

By: Representative Ford

To: Conservation and  
Water Resources

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 560

1 AN ACT TO AMEND SECTION 49-17-407, MISSISSIPPI CODE OF 1972,  
2 TO DELETE THE REPEALER DATE ON THE LAW THAT LEVIES AN  
3 ENVIRONMENTAL PROTECTION FEE ON MOTOR FUELS; AND FOR RELATED  
4 PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 49-17-407, Mississippi Code of 1972, is  
7 amended as follows:

8 49-17-407. (1) (a) An environmental protection fee of  
9 Four-tenths of One Cent (4/10 of 1¢) per gallon is hereby levied  
10 upon any bonded distributor, as defined by Sections 49-17-401  
11 through 49-17-433, who sells or delivers motor fuels to a retailer  
12 or user in this state.

13 (b) Every person, other than a bonded distributor, who  
14 shall purchase or acquire motor fuels within this state on which  
15 the environmental protection fee has not accrued, shall be liable  
16 for the environmental protection fee.

17 (c) The environmental protection fee shall be imposed  
18 only one (1) time on motor fuels sold in the state.

19 (d) The environmental protection fee shall be collected  
20 by the State Tax Commission and shall be designated separately  
21 from the excise taxes on fuels.

22 (e) Any person liable for the environmental protection  
23 fee shall be subject to the same requirements and penalties as  
24 distributors under the provisions of Section 27-55-301 et seq.

25 (f) Any person liable for the environmental protection  
26 fee shall file a report and remit any fees due at the same time  
27 provided for filing reports under Section 27-55-319 on forms

prescribed by the State Tax Commission.

(g) The State Tax Commission is hereby authorized and empowered to promulgate all rules and regulations necessary for the administration of the environmental protection fee.

(2) (a) On or before the fifteenth day of each month the environmental protection fees collected during the previous month shall be deposited into the Mississippi Groundwater Protection Trust Fund established in Section 49-17-405. When the unobligated balance in the fund reaches or exceeds Ten Million Dollars (\$10,000,000.00), the administrator of the fund shall notify in writing the State Tax Commission no later than the twenty-fifth day of the month to abate the environmental protection fee. The abatement shall become effective on the last day of the month succeeding the month in which such notice was given. All environmental protection fees accrued shall be reported and paid.

(b) When the fund balance is reduced below Six Million Dollars (\$6,000,000.00), the fee shall again be imposed at the rate of Four-tenths of One Cent ( $\frac{4}{10}$  of 1¢) per gallon until such time as the fund shall reach or exceed Ten Million Dollars (\$10,000,000.00). The administrator of the fund shall notify, no later than the twenty-fifth day of the month, the State Tax Commission to reimpose the environmental protection fee. The imposition of the fee shall become effective on the first day of the second month succeeding the month in which the notice to reimpose the fee was given.

(3) This fund shall be used for the purposes set forth in Sections 49-17-401 through 49-17-435 and for no other governmental purposes, nor shall any portion hereof ever be available to borrow from by any branch of government; it being the intent of the Legislature that this fund and its increments shall remain intact and inviolate. Any interest earned on monies in this fund shall remain in this fund.

(4) Monies held in the fund established under Sections 49-17-401 through 49-17-435 shall be used only at an active site and shall be disbursed in accordance with the commission requirements and as follows:

(a) Payments shall be made to any third party who

65 brings a third-party claim against any owner of an underground  
66 storage tank and the commission as trustee of the Mississippi  
67 Groundwater Protection Trust Fund and who obtains a final judgment  
68 in such action which is valid and enforceable in this state  
69 against such parties. Payment shall be paid to the third party  
70 upon filing by such party an application with the department  
71 attaching the original or a certified copy of the final judgment.

72 (b) Payments shall be made in reasonable amounts to  
73 approved response action contractors and other parties involved in  
74 the site study and cleanup. Payment shall be made to the party  
75 incurring the costs by filing of a sworn application with the  
76 department indicating the fair and reasonable value of the costs  
77 of site rehabilitation, subject to the regulations and limitations  
78 as set by the department.

79 (5) Payments from the fund are limited as follows:

80 (a) For cleanup purposes, a maximum of One Million  
81 Dollars (\$1,000,000.00) may be disbursed from the fund for any one  
82 (1) site, per confirmed release occurrence.

83 (b) For third-party judgments, a maximum of One Million  
84 Dollars (\$1,000,000.00) may be disbursed from the fund for any one  
85 (1) site, per confirmed release occurrence.

86 (c) Nothing in Sections 49-17-401 through 49-17-435  
87 shall establish or create any liability or responsibility on the  
88 part of the department or the State of Mississippi to pay any  
89 cleanup costs or third-party claims if the fund created herein is  
90 insufficient to do so.

91 (6) Monies held in the fund established under Sections  
92 49-17-401 through 49-17-435 shall not be used for purchases of  
93 equipment needed to assist in cleanup operations.

94 (7) Nothing in Sections 49-17-401 through 49-17-435 shall  
95 serve to limit any recovery against an owner of an underground  
96 storage tank in excess of One Million Dollars (\$1,000,000.00).

97 (8) Substantial compliance shall in no way be construed to

98 be an absolute defense to civil liability.

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100 SECTION 2. This act shall take effect and be in force from  
101 and after June 30, 1999.