of dyed diesel
9 fuel, dyed kerosene, and/or lubricating oil must obtain an
10 inspection fee permit by making application to the Department
11 of Revenue.

12 "(26) PETROLEUM PRODUCTS. Gasoline, diesel fuel, and
13 lubricating oil.

14 "(27) RETAILER. A person other than a wholesale
15 distributor that engages in the business of selling or
16 distributing taxable motor fuel to the end user within this
17 state.

18 "(28) REVENUE COMMISSIONER. The Commissioner of the
19 Alabama Department of Revenue.

20 "(29) SPECIAL FUEL. Any gas or liquid, other than
21 gasoline, used or suitable for use as motor fuel in an
22 internal combustion engine or motor to propel any form of
23 vehicle, machine, or mechanical contrivance, and includes
24 products commonly known as natural or casing-head gasoline,
25 biodiesel fuel, and transmix. Special fuel does not include

1 any petroleum product or chemical compound such as alcohol,
2 industrial solvent, or lubricant, unless blended in or sold
3 for use as motor fuel in an internal combustion engine.

4 "(30) STATE. The State of Alabama.

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

15 "(32) UNDYED DIESEL FUEL. Diesel fuel that has not
16 been dyed in accordance with the Internal Revenue Service fuel
17 dyeing provisions.

18 "(b) The definitions set forth in this section shall
19 be deemed applicable whether the words defined are herein used
20 in the singular or plural.

21 "(c) Any pronoun or pronouns used herein shall be
22 deemed to include both singular and plural and to cover all
23 genders."

24 "§8-17-87.

1 "(a) An inspection fee is imposed on the ultimate
2 consumer of gasoline at the rate of two cents (\$.02) per
3 gallon, if the excise tax levied on gasoline under Section
4 40-17-325(a) (1) is refunded by the Department of Revenue
5 unless the ultimate consumer is specifically exempted from the
6 inspection fee by this code. The Department of Revenue is
7 authorized to reduce the excise tax refund by the amount due
8 for the inspection fee.

9 "(b) An inspection fee is imposed on the ultimate
10 consumer of undyed diesel fuel at the rate of two cents (\$.02)
11 per gallon, if the excise tax levied on diesel fuel under
12 Section 40-17-325(a) (2) is refunded by the Department of
13 Revenue unless the ultimate consumer is specifically exempted
14 from the inspection fee by this code or unless the undyed
15 diesel fuel is subject to a reduced rate inspection fee in
16 subsection (i). The Department of Revenue is authorized to
17 reduce the excise tax refund by the amount due for the
18 inspection fee.

19 "(c) An inspection fee of two cents (\$.02) per
20 gallon is imposed on the first sale within this state or upon
21 importation into this state of dyed diesel fuel unless (1) the
22 purchaser or importer is ~~a bonded distributor~~ an inspection
23 fee permit holder, in which case the inspection fee is imposed
24 at the point the ~~bonded distributor~~ inspection fee permit
25 holder makes a sale to a purchaser who is not ~~a bonded~~

1 ~~distributor~~ an inspection fee permit holder, or (2) the
2 purchaser is subject to a reduced rate inspection fee in
3 subsections (e), (f), (g), and (h). The person first selling,
4 the person importing, or the ~~bonded distributor~~ inspection fee
5 permit holder shall collect the fee imposed by this article.

6 If the importer purchases dyed diesel fuel destined for
7 Alabama from a supplier or permissive supplier and the
8 importer is not a ~~bonded distributor~~ an inspection fee permit
9 holder and does not have a valid inspection fee permit issued
10 by the Alabama Department of Revenue, the supplier or
11 permissive supplier shall collect and remit the inspection fee
12 imposed by this article. If the importer brings dyed diesel
13 fuel in from bulk storage outside the terminal system, the
14 importer is responsible for collecting and remitting the
15 inspection fee imposed by this article.

16 "(d) An inspection fee of one cent (\$.01) per gallon
17 is imposed on the first sale within this state or upon
18 importation into this state of dyed kerosene unless (1) the
19 purchaser or importer is ~~a bonded distributor~~ an inspection
20 fee permit holder, in which case the inspection fee is imposed
21 at the point the ~~bonded distributor~~ inspection fee permit
22 holder makes a sale to a purchaser who is not ~~a bonded~~
23 ~~distributor~~ an inspection fee permit holder, or (2) the
24 purchaser is subject to a reduced rate inspection fee in
25 subsections (e), (f), (g), and (h). The person first selling,

1 the person importing, or the ~~bonded distributor~~ inspection fee
2 permit holder shall collect the fee imposed by this article.

3 If the importer purchases dyed kerosene destined for Alabama
4 from a supplier or permissive supplier and the importer is not
5 ~~a bonded distributor~~ an inspection fee permit holder and does
6 not have a valid inspection fee permit issued by the Alabama
7 Department of Revenue, the supplier or permissive supplier
8 shall collect and remit the inspection fee imposed by this
9 article. If the importer brings dyed kerosene in from bulk
10 storage outside the terminal system, the importer is
11 responsible for collecting and remitting the inspection fee
12 imposed by this article.

13 "(e) Dyed diesel fuel and dyed kerosene that is used
14 by the ultimate consumer thereof as motor fuel to operate
15 boats, yachts, ships, or other maritime vehicles, whether such
16 boats, yachts, ships, or other maritime vehicles are used
17 commercially or for pleasure, shall be subject to the reduced
18 inspection fee of one fortieth of \$.01 (\$.00025) per gallon.
19 This reduced rate only applies to purchases by the ultimate
20 consumer directly from ~~a bonded distributor~~ an inspection fee
21 permit holder. The person first selling, the person importing,
22 or the ~~bonded distributor~~ inspection fee permit holder shall
23 collect the fee imposed by this article.

24 "(f) Dyed diesel fuel or dyed kerosene used by the
25 ultimate consumer thereof to propel or operate tractors which

1 are not operated on public highways but which are used
2 exclusively in preparing and cultivating land, harvesting any
3 agricultural commodity, or for other agricultural purposes,
4 including pasture and hay production; provided, however, that
5 the term tractors as used herein shall not include
6 automobiles, trucks, pickups, trailers, semitrailers, or other
7 such vehicles, shall be subject to the reduced inspection fee
8 of one fortieth of \$.01 (\$.00025) per gallon. This reduced
9 rate only applies to purchases by the ultimate consumer
10 directly from ~~a bonded distributor~~ an inspection fee permit
11 holder. The person first selling, the person importing, or the
12 ~~bonded distributor~~ inspection fee permit holder shall collect
13 the fee imposed by this article.

14 "(g) Dyed diesel fuel or dyed kerosene that is of
15 the types customarily used as, and that is intended to be used
16 only as, fuel to propel railroad locomotives, shall be subject
17 to the reduced inspection fee of one fortieth of \$.01
18 (\$.00025) per gallon. This reduced rate only applies to
19 purchases by the ultimate consumer directly from ~~a bonded~~
20 ~~distributor~~ an inspection fee permit holder. The person first
21 selling, the person importing, or the ~~bonded distributor~~
22 inspection fee permit holder shall collect the fee imposed by
23 this article.

24 "(h) Dyed diesel fuel or dyed kerosene used by the
25 ultimate consumer thereof as a solvent or other agent in the

1 treatment or preservation of wood products, shall be subject
2 to the reduced inspection fee of one fortieth of \$.01
3 (\$.00025) per gallon. This reduced rate only applies to
4 purchases by the ultimate consumer directly from ~~a bonded~~
5 ~~distributor~~ an inspection fee permit holder. The person first
6 selling, the person importing, or the ~~bonded distributor~~
7 inspection fee permit holder shall collect the fee imposed by
8 this article.

9 "(i) An inspection fee is imposed on the ultimate
10 consumer of undyed diesel fuel at the rate of one fortieth of
11 \$.01 (\$.00025) per gallon, if the excise tax levied on undyed
12 diesel fuel under Section 40-17-325(a) (2) is refunded by the
13 Department of Revenue and the ultimate consumer specifically
14 used the undyed diesel fuel:

15 "(1) To operate boats, yachts, ships, or other
16 maritime vehicles, whether such boats, yachts, ships, or other
17 maritime vehicles are used commercially or for pleasure;

18 "(2) To propel or operate tractors which are not
19 operated on public highways but which are used exclusively in
20 preparing and cultivating land, harvesting any agricultural
21 commodity, or for other agricultural purposes, including
22 pasture and hay production; provided, however, that the term
23 tractors as used herein shall not include automobiles, trucks,
24 pickups, trailers, semitrailers, or other such vehicles;

25 "(3) To propel railroad locomotives; or

1 "(4) As solvent or other agent in the treatment or
2 preservation of wood products.

3 "The Department of Revenue is authorized to reduce
4 the excise tax refund by the amount due for the inspection
5 fee.

6 "(j) An inspection fee of fifteen cents (\$.15) per
7 gallon is imposed on the person first selling lubricating oil
8 in this state or importing lubricating oil into this state,
9 regardless of whether the excise taxes levied on lube oil
10 under Sections 40-17-171 and 40-17-220 are paid, unless the
11 purchaser or importer is ~~a bonded distributor~~ an inspection
12 fee permit holder, in which case the inspection fee is imposed
13 at the point the ~~bonded distributor~~ inspection fee permit
14 holder makes a sale to a purchaser who is not ~~a bonded~~
15 ~~distributor~~ an inspection fee permit holder. The person first
16 selling, the person importing, or ~~bonded distributor~~
17 inspection fee permit holder shall collect the fee imposed by
18 this article.

19 "(k) An inspection fee of two cents (\$.02) per
20 gallon is imposed on removal within this state of gasoline and
21 undyed diesel fuel from the terminal using the terminal rack,
22 other than by bulk transfer, if the supplier sells the
23 gasoline or undyed diesel fuel to a licensed entity which is
24 exempt from the excise tax levied on gasoline or diesel fuel
25 under Section 40-17-325(a); unless the purchaser is the

1 federal government. The supplier shall collect the inspection
2 fee imposed by this article from the purchaser at the time of
3 sale of the gasoline or undyed diesel fuel.

4 "(l) An inspection fee of two cents (\$.02) per
5 gallon is imposed at the time gasoline and undyed diesel fuel
6 is imported into this state, other than by bulk transfer, for
7 delivery to a destination in this state, if the supplier sells
8 the gasoline or undyed diesel fuel to a licensed entity which
9 is exempt from the excise tax levied on gasoline or diesel
10 fuel under Section 40-17-325(a); unless the purchaser is the
11 federal government. The supplier or permissive supplier shall
12 collect the inspection fee imposed by this article from the
13 person who imports the gasoline or undyed diesel fuel into
14 this state.

15 "(m) In each subsequent sale of petroleum products
16 on which the inspection fee has been paid, the amount of the
17 inspection fee shall be added to the selling price so that the
18 inspection fee is paid ultimately by the person using or
19 consuming the petroleum product.

20 "(n) Petroleum products in a refinery, a pipeline, a
21 terminal, or a marine vessel transporting petroleum products
22 to a refinery or terminal is in the bulk transfer/terminal
23 system. Petroleum products in a motor fuel storage facility
24 including, but not limited to, a bulk plant that is not part
25 of a refinery or terminal, in the motor fuel supply tank of

1 any engine or motor vehicle, or in any tank car, rail car,
2 trailer, truck, or other equipment suitable for ground
3 transportation is not in the bulk transfer/terminal system.

4 "(o) The inspection fee provided for in this section
5 is in addition to all other fees and all taxes payable with
6 respect to petroleum products. The inspection fee shall be
7 paid on the net gallons of dyed diesel fuel or dyed kerosene.

8 "(p) Aviation gasoline and aviation jet fuel are
9 exempt from the inspection fee."

10 "§8-17-96.

11 "(a) The supplier or permissive supplier of gasoline
12 or undyed diesel fuel sold to a licensed exempt entity other
13 than the federal government at the rack, or the supplier or
14 permissive supplier selling dyed diesel fuel or dyed kerosene
15 at the rack at an out-of-state terminal to an importer for
16 delivery into Alabama that ~~is not a bonded distributor and~~
17 does not have a valid inspection fee permit issued by the
18 Alabama Department of Revenue, or the person first selling,
19 the person importing, or the person who makes application to
20 become ~~a bonded distributor~~ an inspection fee permit holder of
21 dyed diesel fuel, dyed kerosene, or lubricating oil in this
22 state shall submit an application for an inspection fee permit
23 to the Department of Revenue, which shall be approved by the
24 Department of Revenue. Upon approval of the inspection fee
25 application, ~~the supplier or permissive supplier of gasoline~~

1 ~~or undyed diesel fuel sold to a licensed exempt entity other~~
2 ~~than the federal government by a supplier or permissive~~
3 ~~supplier at the rack, or the supplier or permissive supplier~~
4 ~~selling dyed diesel fuel or dyed kerosene at the rack at an~~
5 ~~out-of-state terminal to an importer for delivery into Alabama~~
6 ~~that is not a bonded distributor and does not have a valid~~
7 ~~inspection fee permit issued by the Alabama Department of~~
8 ~~Revenue, or the first person selling, the person importing, or~~
9 ~~the bonded distributor of dyed diesel fuel, dyed kerosene, or~~
10 ~~lubricating oil shall file with the Department of Revenue a~~
11 ~~bond in the amount of five thousand dollars (\$5,000) prior to~~
12 ~~the issuance of an inspection fee permit. The bond shall be in~~
13 ~~such form and amount as may be approved by the Revenue~~
14 ~~Commissioner, shall be executed by a surety company licensed~~
15 ~~and duly authorized to do business in Alabama, shall be~~
16 ~~payable to the State of Alabama and shall be conditioned upon~~
17 ~~the prompt filing of true reports and the payment by the~~
18 ~~supplier or permissive supplier of gasoline or undyed diesel~~
19 ~~fuel sold to a licensed exempt entity other than the federal~~
20 ~~government by a supplier or permissive supplier at the rack,~~
21 ~~or the supplier or permissive supplier selling dyed diesel~~
22 ~~fuel or dyed kerosene at the rack at an out-of-state terminal~~
23 ~~to an importer for delivery into Alabama that is not a bonded~~
24 ~~distributor and does not have a valid inspection fee permit~~
25 ~~issued by the Alabama Department of Revenue, or the first~~

1 ~~person selling, the person importing, or the bonded~~
2 ~~distributor of dyed diesel fuel, dyed kerosene, or lubricating~~
3 ~~oil to the Department of Revenue of all inspection fees which~~
4 ~~are imposed by Section 8-17-87 with respect to gasoline,~~
5 ~~undyed diesel fuel, dyed diesel fuel, dyed kerosene, or~~
6 ~~lubricating oil, together with all penalties and interest~~
7 ~~thereon, and generally upon faithful compliance with the~~
8 ~~provisions of this division. Upon approval of the required~~
9 ~~bond, the Revenue Department shall issue to the applicant an~~
10 ~~inspection fee permit. This permit is not transferable and~~
11 ~~remains in effect until surrendered or canceled.~~

12 ~~"(b) In the event that liability upon any bond filed~~
13 ~~under the provisions of this section shall be discharged or~~
14 ~~reduced, whether by judgment entered, payment made, or~~
15 ~~otherwise, or if in the opinion of the Revenue Commissioner~~
16 ~~any surety on the bond theretofore given shall become~~
17 ~~unsatisfactory or unacceptable, then the Revenue Commissioner~~
18 ~~may require the filing of a new or additional bond conditioned~~
19 ~~as hereinabove provided. The surety will remain liable for any~~
20 ~~liability that has accrued or will accrue prior to the~~
21 ~~effective date of this Act.~~

22 ~~"(c) The Department of Revenue shall notify a permit~~
23 ~~holder at his or her last known address by first class U.S.~~
24 ~~mail or, at the option of the Department of Revenue, certified~~
25 ~~mail, return receipt requested, that it is requiring such new~~

1 ~~or additional bond for any reason as provided above, and the~~
2 ~~permit holder, within 30 days from the date such notice is~~
3 ~~mailed by the Department of Revenue, shall (1) file the new or~~
4 ~~additional bond as requested by the Department of Revenue, or~~
5 ~~(2) file a notice of appeal as allowed in Section 40-2A-8. The~~
6 ~~Department of Revenue may immediately cancel the permit upon~~
7 ~~the expiration of the 30-day appeal period set out in Section~~
8 ~~40-2A-8 if the permit holder fails to either provide the new~~
9 ~~or additional bond requested by the Department of Revenue or~~
10 ~~timely appeal under Section 40-2A-8.~~

11 ~~"(d) The total amount of bond or bonds to be given~~
12 ~~by any supplier, permissive supplier, importer, first seller,~~
13 ~~or bonded distributor under this section shall in no event be~~
14 ~~less than five thousand dollars (\$5,000); except that the~~
15 ~~Revenue Commissioner may require such additional bond as may~~
16 ~~be deemed necessary to insure the prompt payment of all~~
17 ~~inspection fees on the sale of gasoline or undyed diesel fuel~~
18 ~~sold to exempt entities, other than the federal government, by~~
19 ~~the supplier or permissive supplier at the terminal rack, or~~
20 ~~the supplier or permissive supplier selling dyed diesel fuel~~
21 ~~or dyed kerosene at the rack at an out-of-state terminal to an~~
22 ~~importer for delivery into Alabama that is not a bonded~~
23 ~~distributor and does not have a valid inspection fee permit~~
24 ~~issued by the Alabama Department of Revenue, or on the sale of~~
25 ~~dyed diesel fuel, dyed kerosene, or lubricating oil due, or to~~

1 ~~become due, the state by the supplier or permissive supplier~~
2 ~~of gasoline or undyed diesel fuel to exempt entities, other~~
3 ~~than the federal government, by the supplier or permissive~~
4 ~~supplier at the terminal rack, or the supplier or permissive~~
5 ~~supplier selling dyed diesel fuel or dyed kerosene at the rack~~
6 ~~at an out-of-state terminal to an importer for delivery into~~
7 ~~Alabama that is not a bonded distributor and does not have a~~
8 ~~valid inspection fee permit issued by the Alabama Department~~
9 ~~of Revenue, or by the person first selling, the person~~
10 ~~importing, or the bonded distributor of dyed diesel fuel, dyed~~
11 ~~kerosene, or lubricating oil.~~

12 ~~"(e) Any surety on any bond furnished by the~~
13 ~~supplier or permissive supplier of gasoline or undyed diesel~~
14 ~~fuel sold to exempt entities, other than the federal~~
15 ~~government by the supplier or permissive supplier at the~~
16 ~~terminal rack, or the supplier or permissive supplier selling~~
17 ~~dyed diesel fuel or dyed kerosene at the rack at an~~
18 ~~out-of-state terminal to an importer for delivery into Alabama~~
19 ~~that is not a bonded distributor and does not have a valid~~
20 ~~inspection fee permit issued by the Alabama Department of~~
21 ~~Revenue, or by the person first selling, the person importing,~~
22 ~~or the bonded distributor of dyed diesel fuel, dyed kerosene,~~
23 ~~or lubricating oil, as above provided, shall be released and~~
24 ~~discharged from any and all liability to the State of Alabama~~
25 ~~accruing on such bond after the expiration of 30 days from the~~

1 ~~date upon which surety shall have filed with the Department of~~
2 ~~Revenue written request to be released and discharged,~~
3 ~~provided, however, that such request shall not operate to~~
4 ~~relieve, release, or discharge such surety from any liability~~
5 ~~already accrued or which shall accrue before the expiration of~~
6 ~~such 30-day period. The Revenue Commissioner shall promptly,~~
7 ~~upon receipt of notice of such request, notify the supplier or~~
8 ~~permissive supplier of gasoline or undyed diesel fuel to~~
9 ~~exempt entities, other than the federal government, or the~~
10 ~~supplier or permissive supplier selling dyed diesel fuel or~~
11 ~~dyed kerosene at the rack at an out-of-state terminal to an~~
12 ~~importer for delivery into Alabama that is not a bonded~~
13 ~~distributor and does not have a valid inspection fee permit~~
14 ~~issued by the Alabama Department of Revenue, or the person~~
15 ~~first selling, the person importing, or the bonded distributor~~
16 ~~of dyed diesel fuel, dyed kerosene, or lubricating oil who~~
17 ~~furnished such bond of the request of the surety on the bond~~
18 ~~and, unless such supplier or permissive supplier of gasoline~~
19 ~~or undyed diesel fuel to exempt entities, other than the~~
20 ~~federal government, or the supplier or permissive supplier~~
21 ~~selling dyed diesel fuel or dyed kerosene at the rack at an~~
22 ~~out-of-state terminal to an importer for delivery into Alabama~~
23 ~~that is not a bonded distributor and does not have a valid~~
24 ~~inspection fee permit issued by the Alabama Department of~~
25 ~~Revenue, or the person first selling, the person importing, or~~

1 ~~the bonded distributor of dyed diesel fuel, dyed kerosene, or~~
2 ~~lubricating oil shall file, on or before the expiration of~~
3 ~~such 30-day period, with the Department of Revenue a new bond~~
4 ~~in the amount and form hereinbefore in this section provided,~~
5 ~~the Revenue Commissioner shall cancel the permit of the~~
6 ~~supplier or permissive supplier of gasoline or undyed diesel~~
7 ~~fuel to exempt entities, other than the federal government, or~~
8 ~~the supplier or permissive supplier selling dyed diesel fuel~~
9 ~~or dyed kerosene at the rack at an out-of-state terminal to an~~
10 ~~importer for delivery into Alabama that is not a bonded~~
11 ~~distributor and does not have a valid inspection fee permit~~
12 ~~issued by the Alabama Department of Revenue, or the person~~
13 ~~first selling, person importing, or the bonded distributor of~~
14 ~~dyed diesel fuel, dyed kerosene, or lubricating oil in~~
15 ~~accordance with the provisions of Section 40-2A-8."~~

16 "§8-17-97.

17 "(a) It shall be the duty of the person first
18 selling dyed diesel fuel, dyed kerosene, or lubricating oil in
19 this state or importing dyed diesel fuel, dyed kerosene, or
20 lubricating oil into the state, on which an inspection fee is
21 due to collect and pay such inspection fee to the Department
22 of Revenue each month in respect of all dyed diesel fuel, dyed
23 kerosene, or lubricating oil sold or imported in the state
24 during the preceding month unless the purchaser is ~~a bonded~~
25 ~~distributor~~ an inspection fee permit holder.

1 "(b) It shall be the duty of the supplier or
2 permissive supplier to collect and pay the inspection fee to
3 the Department of Revenue each month in respect of all dyed
4 diesel fuel or dyed kerosene destined for Alabama that is sold
5 to an importer that ~~is not a bonded distributor~~ and does not
6 have a valid inspection fee permit issued by the Alabama
7 Department of Revenue.

8 "(c) It shall be the duty of the supplier or
9 permissive supplier to collect the inspection fee imposed by
10 this article from the licensed exempt entity unless the
11 licensed exempt entity is an entity of the federal government
12 on sales at the terminal rack and remit payment each month in
13 respect of all gasoline or undyed diesel fuel sold in the
14 state during the preceding month to licensed exempt entities
15 other than the federal government.

16 "(d) Each supplier, permissive supplier, importer,
17 first seller, or ~~bonded distributor~~ inspection fee permit
18 holder shall file the monthly returns and monthly remittance,
19 in a format prescribed by the Revenue Commissioner, on or
20 before the 20th day of each calendar month for the preceding
21 month with the Department of Revenue. The taxpayer is required
22 to file an electronic report through the Department of
23 Revenue's electronic filing system.

24 "(e) The inspection fee provided for in this section
25 shall be paid but once with respect to the same product; but

1 in the event any person fails to make the required electronic
2 report or payment as herein provided on or before the date
3 such payment is due, the Revenue Commissioner shall add to the
4 inspection fee already due interest as prescribed in Section
5 40-1-44 and any applicable penalties as prescribed in Chapter
6 2A of Title 40. The Revenue Commissioner shall then proceed to
7 collect the inspection fee, together with the interest and
8 penalties, in accordance with the provisions of Title 40.

9 "(f) The inspection fee, interest, and any penalties
10 added thereto shall constitute and operate as a lien at all
11 times until paid upon any petroleum products sold, offered for
12 sale, stored, or used in the state by the person liable for
13 the fee, and shall be immediately enforceable by the Revenue
14 Commissioner in accordance with established collection
15 procedures of the Department of Revenue.

16 "(g) The Revenue Commissioner shall have authority
17 to adopt and promulgate reasonable rules and regulations to
18 effectuate the evident intent and purpose of this section with
19 respect to reporting, collection, remittance, and payments of
20 the petroleum products inspection fees imposed under this
21 article which shall not conflict with any of the express
22 provisions and requirements of this section."

23 "§8-17-99.

24 "(a) The person first selling, the person importing,
25 or the ~~bonded distributor~~ inspection fee permit holder of dyed

1 diesel fuel or dyed kerosene may take a deduction on the
 2 monthly return for sales of dyed diesel fuel or dyed kerosene
 3 to the following:

4 "(1) United States Government.

5 "(2) Exports by the ~~bonded distributor~~ inspection
 6 fee permit holder.

7 "(3) Sales from one Alabama ~~bonded distributor~~
 8 inspection fee permit holder to another Alabama ~~bonded~~
 9 ~~distributor~~ inspection fee permit holder.

10 "(4) Sales to the ultimate consumer for use in
 11 firing steam boilers or combustion generating turbines by
 12 compression.

13 "(b) The person first selling, the person importing,
 14 or the ~~bonded distributor~~ inspection fee permit holder of
 15 lubricating oil may take a deduction on the monthly return for
 16 sales of lubricating oil to the following:

17 "(1) United States Government.

18 "(2) Exports by the ~~bonded distributor~~ inspection
 19 fee permit holder.

20 "(3) Sales from one Alabama ~~bonded distributor~~
 21 inspection fee permit holder to another Alabama ~~bonded~~
 22 ~~distributor~~ inspection fee permit holder."

23 "\$8-17-101.

24 "(a) In accordance with the provisions of Chapter 2A
 25 of Title 40, the Department of Revenue may cancel the

1 inspection fee permit required under Section 8-17-96, upon
2 written notice sent to the permit holder's last known address,
3 as it appears in the Department of Revenue's files, for any of
4 the following reasons:

5 "(1) Filing by the permit holder of a false report
6 of the data or information required by this article.

7 "(2) Failure, refusal, or neglect of the permit
8 holder to file a report or to provide any information required
9 by this article.

10 "(3) Failure of the permit holder to pay the full
11 amount of all excise taxes and inspection fees due or to pay
12 any penalties or interest due.

13 "(4) Failure of the permit holder to keep accurate
14 records of the quantities of petroleum products received,
15 produced, refined, manufactured, compounded, sold, imported,
16 or used in Alabama.

17 "~~(5) Failure to file a new or additional surety bond~~
18 ~~upon request of the Department of Revenue pursuant to Section~~
19 ~~40-17-96.~~

20 "~~(6)~~ (5) Conviction of the permit holder or a
21 principal of the permit holder for any act prohibited under
22 this article.

23 "~~(7)~~ (6) Failure, refusal, or neglect of a permit
24 holder to comply with any other provision of this article or
25 any rule promulgated pursuant to this article.

1 "~~(8)~~(7) Having a motor fuel license or registration
2 issued by this state or another state canceled for cause.

3 "~~(9)~~(8) For any change in the ownership or control
4 of the business.

5 "(b) Upon cancellation of any permit for any cause
6 listed above, the inspection fee levied under this article
7 becomes due and payable on all untaxed petroleum products held
8 in storage or otherwise in the possession of the permit holder
9 and all petroleum products sold, delivered, imported, or used
10 prior to the cancellation on which the fee has not been paid.

11 "(c) The permit can be canceled upon the written
12 request of the permit holder."

13 Section 2. All laws or parts of laws which conflict
14 with this act are repealed.

15 Section 3. This act shall become effective
16 immediately upon its passage and approval by the Governor, or
17 its otherwise becoming law.

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Mae McEachern

Speaker of the House of Representatives

Del Marshall

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 09-MAR-17.

Jeff Woodard
Clerk

Senate

02-MAY-17

Passed

APPROVED 5-16-2017

TIME 2:35 PM

Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num....: 2017-296
Bill Num...: H-158

Recv'd 05/16/17 04:14pmSLF

SPONSORS

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RD 1 RFD TOPI

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on Transportation, Utilities & Infrast. was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed w/amend(s) w/sub this 23rd day of February, 20 17.
Lynn Green, Chairperson

DATE: 2-23 2017
 RF 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 153.
 YEAS 96 NAYS 0
JEFF WOODARD, Clerk

FURTHER HOUSE ACTION (OVER)

RD 1 RFD July

This Bill was referred to the Standing Committee of the Senate on July and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) w/sub w/eng sub by a vote of 10 yeas 10 nays 0 abstain 0 this 19 day of April, 20 17.
Jeff Woodard, Chairperson

DATE: 4-20 2017
 RF FAV RD 2 CAL

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 158.
 YEAS 26 NAYS 0
PATRICK HARRIS, Secretary

DATE: 5-2-17 RD 3 at length
 PASSED PASSED AS AMENDED
 YEAS 26 NAYS 0
 And was ordered returned forthwith to the House.
PATRICK HARRIS, Secretary

DATE: 20
 INDEFINITELY POSTPONED YEAS NAYS
 RECONSIDERED YEAS NAYS
 DATE: 20

FURTHER SENATE ACTION (OVER)