

By: Senator(s) Hewes

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2526

1 AN ACT TO AMEND SECTION 27-55-7, MISSISSIPPI CODE OF 1972, TO
2 INCREASE THE MAXIMUM AMOUNT OF BOND THAT A PERSON WHO DESIRES TO
3 ENGAGE IN BUSINESS AS A DISTRIBUTOR OF GASOLINE IS REQUIRED TO
4 POST; TO AMEND SECTION 27-55-33, MISSISSIPPI CODE OF 1972, TO MAKE
5 IT UNLAWFUL FOR ANY SHIP, BOAT, TOWBOAT, VESSEL OR BARGE
6 DELIVERING TAXABLE PETROLEUM PRODUCTS INTO THIS STATE TO UNLOAD
7 SUCH PETROLEUM PRODUCTS IN THIS STATE UNLESS THE DELIVERY IS TO A
8 TERMINAL APPROVED BY AND REGISTERED WITH THE INTERNAL REVENUE
9 SERVICE AND TO PROVIDE PENALTIES FOR SUCH UNLAWFUL DELIVERIES; TO
10 AMEND SECTION 27-55-53, MISSISSIPPI CODE OF 1972, TO INCREASE THE
11 AMOUNT OF GASOLINE THAT MAY BE HAULED IN THIS STATE WITHOUT
12 SHIPPING DOCUMENTS; TO PROVIDE A PENALTY FOR THE TRANSPORTATION OF
13 GASOLINE WITHOUT THE REQUIRED SHIPPING DOCUMENTS, FOR THE
14 DIVERSION OF A SHIPMENT OF GASOLINE TO A DESTINATION OTHER THAN
15 THE DESTINATION LISTED ON THE SHIPPING DOCUMENT AND FOR THE
16 ALTERATION OF A SHIPPING DOCUMENT; TO AMEND SECTION 27-55-507,
17 MISSISSIPPI CODE OF 1972, TO INCREASE THE MAXIMUM AMOUNT OF BOND
18 THAT A PERSON WHO DESIRES TO ENGAGE IN BUSINESS AS A DISTRIBUTOR
19 OF SPECIAL FUEL IS REQUIRED TO POST; TO AMEND SECTION 27-55-559,
20 MISSISSIPPI CODE OF 1972, TO PROVIDE A PENALTY FOR THE
21 TRANSPORTATION OF SPECIAL FUEL WITHOUT THE REQUIRED SHIPPING
22 DOCUMENTS, FOR THE DIVERSION OF A SHIPMENT OF SPECIAL FUEL TO A
23 DESTINATION OTHER THAN THE DESTINATION LISTED ON THE SHIPPING
24 DOCUMENT AND FOR THE ALTERATION OF A SHIPPING DOCUMENT; AND FOR
25 RELATED PURPOSES.

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

27 **SECTION 1.** Section 27-55-7, Mississippi Code of 1972, is
28 amended as follows:

29 27-55-7. Before any person shall engage in business as a
30 distributor of gasoline in this state, he shall first make
31 application to the commission, upon forms prescribed by the
32 commission, for a permit to engage in * * * business as a
33 distributor of gasoline.

34 If the application is approved by the commission, the
35 applicant shall enter into a good and sufficient surety bond,
36 written by a company qualified to write such bonds in this state.
37 The bond shall be made payable to the State of Mississippi in a
38 sum of not less than One Thousand Dollars (\$1,000.00) nor more

39 than Five Hundred Thousand Dollars (\$500,000.00), the amount to be
40 determined by the commission; or, in lieu thereof, the applicant
41 may deposit with the commission a cash bond in the amount so
42 determined. A personal bond in the amount so determined shall
43 also be acceptable in lieu of a surety bond if the bond is
44 adequately secured by the pledge or assignment of a pledgeable or
45 assignable bond or bonds of the State of Mississippi or the United
46 States Government. Such bond or bonds shall be in an amount not
47 to exceed Five Hundred Thousand Dollars (\$500,000.00), and not to
48 exceed the gasoline tax estimated to become due by the * * *
49 distributor of gasoline for any ninety-day period.

50 The bond * * * required by this section shall be increased
51 within the limits * * * set forth in this section * * * if it is
52 deemed insufficient by the commission. Prior to any increase in
53 the bond, the commission shall give the distributor of gasoline
54 fifteen (15) days' notice, in writing, of the proposed increase in
55 the bond. The notice shall state the amount of increase demanded.

56 The condition of the bond shall be that the distributor of
57 gasoline shall fully comply with all laws pertaining to
58 distributors of gasoline and pertaining to the transportation of
59 gasoline as regulated by this article, and that he shall pay the
60 gasoline tax and the penalties provided. * * * However, any
61 person who, prior to the effective date of this article, has
62 furnished bond to meet the requirements of any petroleum tax law
63 administered by the commission, shall not be required to furnish
64 an additional bond provided his existing bond is adequate, but
65 such person shall be subject to all the other provisions of this
66 article regulating and governing distributors of gasoline.

67 * * * Any person who purchases all of his gasoline on a
68 tax-paid basis and from a qualified bonded distributor of gasoline
69 for sale or distribution to retailers for resale to consumers
70 shall not be required to make bond for the gasoline purchased, but

71 shall be subject to all the other provisions of this article
72 regulating and governing distributors of gasoline.

73 **SECTION 2.** Section 27-55-33, Mississippi Code of 1972, is
74 amended as follows:

75 27-55-33. (1) (a) Every common or contract carrier
76 transporting gasoline by whatever means, from a point outside this
77 state to any point in this state, shall report, in writing, all
78 deliveries of gasoline to points within this state to the
79 commission on forms prescribed by the commission or, with the
80 approval of the commission, furnish the required information on
81 machine-prepared schedules, and such other information as may be
82 necessary for the proper administration of this article.

83 (b) The reports required in this subsection shall be
84 for information purposes only and the commission may, in its
85 discretion, waive the filing of any of these reports not necessary
86 for proper administration of this article. The reports required
87 in this section shall be signed and contain a declaration that the
88 statements contained therein are true and are made under penalty
89 of perjury. The reports required by this subsection shall be
90 filed with the commission on or before the twentieth day of each
91 month following the month in which the transaction occurred.

92 (c) Any * * * person failing or refusing to file the
93 report required by this subsection on or before the date required
94 by law, or who shall omit any shipment of gasoline from the
95 report, shall be subject to a penalty which shall be a percentage
96 of the tax imposed by law on the total amount of the taxable
97 products involved as follows:

98 (i) Not more than ten percent (10%) for the first
99 failure, refusal or omission; and

100 (ii) Not more than twenty percent (20%) for the
101 second and any subsequent failure, refusal or omission.

102 The commission may waive the penalty imposed in this
103 paragraph (c) upon good cause shown.

104 (2) (a) All ships, boats, towboats, vessels or barges
105 delivering taxable petroleum products into this state shall have
106 all inlets and outlets sealed with different numbered seals, the
107 number of which shall be recorded on the invoices, manifests,
108 bills of lading, or other records accompanying the shipment.

109 (b) Any captain of a ship, boat, barge, towboat or
110 vessel found in violation of this subsection shall be guilty of a
111 misdemeanor and fined not less than One Hundred Dollars (\$100.00)
112 nor more than Two Hundred Fifty Dollars (\$250.00) for the first
113 offense, and not less than Two Hundred Fifty Dollars (\$250.00) nor
114 more than Five Hundred Dollars (\$500.00) for each offense
115 thereafter.

116 (3) (a) It shall be unlawful for any ship, boat, towboat,
117 vessel or barge delivering taxable petroleum products into this
118 state to unload taxable petroleum products in this state unless
119 the delivery is to a terminal approved by, and registered with,
120 the Internal Revenue Service.

121 (b) Any captain of a ship, boat, barge, towboat or
122 vessel found in violation of this subsection shall be fined One
123 Thousand Dollars (\$1,000.00) per offense and the entire amount of
124 the state excise tax upon the taxable petroleum product unloaded
125 shall be due and payable plus a penalty of twenty-five percent
126 (25%) of the amount of the excise tax.

127 (c) Any authorized representative of the commission or
128 the enforcement officers of the Mississippi Department of
129 Transportation shall have the right to seize or impound such ship,
130 boat, barge, towboat or vessel until the excise tax and penalty
131 imposed by this subsection have been paid.

132 **SECTION 3.** Section 27-55-53, Mississippi Code of 1972, is
133 amended as follows:

134 27-55-53. (1) (a) Every person hauling, transporting or
135 conveying more than five hundred (500) gallons of gasoline over
136 the highways, streets, alleys or waters of this state, or into

137 this state over any highway, street, alley or water route, shall,
138 during the entire time he is so engaged, have in his possession a
139 bill of sale, bills of lading, invoices or other written evidence,
140 each of which shall be serially numbered, showing the kind and
141 amount of gasoline being transported, the name and address of the
142 person from whom the gasoline was received, and the name and
143 address of the person to whom delivery is to be made. The vehicle
144 or boat conveying the gasoline shall have clearly printed on it
145 the name and address of the person transporting the gasoline on
146 both sides of the vehicle or boat, in well-balanced letters of not
147 less than two (2) inches in height on a contrasting background.

148 (b) Any person who diverts a shipment of gasoline to a
149 destination other than the destination listed on the document or
150 who alters a shipping document without notice to the commission of
151 the diversion or alteration, or who transports gasoline without a
152 bill of sale, bill of lading, invoice or other written evidence
153 required by this subsection, shall be fined One Thousand Dollars
154 (\$1,000.00) and the entire amount of the state excise tax upon the
155 gasoline shall be due and payable plus a penalty of twenty-five
156 percent (25%) of the amount of the excise tax. Notice of a
157 diversion of a shipment or alteration of a shipping document shall
158 consist of contacting the National Diversion Registry, reporting
159 the diversion and obtaining a registration number.

160 (c) Any authorized representative of the commission or
161 the enforcement officers of the Mississippi Department of
162 Transportation shall have the right to seize or impound such
163 vehicle or boat until the excise tax and the penalty imposed by
164 this subsection have been paid.

165 (2) The commission, its employees or agents, enforcement
166 officers of the Mississippi Department of Transportation, or any
167 sheriff, deputy sheriff, constable or police officer of this
168 state, are * * * authorized to inspect any vehicle or boat
169 transporting gasoline over the highways, streets, alleys or waters

170 of this state, to examine the contents of any such vehicle or
171 boat, to take a sample of each grade of gasoline contained in the
172 vehicle or boat provided no sample shall exceed one (1) gallon,
173 and to inspect the bills of lading, invoices or other records
174 pertaining to the gasoline being transported in such vehicle or
175 boat.

176 (3) (a) Any person, other than a common or contract carrier
177 bringing gasoline into this state in quantities of more than fifty
178 (50) gallons, shall give notice to the commission of his intent to
179 import such gasoline. The commission is authorized to promulgate
180 rules setting forth the manner in which such notice is to be
181 given. * * * If information on gasoline imported into this state
182 can be accurately secured from other sources by the commission, it
183 may waive the requirements of such notice.

184 (b) If any person, other than a common or contract
185 carrier, shall transport gasoline over the highways of this state
186 by motor vehicle without having given the notice required by this
187 subsection, or if a copy of the notice is not carried in the motor
188 vehicle as required by this section, the entire amount of the
189 state excise tax upon the gasoline being transported shall
190 be * * * due and payable, plus a penalty of twenty-five percent
191 (25%) of the amount of such tax. However, the penalty shall not
192 apply when the driver of the truck stops at the first weighing
193 station in the line of travel and secures the signature of the
194 officer on duty on the import notice.

195 (c) * * * Any authorized representative of the
196 commission or the enforcement officers of the Mississippi
197 Department of Transportation shall have the right to seize or
198 impound the motor vehicle in which such gasoline is being
199 transported until the excise tax and the penalty imposed by this
200 subsection have been paid. * * *

201 **SECTION 4.** Section 27-55-507, Mississippi Code of 1972, is
202 amended as follows:

203 27-55-507. Before any person shall engage in business as a
204 distributor of special fuel in this state, he shall first make
205 application to the commission, upon forms prescribed by the
206 commission, for a permit to engage in * * * business as a
207 distributor of special fuel.

208 If the application is approved by the commission, the
209 applicant shall enter into a good and sufficient surety bond,
210 written by a company qualified to write such bonds in this state.
211 The bond shall be made payable to the State of Mississippi in a
212 sum not less than One Thousand Dollars (\$1,000.00) nor more than
213 Five Hundred Thousand Dollars (\$500,000.00), the amount to be
214 determined by the commission; or, in lieu thereof, the applicant
215 may deposit with the commission a cash bond in the amount so
216 determined. A personal bond in the amount so determined shall
217 also be acceptable in lieu of a surety bond if the bond is
218 adequately secured by the pledge or assignment of a pledgeable or
219 assignable bond, or bonds, of the State of Mississippi or the
220 United States government. Such bond or bonds shall be in an
221 amount not to exceed Five Hundred Thousand Dollars (\$500,000.00),
222 and not to exceed the special fuel taxes estimated to become due
223 by the distributor of special fuel for any ninety-day period. The
224 bond required by this section shall be increased within the
225 limits * * * set forth in this section * * * if it is deemed
226 insufficient by the commission. Prior to any increase in the
227 bond, the commission shall give to the distributor of special fuel
228 fifteen (15) days' notice, in writing, of the increase in the
229 bond, the notice to state the amount of increase demanded.

230 The condition of the bond shall be that the distributor of
231 special fuel shall fully comply with all laws pertaining to
232 distributors of special fuel and pertaining to the transportation
233 of special fuel as regulated by this article, and that he shall
234 pay the special fuel taxes, and the penalties provided.

235 **SECTION 5.** Section 27-55-559, Mississippi Code of 1972, is
236 amended as follows:

237 27-55-559. (1) (a) Every person hauling, transporting or
238 conveying more than five hundred (500) gallons of special fuel
239 over the highways, streets, alleys or waters of this state, or
240 into this state over any highway, street, alley or water route,
241 shall, during the entire time he is so engaged, have in his
242 possession a bill of sale, bills of lading, invoices or other
243 written evidence, each of which shall be serially numbered,
244 showing the kind and amount of special fuel being transported, the
245 name and address of the person from whom the special fuel was
246 received, and the name and address of the person to whom delivery
247 is to be made. The vehicle or boat conveying the special fuel
248 shall have clearly printed on it the name and address of the
249 person transporting the special fuel on both sides of the vehicle
250 or boat in well-balanced letters of not less than two (2) inches
251 in height on a contrasting background.

252 (b) Any person who diverts a shipment of special fuel
253 to a destination other than the destination listed on the document
254 or who alters a shipping document without notice to the commission
255 of the diversion or alteration, or who transports gasoline without
256 a bill of sale, bill of lading, invoice or other written evidence
257 required by this subsection, shall be fined One Thousand Dollars
258 (\$1,000.00) and the entire amount of the state excise tax upon the
259 gasoline shall be due and payable plus a penalty of twenty-five
260 percent (25%) of the amount of the excise tax. Notice of a
261 diversion of a shipment or alteration of a shipping document shall
262 consist of contacting the National Diversion Registry, reporting
263 the diversion and obtaining a registration number.

264 (c) Any authorized representative of the commission or
265 the enforcement officers of the Mississippi Department of
266 Transportation shall have the right to seize or impound such

267 vehicle or boat until the excise tax and the penalty imposed by
268 this subsection have been paid.

269 (2) (a) Any person, other than a common or contract carrier
270 bringing special fuel into this state in quantities of more than
271 five hundred (500) gallons, shall give notice to the commission of
272 his intent to import such special fuel. The commission is
273 authorized to promulgate rules setting forth the manner in which
274 the notice is to be given. However, if information on special
275 fuel imported into this state can be accurately secured from other
276 sources by the commission, it may waive the requirements of such
277 notice.

278 (b) If any person, other than a common or contract
279 carrier, shall transport special fuel over the highways of this
280 state by motor vehicle without having given the notice required by
281 this subsection, or if a copy of such notice is not carried in
282 such motor vehicle as required by this subsection, the entire
283 amount of the state excise tax upon the special fuel being
284 transported shall be * * * due and payable, plus a penalty of
285 twenty-five percent (25%) of the amount of such tax. * * *
286 However, * * * the penalty shall not apply when the driver of the
287 truck stops at the first weighing station in the line of travel
288 and secures the signature of the officer on duty on the import
289 notice.

290 (c) * * * Any authorized representative of the
291 commission or enforcement officers of the Mississippi Department
292 of Transportation shall have the right to seize or impound the
293 motor vehicle in which the special fuel is being transported until
294 such excise tax and the penalty thereon have been paid. * * *

295 **SECTION 6.** This act shall take effect and be in force from
296 and after July 1, 2004.