

By: Representatives Broomfield, Watson

To: Ways and Means

HOUSE BILL NO. 1616

1 AN ACT TO AMEND SECTION 27-55-527, MISSISSIPPI CODE OF 1972,
 2 TO EXEMPT FROM EXCISE TAX ANY SPECIAL FUEL SOLD OR DELIVERED IN
 3 BOND, OR SOLD AND DELIVERED, TO A PERSON WITHIN A FOREIGN-TRADE
 4 ZONE WITHIN THIS STATE AND SOLD, USED, CONSUMED, DISTRIBUTED,
 5 STORED OR WITHDRAWN FROM STORAGE AND USED TO PROPEL AIRCRAFT ON AN
 6 INTERNATIONAL FLIGHT INCLUDING ANY INTERIM STOPS WITHIN THE UNITED
 7 STATES SO LONG AS THE ULTIMATE ORIGIN OR DESTINATION OF THE
 8 AIRCRAFT IS OUTSIDE THE UNITED STATES AND DISTRICT OF COLUMBIA;
 9 AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 27-55-527, Mississippi Code of 1972, is
 12 amended as follows:

13 27-55-527. (1) There shall not be included in the measure
 14 of the tax levied in this article any special fuel:

15 (a) Sold or delivered by a bonded distributor of
 16 special fuel to a second bonded distributor of special fuel within
 17 this state, but nothing in this exclusion shall exempt the second
 18 bonded distributor of special fuel from paying the tax unless the
 19 second bonded distributor of special fuel sells or delivers said
 20 special fuel to a third bonded distributor of special fuel, in
 21 which event the third bonded distributor of special fuel shall be
 22 liable for the tax.

23 (b) Sold to the United States government for use of the
 24 Armed Forces only, and delivered in quantities of not less than
 25 four thousand (4,000) gallons.

26 (c) Delivered to a bonded warehouse for storage within
 27 this state for the United States Department of Interior.

28 (d) Exported to a destination beyond the borders of
 29 this state by a bonded distributor of special fuel when the tax on
 30 such special fuel has been paid or on which the tax liability

31 imposed by this article has accrued against such bonded
32 distributor.

33 (e) Imported by, or sold to, any refiner or processor
34 in this state for the purpose of being refined or further
35 processed.

36 (f) Sold or delivered to any person within this state
37 to be used as a herbicide or as a solvent for insecticides, wood
38 preservatives and like products, or when so used in a commercial
39 process that they become a component part of any manufactured
40 product or where used as a processing agent in the treatment of
41 raw material in manufacturing any product.

42 (g) Sold or delivered to be used for test purposes at
43 any regularly established testing laboratory in this state.

44 (h) Sold to be consumed as fuel by any boat, vessel,
45 ship, towboat or dredgeboat, or sold to the holder of a Marine
46 Dealers Permit for resale or distribution as fuel for a boat,
47 vessel, ship, towboat or dredgeboat.

48 (i) Sold as bunker oil or sold to be used for the
49 generation of heat in a firebox or furnace.

50 (j) Sold or delivered to be used for the purpose of
51 generating electricity.

52 (k) Sold for use as fuel in a railroad locomotive when
53 subject to the tax levied by Section 27-59-301 et seq.

54 (l) Sold or delivered in bond, or sold or delivered, to
55 any person within a foreign-trade zone within this state and sold,
56 used, consumed, distributed, stored or withdrawn from storage and
57 used to propel aircraft on an international flight including any
58 interim stops within the United States so long as the ultimate
59 origin or destination of the aircraft is outside the United States
60 and District of Columbia. As used in this paragraph,
61 "foreign-trade zone" means a foreign-trade zone operated and
62 maintained by a public or private corporation under the provisions
63 of Sections 59-3-31 through 59-3-37.

64 (2) The exemptions set forth in paragraphs (f), (h), (i) and
65 (j) of subsection (1) of this section shall not apply to special
66 fuel used in performing contracts for construction,
67 reconstruction, maintenance or repairs, where such contracts are
68 entered into with the State of Mississippi, any political
69 subdivision of the State of Mississippi, or any department, agency
70 or institution of the State of Mississippi or any political
71 subdivision thereof.

72 (3) Evidence of exempt transactions provided in this section
73 and the subsections thereof shall consist of copies of invoices,
74 documents or any other evidence that may be required by the
75 commission.

76 (4) Any person other than a bonded distributor of special
77 fuel who has delivered or sold special fuel on which the tax has
78 been paid by him to the vendor may, if the special fuel is subject
79 to exemption under this article, assign his claim for exemption to
80 any bonded distributor of special fuel in this state. Such
81 distributor may deduct the amount of the tax exemption from his
82 next special fuel report, provided the distributor furnishes
83 evidence satisfactory to the commission that the claim for
84 exemption is valid.

85 (5) When special fuel is withdrawn from the storage tank of
86 a refiner, processor, marine or pipeline terminal operator and the
87 tax is paid on such special fuel and it or any part thereof cannot
88 be delivered to a purchaser, said refiner, processor, marine or
89 pipeline terminal operator may deduct the tax on all or that
90 portion of such special fuel not delivered to a purchaser from its
91 next special fuel distributor's tax report, provided that such
92 refiner, processor, marine or pipeline terminal operator submits
93 with such tax report: (a) a written report setting forth the
94 reasons why such delivery could not be made, and (b) proof or
95 evidence satisfactory to the commission that the tax in question
96 had theretofore been paid to the commission, and (c) proof or

97 evidence satisfactory to the commission that the nondelivered
98 special fuel was actually returned to the refinery, processor,
99 marine or pipeline terminal from which it was taken for the
100 purpose of delivering it to a purchaser; and provided further,
101 that immediately upon ascertainment by the refiner, processor,
102 marine or pipeline terminal operator that said special fuel cannot
103 be delivered, he or it shall immediately notify the commission of
104 this fact and before moving his or its truck or other means of
105 transporting such special fuel from the intended point of
106 delivery; and should the commission desire to inspect such truck
107 or other means of conveyance, such refiner, processor, marine or
108 pipeline terminal operator shall arrange for such inspection at
109 that point or at such other point that may be designated by the
110 commission.

111 (6) In order to claim exemptions provided for under this
112 article, the distributor of special fuel must file claims therefor
113 within three (3) years from the date of sale or delivery;
114 otherwise, claims for such exemptions shall be disallowed.

115 **SECTION 2.** This act shall take effect and be in force from
116 and after its passage.