

*****Pending*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 3083

By Representative(s) Williams

1 **AMEND** by striking Section 44 in its entirety and by inserting
2 in lieu thereof the following:

3 SECTION 44. Section 49-17-407, Mississippi Code of 1972, as
4 amended by House Bill No. 560, 1999 Regular Session, is amended as
5 follows:

6 49-17-407. (1) (a) An environmental protection fee of
7 Four-tenths of One Cent (4/10 of 1¢) per gallon is hereby levied
8 upon any bonded distributor, as defined by Sections 49-17-401
9 through 49-17-433, who sells or delivers motor fuels to a retailer
10 or user in this state.

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

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

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

20 (e) Any person liable for the environmental protection
21 fee shall be subject to the same requirements and penalties as
22 distributors under the provisions of the Mississippi Special Fuel
23 Tax Law.

24 (f) Any person liable for the environmental protection
25 fee shall file a report and remit any fees due at the same time
26 provided for filing reports under Section 12 of Senate Bill No.
27 3083, 1999 Regular Session, on forms prescribed by the State Tax
28 Commission.

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

32 (2) (a) On or before the fifteenth day of each month the
33 environmental protection fees collected during the previous month
34 shall be deposited into the Mississippi Groundwater Protection
35 Trust Fund established in Section 49-17-405. When the unobligated
36 balance in the fund reaches or exceeds Ten Million Dollars
37 (\$10,000,000.00), the administrator of the fund shall notify in
38 writing the State Tax Commission no later than the twenty-fifth
39 day of the month to abate the environmental protection fee. The
40 abatement shall become effective on the last day of the month
41 succeeding the month in which such notice was given. All
42 environmental protection fees accrued shall be reported and paid.

43 (b) When the fund balance is reduced below Six Million
44 Dollars (\$6,000,000.00), the fee shall again be imposed at the
45 rate of Four-tenths of One Cent (4/10 of 1¢) per gallon until such
46 time as the fund shall reach or exceed Ten Million Dollars
47 (\$10,000,000.00). The administrator of the fund shall notify, no
48 later than the twenty-fifth day of the month, the State Tax
49 Commission to reimpose the environmental protection fee. The
50 imposition of the fee shall become effective on the first day of
51 the second month succeeding the month in which the notice to
52 reimpose the fee was given.

53 (3) This fund shall be used for the purposes set forth in
54 Sections 49-17-401 through 49-17-435 and for no other governmental
55 purposes, nor shall any portion hereof ever be available to borrow

56 from by any branch of government; it being the intent of the
57 Legislature that this fund and its increments shall remain intact
58 and inviolate. Any interest earned on monies in this fund shall
59 remain in this fund.

60 (4) Monies held in the fund established under Sections
61 49-17-401 through 49-17-435 shall be used only at an active site
62 and shall be disbursed in accordance with the commission
63 requirements and as follows:

64 (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.