

469

ACT #2018-

1
2
3
4
5

HB298

192782-3

By Representative Lee

RFD: Transportation, Utilities and Infrastructure

First Read: 25-JAN-18



1
2 ENROLLED, An Act,

3 Relating to motor fuel taxes; to require the
4 Department of Revenue to develop and make available a system
5 which allows any taxpayer required to file and remit a county
6 or municipal motor fuel tax which is calculated on a per
7 gallon basis the capability to file and remit the timely filed
8 motor fuel tax returns and payments through an electronic
9 single point of filing program; to provide that there shall be
10 no charge to use the local electronic single point of filing
11 program by a taxpayer or local taxing jurisdiction; to allow
12 the Department of Revenue to adopt rules to implement this
13 act; and to create a Local Motor Fuel Tax Advisory Committee
14 to provide advice to the Commissioner of Revenue and to
15 provide for its members, powers, and duties.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. For the purposes of this act, the
18 following words have the following meanings:

19 (1) DEPARTMENT. The Alabama Department of Revenue.

20 (2) DIESEL FUEL. Any liquid that is advertised,
21 offered for sale, or sold for use as or used as a motor fuel
22 in a diesel-powered engine. Diesel fuel includes #1 and #2
23 fuel oils, kerosene, special fuels, and blended fuels which
24 contain diesel fuel, but does not include gasoline or aviation
25 fuel.

1 (3) DYED DIESEL FUEL. Diesel fuel that meets the
 2 dyeing and marking requirements of Section 4082, Title 26 of
 3 the United States Code.

4 (4) GASOLINE. Any product commonly or commercially
 5 known as gasoline, or any substitute therefor, regardless of
 6 classification, that is advertised, offered for sale, or sold
 7 for use as or used as fuel in an internal combustion engine,
 8 including gasohol and blended fuel which contains gasoline.
 9 Gasoline does not include aviation gasoline sold for use in an
 10 aircraft motor.

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

22 (6) MOTOR FUEL. Gasoline and diesel fuel, but shall
 23 not include aviation fuel.

24 (7) PERSON. Any individual, firm, cooperative,
 25 association, corporation, limited liability corporation,

1 trust, business trust, syndicate, partnership, limited
2 liability partnership, joint venture, receiver, trustee in
3 bankruptcy, club, society, or other group or combination
4 acting as a unit.

5 (8) SPECIAL FUEL. Any liquid, other than gasoline,
6 used or suitable for use as motor fuel in a diesel-powered
7 engine or motor to propel any form of vehicle, machine, or
8 mechanical contrivance, and includes products commonly known
9 as biodiesel fuel. Special fuel does not include any petroleum
10 product or chemical compound such as alcohol, industrial
11 solvent, or lubricant, unless blended in or sold for use as
12 motor fuel in a diesel powered engine.

13 (9) TAX. Any amount, including applicable penalty
14 and interest, levied or assessed against a taxpayer and which
15 the department or any county, municipality, or their designees
16 are required or authorized to administer under the provisions
17 of Alabama law.

18 (10) TAXPAYER. Any person subject to or liable for
19 any local tax; any person required to file a return with
20 respect to, or to pay, or withhold and remit any local tax or
21 to report any information or value to the department, a
22 county, municipality, or its designee; or any person required
23 to obtain or holding any interest in any license, permit, or
24 certificate of title issued by the department, a county,
25 municipality, or its designee, or any person that may be

1 affected by any act or refusal to act by the department, a
2 county, municipality, or its designee, or to keep any records
3 required by this chapter.

4 Section 2. (a) Notwithstanding any law or ordinance
5 regarding standardization of local levies, no later than
6 October 31, 2019, the Department of Revenue shall develop and
7 make available a system which allows any taxpayer required to
8 timely file and remit a county motor fuel tax calculated on a
9 per gallon basis or municipal motor fuel license tax
10 calculated on a per gallon basis the capability to file and
11 remit motor fuel tax returns and payments through an
12 electronic single point of filing program. The system shall be
13 available for use by any taxpayer for tax periods after
14 September 30, 2019, provided the taxpayer complies with this
15 act and any rules adopted by the department for the
16 administration of the system. The system shall allow for motor
17 fuel tax return filing and tax remittance only and may not
18 provide for the administration or enforcement of local motor
19 fuel taxes. This applies to all local motor fuel taxes
20 calculated on a per gallon basis whether a tax or a license
21 fee adopted pursuant to Section 11-51-90, Code of Alabama
22 1975.

23 (b) There shall be no charge to local taxing
24 jurisdictions for use of the system by a taxpayer or a local
25 taxing jurisdiction or its designee.

1 (c) The system developed and implemented pursuant to
2 subsection (a) shall have the capability to allow a taxpayer
3 to timely file an electronic tax return for each local taxing
4 jurisdiction in which the taxpayer is required to file and
5 remit a motor fuel tax calculated on a per gallon basis. The
6 department along with the Local Motor Fuel Tax Advisory
7 Committee shall establish the required information for the
8 electronic tax return, and all information included in the
9 electronic tax return shall be electronically available to
10 each appropriate local taxing jurisdiction without delay. The
11 department shall consult with the Local Motor Fuel Tax
12 Advisory Committee established in Section 4 regarding
13 development and implementation of the system.

14 (d) On or before May 1, 2019, every local taxing
15 jurisdiction levying or administering a motor fuel tax shall
16 submit to the department a list of the motor fuel taxes levied
17 or administered by that local taxing jurisdiction which are
18 calculated on a per gallon basis, including current rates.
19 Every local taxing jurisdiction shall provide notice in a form
20 prescribed by the department of any new or amended motor fuel
21 tax calculated on a per gallon basis no later than sixty(60)
22 days prior to the effective date of the new or amended motor
23 fuel tax. The department shall thereafter notify all taxpayers
24 registered in state-administered taxing jurisdictions of the
25 jurisdiction's intent to enact or amend the tax. Failure of

1 the local jurisdiction or the department to provide notice as
2 prescribed in this subdivision shall not invalidate the levy
3 of the tax or negate the taxpayer's obligation to remit the
4 tax to the taxing authority, except that the department may
5 not be required to program new motor fuel taxes or tax rates
6 in the system until the notice is provided as required herein.
7 Unless first authorized by a local law, a new or amended motor
8 fuel taxes may not be adopted during the same meeting of the
9 local taxing jurisdiction that the new or amended motor fuel
10 tax is introduced.

11 (e) The department shall make available to each
12 local taxing jurisdiction a monthly report for that
13 jurisdiction summarizing all taxes paid using the system. Such
14 report shall include, but not be limited to, the name and
15 address of the taxpayer, the number of gallons sold by the
16 taxpayer and the amount of tax remitted.

17 Section 3. (a) All local taxing jurisdictions in the
18 state shall authorize use of the system for any taxpayer
19 required to file a return for a local motor fuel tax
20 calculated on a per gallon basis and remit the tax payments.
21 The return shall include, but not be limited to, the name of
22 the store, the physical address of the store, the sales tax
23 number of each store, the number of gallons of excise taxable
24 motor fuel sold by the distributor to the store, the local
25 excise tax paid, and any other information required by the

1 department. Any taxpayer using the system for filing an
2 electronic tax return for a local taxing jurisdiction shall be
3 required to simultaneously remit payment through the system or
4 through another method of payment accepted by the local taxing
5 jurisdiction or its designee for which payment is being made.

6 (b) Not later than June 30, 2019, each local taxing
7 jurisdiction shall provide the department with necessary
8 information to allow all motor fuel tax payments to be
9 remitted directly to the bank account or other account
10 designated by the local taxing jurisdiction. Each non-state
11 administered local taxing jurisdiction shall set up their
12 accounts to allow dishonored payments to be reversed. All tax
13 payments made through the system for non-state administered
14 local taxing jurisdictions shall be remitted directly from the
15 taxpayer to the designated bank account or other account of
16 the local taxing jurisdiction with the system serving as a
17 conduit only.

18 (c) No taxpayer shall be required to use the system
19 for tax return filing and remittance of local motor fuel
20 taxes; provided, however, any taxpayer using the system shall
21 comply with this act and any rules adopted by the department
22 for the administration of this act. Additionally, any taxpayer
23 using the system shall comply with any rule of the local
24 taxing jurisdiction regarding the audit, enforcement, and
25 administration of the local motor fuel tax.

1 (d) The local motor fuel tax return and payment
2 submitted through this system shall be due on or before the
3 20th day of the month next succeeding the month in which the
4 tax accrues. No local motor fuel tax return or payment shall
5 be accepted through this system after the due date prescribed
6 herein. A taxpayer who is required to submit a local motor
7 fuel tax return and payment after the due date prescribed
8 herein shall file a return and make any payment directly to
9 that local taxing jurisdiction or its designee.

10 (e) All petitions for refunds of taxes paid through
11 the system shall be made to the local taxing jurisdiction.

12 Section 4. (a) (1) To ensure that local taxing
13 jurisdictions have meaningful input into the development and
14 operation of the system, a Local Motor Fuel Tax Advisory
15 Committee is established to review the design and operation of
16 the system and to make recommendations regarding system
17 requirements and functionality to the Commissioner of Revenue.

18 (2) The committee shall consist of the following
19 persons:

20 a. Three representatives of county government,
21 appointed by the Association of County Commissions of Alabama.

22 b. Three representatives of municipal government,
23 appointed by the Alabama League of Municipalities.

1 c. Three representatives of the retail community,
2 appointed by the Petroleum and Convenience Marketers of
3 Alabama.

4 d. The Commissioner of the Department of Revenue or
5 his or her designee.

6 e. One representative of a county and one
7 representative of a municipality which levies a motor fuel tax
8 appointed by the Speaker of the House of Representatives who
9 shall be a nonvoting member.

10 f. One representative of the business community
11 appointed by the President Pro Tempore of the Senate who shall
12 be a nonvoting member.

13 (3) The designating and appointing authorities shall
14 coordinate their designations and appointments to assure the
15 advisory committee is inclusive and reflects the racial,
16 gender, geographic, urban, rural, and economic diversity of
17 the state.

18 (4) The committee members shall receive no
19 compensation or reimbursement of expenses from the state for
20 serving on the committee.

21 (b) The committee shall meet with the Commissioner
22 of Revenue and with other employees of the department as the
23 commissioner deems appropriate. The initial meeting shall be
24 at a time and place to be determined by the commissioner and
25 shall be held not later than September 30, 2018. At the

1 initial meeting, the committee shall organize itself and shall
2 determine the timing and frequency of subsequent meetings.

3 (c) The role of the committee shall be limited to
4 providing input and recommendations on the development and
5 functionality of the system related to the filing of motor
6 fuel tax returns calculated on a per gallon basis and
7 remittance of payments using the system. The committee shall
8 not review the department's administration of state taxes,
9 state-administered local taxes, or any other department matter
10 beyond the system.

11 (d) If the commissioner fails to act on
12 recommendations made by the committee regarding the system,
13 the committee, by majority vote, may appeal to the Legislative
14 Council for a determination on whether the committee's
15 recommendations shall be implemented. The determination of the
16 Legislative Council shall be final.

17 Section 5. Nothing in this act shall be construed to
18 authorize the Department of Revenue to impose fees on the
19 local taxing jurisdictions or their designees for the
20 maintenance or operation of the system.

21 Section 6. All general laws or parts of general laws
22 which conflict with this act are repealed.

23 Section 7. This act shall become effective on the
24 first day of the second month following its passage and
25 approval by the Governor, or its otherwise becoming law, for

1 returns and payments for tax periods beginning after September
2 30, 2019.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Mac Mitchell

Speaker of the House of Representatives

Del Mann

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 22-FEB-18.

Jeff Woodard
Clerk

Senate	<u>21-MAR-18</u>	Amended and Passed
House	<u>22-MAR-18</u>	Concurred in Senate Amendment

APPROVED 3/28/18

TIME 4:56 pm

Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num....: 2018-469
Bill Num....: H-298

Recv'd 03/29/18 10:46amSL

