

By: Senator(s) Hewes

To: Finance

## 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 PROVIDE A  
11 PENALTY FOR THE TRANSPORTATION OF GASOLINE WITHOUT THE REQUIRED  
12 SHIPPING DOCUMENTS, FOR THE DIVERSION OF A SHIPMENT OF GASOLINE TO  
13 A DESTINATION OTHER THAN THE DESTINATION LISTED ON THE SHIPPING  
14 DOCUMENT AND FOR THE ALTERATION OF A SHIPPING DOCUMENT; TO  
15 PROHIBIT THE ACCEPTANCE OF A DELIVERY OF GASOLINE IF THE  
16 DESTINATION STATE SHOWN ON THE SHIPPING DOCUMENT IS A STATE OTHER  
17 THAN THIS STATE AND TO PROVIDE PENALTIES IF SUCH A SHIPMENT IS  
18 ACCEPTED; TO AMEND SECTION 27-55-507, MISSISSIPPI CODE OF 1972, TO  
19 INCREASE THE MAXIMUM AMOUNT OF BOND THAT A PERSON WHO DESIRES TO  
20 ENGAGE IN BUSINESS AS A DISTRIBUTOR OF SPECIAL FUEL IS REQUIRED TO  
21 POST; TO AMEND SECTION 27-55-559, MISSISSIPPI CODE OF 1972, TO  
22 PROVIDE A PENALTY FOR THE TRANSPORTATION OF SPECIAL FUEL WITHOUT  
23 THE REQUIRED SHIPPING DOCUMENTS, FOR THE DIVERSION OF A SHIPMENT  
24 OF SPECIAL FUEL TO A DESTINATION OTHER THAN THE DESTINATION LISTED  
25 ON THE SHIPPING DOCUMENT AND FOR THE ALTERATION OF A SHIPPING  
26 DOCUMENT; TO PROHIBIT THE ACCEPTANCE OF A DELIVERY OF SPECIAL FUEL  
27 IF THE DESTINATION STATE SHOWN ON THE SHIPPING DOCUMENT IS A STATE  
28 OTHER THAN THIS STATE AND TO PROVIDE PENALTIES IF SUCH A SHIPMENT  
29 IS ACCEPTED; AND FOR RELATED PURPOSES.

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

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

33 27-55-7. Before any person shall engage in business as a  
34 distributor of gasoline in this state, he shall first make  
35 application to the commission, upon forms prescribed by the  
36 commission, for a permit to engage in \* \* \* business as a  
37 distributor of gasoline.

38 If the application is approved by the commission, the  
39 applicant shall enter into a good and sufficient surety bond,  
40 written by a company qualified to write such bonds in this state.

41 The bond shall be made payable to the State of Mississippi in a  
42 sum of not less than One Thousand Dollars (\$1,000.00) nor more  
43 than Five Hundred Thousand Dollars (\$500,000.00), the amount to be  
44 determined by the commission; or, in lieu thereof, the applicant  
45 may deposit with the commission a cash bond in the amount so  
46 determined. A personal bond in the amount so determined shall  
47 also be acceptable in lieu of a surety bond if the bond is  
48 adequately secured by the pledge or assignment of a pledgeable or  
49 assignable bond or bonds of the State of Mississippi or the United  
50 States Government. Such bond or bonds shall be in an amount not  
51 to exceed Five Hundred Thousand Dollars (\$500,000.00), and not to  
52 exceed the gasoline tax estimated to become due by the \* \* \*  
53 distributor of gasoline for any ninety-day period.

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

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

71 \* \* \* Any person who purchases all of his gasoline on a  
72 tax-paid basis and from a qualified bonded distributor of gasoline  
73 for sale or distribution to retailers for resale to consumers

shall not be required to make bond for the gasoline purchased, but shall be subject to all the other provisions of this article regulating and governing distributors of gasoline.

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

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

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

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

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

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

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

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

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

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

125       (b) Any captain of a ship, boat, barge, towboat or  
126 vessel found in violation of this subsection shall be fined One  
127 Thousand Dollars (\$1,000.00) per offense and the entire amount of  
128 the state excise tax upon the taxable petroleum product unloaded  
129 shall be due and payable plus a penalty of twenty-five percent  
130 (25%) of the amount of the excise tax.

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

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

27-55-53. (1) (a) Every person hauling, transporting or conveying more than fifty (50) gallons of gasoline over the highways, streets, alleys or waters of this state, or into this state over any highway, street, alley or water route, shall, during the entire time he is so engaged, have in his possession a bill of sale, bills of lading, invoices or other written evidence, each of which shall be serially numbered, showing the kind and amount of gasoline being transported, the name and address of the person from whom the gasoline was received, and the name and address of the person to whom delivery is to be made. The vehicle or boat conveying the gasoline shall have clearly printed on it the name and address of the person transporting the gasoline on both sides of the vehicle or boat, in well-balanced letters of not less than two (2) inches in height on a contrasting background.

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

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

169       (2) The commission, its employees or agents, enforcement  
170 officers of the Mississippi Department of Transportation, or any  
171 sheriff, deputy sheriff, constable or police officer of this  
172 state, are \* \* \* authorized to inspect any vehicle or boat  
173 transporting gasoline over the highways, streets, alleys or waters  
174 of this state, to examine the contents of any such vehicle or  
175 boat, to take a sample of each grade of gasoline contained in the  
176 vehicle or boat provided no sample shall exceed one (1) gallon,  
177 and to inspect the bills of lading, invoices or other records  
178 pertaining to the gasoline being transported in such vehicle or  
179 boat.

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

188       (b) If any person, other than a common or contract  
189 carrier, shall transport gasoline over the highways of this state  
190 by motor vehicle without having given the notice required by this  
191 subsection, or if a copy of the notice is not carried in the motor  
192 vehicle as required by this section, the entire amount of the  
193 state excise tax upon the gasoline being transported shall  
194 be \* \* \* due and payable, plus a penalty of twenty-five percent  
195 (25%) of the amount of such tax. However, the penalty shall not  
196 apply when the driver of the truck stops at the first weighing  
197 station in the line of travel and secures the signature of the  
198 officer on duty on the import notice.

199       (c) \* \* \* Any authorized representative of the  
200 commission or the enforcement officers of the Mississippi  
201 Department of Transportation shall have the right to seize or

202 impound the motor vehicle in which such gasoline is being  
203 transported until the excise tax and the penalty imposed by this  
204 subsection have been paid. \* \* \*

205 (5) The person to whom gasoline is delivered by barge,  
206 railroad tank car or transport vehicle may not accept delivery of  
207 the gasoline if the destination state shown on the shipping  
208 document for the gasoline is a state other than this state. The  
209 person to whom the gasoline is delivered shall examine the  
210 shipping document to determine if the destination state is this  
211 state and shall retain a copy of the shipping document for three  
212 (3) years. A person who accepts a delivery of gasoline with a  
213 shipping document that lists a destination state other than this  
214 state shall be fined One Thousand Dollars (\$1,000.00) for each  
215 occurrence.

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

218 27-55-507. Before any person shall engage in business as a  
219 distributor of special fuel in this state, he shall first make  
220 application to the commission, upon forms prescribed by the  
221 commission, for a permit to engage in \* \* \* business as a  
222 distributor of special fuel.

223 If the application is approved by the commission, the  
224 applicant shall enter into a good and sufficient surety bond,  
225 written by a company qualified to write such bonds in this state.  
226 The bond shall be made payable to the State of Mississippi in a  
227 sum not less than One Thousand Dollars (\$1,000.00) nor more than  
228 Five Hundred Thousand Dollars (\$500,000.00), the amount to be  
229 determined by the commission; or, in lieu thereof, the applicant  
230 may deposit with the commission a cash bond in the amount so  
231 determined. A personal bond in the amount so determined shall  
232 also be acceptable in lieu of a surety bond if the bond is  
233 adequately secured by the pledge or assignment of a pledgeable or  
234 assignable bond, or bonds, of the State of Mississippi or the

235 United States government. Such bond or bonds shall be in an  
236 amount not to exceed Five Hundred Thousand Dollars (\$500,000.00),  
237 and not to exceed the special fuel taxes estimated to become due  
238 by the distributor of special fuel for any ninety-day period. The  
239 bond required by this section shall be increased within the  
240 limits \* \* \* set forth in this section \* \* \* if it is deemed  
241 insufficient by the commission. Prior to any increase in the  
242 bond, the commission shall give to the distributor of special fuel  
243 fifteen (15) days' notice, in writing, of the increase in the  
244 bond, the notice to state the amount of increase demanded.

245 The condition of the bond shall be that the distributor of  
246 special fuel shall fully comply with all laws pertaining to  
247 distributors of special fuel and pertaining to the transportation  
248 of special fuel as regulated by this article, and that he shall  
249 pay the special fuel taxes, and the penalties provided.

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

252 27-55-559. (1) (a) Every person hauling, transporting or  
253 conveying more than five hundred (500) gallons of special fuel  
254 over the highways, streets, alleys or waters of this state, or  
255 into this state over any highway, street, alley or water route,  
256 shall, during the entire time he is so engaged, have in his  
257 possession a bill of sale, bills of lading, invoices or other  
258 written evidence, each of which shall be serially numbered,  
259 showing the kind and amount of special fuel being transported, the  
260 name and address of the person from whom the special fuel was  
261 received, and the name and address of the person to whom delivery  
262 is to be made. The vehicle or boat conveying the special fuel  
263 shall have clearly printed on it the name and address of the  
264 person transporting the special fuel on both sides of the vehicle  
265 or boat in well-balanced letters of not less than two (2) inches  
266 in height on a contrasting background.



267           (b) Any person who diverts a shipment of special fuel  
268 to a destination other than the destination listed on the document  
269 or who alters a shipping document without notice to the commission  
270 of the diversion or alteration, or who transports gasoline without  
271 a bill of sale, bill of lading, invoice or other written evidence  
272 required by this subsection, shall be fined One Thousand Dollars  
273 (\$1,000.00) and the entire amount of the state excise tax upon the  
274 gasoline shall be due and payable plus a penalty of twenty-five  
275 percent (25%) of the amount of the excise tax. Notice of a  
276 diversion of a shipment or alteration of a shipping document shall  
277 consist of contacting the National Diversion Registry, reporting  
278 the diversion and obtaining a registration number.

279           (c) Any authorized representative of the commission or  
280 the enforcement officers of the Mississippi Department of  
281 Transportation shall have the right to seize or impound such  
282 vehicle or boat until the excise tax and the penalty imposed by  
283 this subsection have been paid.

284           (2) (a) Any person, other than a common or contract carrier  
285 bringing special fuel into this state in quantities of more than  
286 five hundred (500) gallons, shall give notice to the commission of  
287 his intent to import such special fuel. The commission is  
288 authorized to promulgate rules setting forth the manner in which  
289 the notice is to be given. However, if information on special  
290 fuel imported into this state can be accurately secured from other  
291 sources by the commission, it may waive the requirements of such  
292 notice.

293           (b) If any person, other than a common or contract  
294 carrier, shall transport special fuel over the highways of this  
295 state by motor vehicle without having given the notice required by  
296 this subsection, or if a copy of such notice is not carried in  
297 such motor vehicle as required by this subsection, the entire  
298 amount of the state excise tax upon the special fuel being  
299 transported shall be \* \* \* due and payable, plus a penalty of

300 twenty-five percent (25%) of the amount of such tax. However,  
301 that the penalty shall not apply when the driver of the truck  
302 stops at the first weighing station in the line of travel and  
303 secures the signature of the officer on duty on the import notice.

304           (c) Any authorized representative of the commission or  
305 enforcement officers of the Mississippi Department of  
306 Transportation shall have the right to seize or impound the motor  
307 vehicle in which the special fuel is being transported until such  
308 excise tax and the penalty thereon have been paid. \* \* \*

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