

By: Senator(s) Robertson

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2371

1 AN ACT TO AMEND SECTION 27-55-5, MISSISSIPPI CODE OF 1972, TO
2 DEFINE "ETHANOL," "ETHANOL PRODUCER" AND "GASOHOL" FOR PURPOSES OF
3 THE GASOLINE TAX LAW AND TO CLARIFY THE DEFINITION OF GASOLINE; TO
4 CREATE NEW SECTION 27-55-8, MISSISSIPPI CODE OF 1972, TO REQUIRE
5 PERSONS OPERATING A FACILITY THAT PRODUCES ETHANOL TO OBTAIN AN
6 ETHANOL PRODUCERS PERMIT FROM THE STATE TAX COMMISSION; TO REQUIRE
7 A PERSON WHO BLENDS ETHANOL, METHANOL OR ANY OTHER PRODUCT WITH
8 GASOLINE TO OBTAIN A BLENDERS PERMIT FROM THE STATE TAX
9 COMMISSION; TO AMEND SECTION 27-55-11, MISSISSIPPI CODE OF 1972,
10 TO REMOVE THE REQUIREMENT THAT TANKS INTO WHICH GASOLINE IS
11 DISCHARGED TO HAVE CORRECT GAUGE TABLES LISTING CAPACITY PREPARED
12 BY A CALIBRATING AGENCY APPROVED BY THE STATE TAX COMMISSION; TO
13 SPECIFY THE POINT AT WHICH THE GASOLINE EXCISE TAX ACCRUES ON
14 ETHANOL; TO REQUIRE CERTAIN REPORTS TO THE STATE TAX COMMISSION
15 REGARDING SALES AND DELIVERIES OF ETHANOL; TO AMEND SECTION
16 27-55-19, MISSISSIPPI CODE OF 1972, TO REMOVE THE EXCISE TAX
17 EXEMPTION FOR GASOLINE EXPORTED BY PERSONS TO A DESTINATION BEYOND
18 THE BORDERS OF THIS STATE; TO CLARIFY CERTAIN PROVISIONS RELATING
19 TO REFUNDS OF THE GASOLINE TAX; TO AMEND SECTION 27-55-45,
20 MISSISSIPPI CODE OF 1972, TO REMOVE THE \$25,000.00 LIMIT ON THE
21 CREDIT THAT MAY BE TAKEN BY A PERSON AGAINST SUBSEQUENT TAX
22 REPORTS IN THE EVENT TAXES OR PENALTIES IMPOSED UNDER THE GASOLINE
23 TAX LAW HAVE BEEN ILLEGALLY OR ERRONEOUSLY COLLECTED FROM HIM; TO
24 CREATE NEW SECTION 27-55-67, MISSISSIPPI CODE OF 1972, TO PROVIDE
25 THAT THE PROVISIONS OF THE GASOLINE TAX LAW SHALL NOT APPLY TO
26 CERTAIN PRODUCERS OF ETHANOL WHO PRODUCE ETHANOL EXCLUSIVELY FOR
27 THEIR OWN MOTOR VEHICLES IF THEY OBTAIN THE PERMIT REQUIRED FOR
28 SUCH PRODUCTION; TO AMEND SECTION 27-55-505, MISSISSIPPI CODE OF
29 1972, TO INCLUDE BIODIESEL AND BIOFUEL WITHIN THE DEFINITION OF
30 THE TERM "SPECIAL FUEL" IN THE MISSISSIPPI SPECIAL FUEL TAX LAW;
31 TO DEFINE "BIODIESEL," "BIOFUEL," "BIODIESEL PRODUCER," "BIOFUEL
32 PRODUCER" AND "UNDYED KEROSENE" FOR PURPOSES OF THE MISSISSIPPI
33 SPECIAL FUEL TAX LAW AND TO CLARIFY THE DEFINITION OF THE TERM
34 "REFINER"; TO CREATE NEW SECTION 27-55-508, MISSISSIPPI CODE OF
35 1972, TO REQUIRE PERSONS OPERATING FACILITIES PRODUCING BIODIESEL
36 TO OBTAIN A BIODIESEL PRODUCERS PERMIT FROM THE STATE TAX
37 COMMISSION; TO REQUIRE PERSONS OPERATING FACILITIES PRODUCING
38 BIOFUEL TO OBTAIN A BIOFUEL PRODUCERS PERMIT FROM THE STATE TAX
39 COMMISSION; TO REQUIRE ANY PERSON WHO BLENDS BIODIESEL, BIOFUEL OR
40 ANY OTHER PRODUCT TO PRODUCE SPECIAL FUEL TO OBTAIN A BLENDERS
41 PERMIT; TO AMEND SECTION 27-55-519, MISSISSIPPI CODE OF 1972, TO
42 CLARIFY THE EXCISE TAX ON BIODIESEL, BIOFUEL AND BLENDS OF SUCH
43 FUEL AND DIESEL; TO AMEND SECTION 27-55-521, MISSISSIPPI CODE OF
44 1972, TO CLARIFY THE EXCISE TAX ON BIODIESEL AND BIOFUEL; TO AMEND
45 SECTION 27-55-527, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
46 BIODIESEL OR BIOFUEL SHALL NOT BE SUBJECT TO THE SPECIAL FUEL TAX
47 UNTIL BLENDED WITH PETROLEUM DIESEL FUEL OR ANY OTHER PRODUCT OR
48 IS SOLD FOR USE AS FUEL AND TO PROVIDE FOR A REFUND OF THE SPECIAL
49 FUEL TAX WHEN AN EXEMPT SALE OCCURS AND THE TAX HAS ALREADY BEEN
50 PAID; TO CREATE NEW SECTION 27-55-571, MISSISSIPPI CODE OF 1972,
51 TO PROVIDE THAT THE PROVISIONS OF THE MISSISSIPPI SPECIAL FUEL TAX
52 LAW SHALL NOT APPLY TO CERTAIN PRODUCERS OF BIODIESEL AND BIOFUEL

53 WHO PRODUCE BIODIESEL OR BIOFUEL EXCLUSIVELY FOR THEIR OWN MOTOR
54 VEHICLES IF THEY OBTAIN THE PERMIT REQUIRED FOR SUCH PRODUCTION;
55 TO CREATE SECTIONS 27-55-701, 27-55-703, 27-55-705, 27-55-707,
56 27-55-709, 27-55-711, 27-55-713, 27-55-715, 27-55-717 AND
57 27-55-719, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE REGULATION
58 BY THE STATE TAX COMMISSION OF PRODUCERS OF FUEL ALCOHOL,
59 BIODIESEL OR BIOFUEL WHO PRODUCE SUCH FUEL FOR USE EXCLUSIVELY IN
60 THEIR OWN MOTOR VEHICLES AND PRODUCE LESS THAN 5,000 GALLONS OF
61 FUEL ANNUALLY; TO IMPOSE AN ANNUAL PERMIT FEE ON PRODUCERS OF SUCH
62 FUEL AND ON PERSONS WHO INSTALL A BIOFUEL CONVERSION KIT OR ANY
63 OTHER DEVICE CAPABLE OF PRODUCING FUEL ON THEIR MOTOR VEHICLE; TO
64 PROVIDE PENALTIES FOR FAILURE TO PAY THE REQUIRED PERMIT FEES AND
65 TO PROVIDE PENALTIES FOR THE SALE OR DISTRIBUTION OF SUCH FUEL; TO
66 REQUIRE SUCH PRODUCERS TO MAINTAIN CERTAIN RECORDS; TO AUTHORIZE
67 THE AGENTS AND EMPLOYEES OF THE STATE TAX COMMISSION TO HAVE FULL
68 ACCESS AT ALL REASONABLE HOURS TO BUILDINGS WHERE SUCH FUEL IS
69 PRODUCED; TO AUTHORIZE AGENTS AND EMPLOYEES OF THE STATE TAX
70 COMMISSION AND THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO
71 INSPECT ANY MOTOR VEHICLE EQUIPPED WITH A BIOFUEL CONVERSION KIT
72 OR ANY OTHER DEVICE CAPABLE OF PRODUCING FUEL ON THEIR MOTOR
73 VEHICLE; AND FOR RELATED PURPOSES.

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

75 **SECTION 1.** Section 27-55-5, Mississippi Code of 1972, is
76 amended as follows:

77 27-55-5. The words, terms and phrases as used in this
78 article shall have the following meanings unless the context
79 requires otherwise:

80 (a) "Gasoline" means:

81 (i) All products commonly or commercially known or
82 sold as gasoline (excluding casinghead and absorption or natural
83 gasoline) regardless of their classification or uses; * * *

84 (ii) Any liquid prepared, advertised, offered for
85 sale or sold for use as or commonly and commercially used as a
86 fuel in internal combustion engines, which when subjected to
87 distillation in accordance with the standard method of test for
88 distillation of gasoline, naphtha, kerosene and similar petroleum
89 products (American Society for Testing Materials Designation D-86)
90 shows not less than ten percent (10%) distilled (recovered) below
91 two hundred sixty (260) degrees Fahrenheit and not less than
92 ninety-five percent (95%) distilled (recovered) below four hundred
93 sixty-four (464) degrees Fahrenheit;

94 (iii) Ethanol;

95 (iv) Any blend of gasoline and ethanol or any
96 blend of gasoline and blend stock; and

97 (v) Gasohol.

98 The term "gasoline" shall include "aviation gasoline."

99 The term "gasoline" shall not include:

100 (i) Liquefied gases which would not exist as
101 liquid at a temperature of sixty (60) degrees Fahrenheit and at a
102 pressure of fourteen and seven-tenths (14.7) pounds per square
103 inch absolute;

104 (ii) Commercial solvents or naphthas or raw
105 petroleum products or petrochemicals intermediates when used as or
106 sold for use in production or manufacture of plastics, detergents,
107 synthetic rubber, herbicides or other chemicals or products which
108 are not prepared, advertised, offered for sale or sold for use or
109 suitable for use as fuel for generating power in internal
110 combustion engines;

111 (iii) Racing gasoline.

112 (b) "Aviation gasoline" means gasoline refined or
113 manufactured, according to the specifications for aviation
114 gasoline set forth in ASTM D-910, for exclusive use in
115 reciprocating aviation engines.

116 (c) "Person" means any individual, firm, copartnership,
117 joint venture, association, corporation, estate, trust or any
118 other group or combination acting as a unit, and the plural as
119 well as the singular number unless the intention to give a more
120 limited meaning is disclosed by the context.

121 (d) "Distributor of gasoline" means:

122 (i) Any person importing gasoline into this state;

123 (ii) Any person receiving, purchasing, acquiring,
124 using, storing or selling any gasoline in this state on which the
125 gasoline excise tax imposed by this article has not been paid;

126 (iii) Refiners, blenders, marine terminal
127 operators, pipeline terminal operators or ethanol producers; and

128 (iv) Any person licensed to sell gasoline in
129 another state or jurisdiction who is authorized by that state or
130 jurisdiction to collect the gasoline excise tax imposed by this
131 article.

132 (e) "Highway" means every way or place, of whatever
133 nature including public roads, toll roads, streets and alleys of
134 this state generally open to the use of the public or to be opened
135 or reopened to the use of the public for the purpose of vehicular
136 travel, and notwithstanding that the same may be temporarily
137 closed for the purpose of construction, reconstruction,
138 maintenance or repair. The confines of a highway shall include
139 the entire width and length of the right-of-way.

140 (f) "Refiner" means every person who manufactures
141 finished petroleum products from crude oil, unfinished oils,
142 natural gas liquids or other hydrocarbons * * *.

143 (g) "Bonded distributor of gasoline" means any person
144 holding a valid gasoline distributor's permit issued by the
145 commission.

146 (h) "For agricultural or maritime purposes" means
147 gasoline used:

148 (i) In operating farm tractors or other farm
149 equipment used exclusively in plowing, planting or harvesting farm
150 products, or in operating boats, and no part of which is used in
151 any motor vehicle or equipment driven or operated upon the public
152 roads, streets or highways of this state; and

153 (ii) As a fuel in a farm tractor using the
154 highways solely in hauling or transporting farm products of the
155 soil from the farm to a gin or market where the title to such
156 products is still in the producer, or in transporting fertilizer
157 or feed to the farm, where the title to such products is still in
158 the user.

159 (i) "For industrial purposes" means gasoline used in
160 engines or motors of stationary or portable type for the purpose

161 of operating machinery used for manufacturing or used for
162 industrial purposes, and no part of which machinery is driven or
163 operated upon the public roads, streets or highways of this state.

164 (j) "For domestic purposes" means gasoline used for any
165 other purpose than agricultural, maritime, industrial or
166 manufacturing, and no part of which is used for operating motor
167 vehicles or motor-propelled machines of any description along the
168 public roads, streets, alleys or highways (as defined in this
169 article) of this state.

170 (k) "For nonhighway purposes" means gasoline used for
171 any other purpose than agricultural, maritime, industrial,
172 manufacturing or domestic purposes, and no part of which is used
173 for operating motor vehicles or motor-propelled machines of any
174 description along the public roads, streets, alleys or highways
175 (as defined in this article) of this state.

176 (l) "For aviation purposes" means gasoline used for the
177 operation of aircraft.

178 (m) "Refund gasoline" means gasoline used or to be used
179 for agricultural, maritime, industrial, manufacturing, domestic or
180 nonhighway purposes only, as these terms are defined in this
181 article.

182 (n) "Commission" means the State Tax Commission, acting
183 either directly or through its duly authorized officers, agents or
184 employees.

185 (o) "United States government" means and includes all
186 purchasing officers of the Armed Forces of the United States and
187 the United States Property and Fiscal Officer for the State of
188 Mississippi or any other state appointed pursuant to Section 708,
189 Title 32, United States Code, when purchasing gasoline with
190 federal funds for the account of and use by a component of the
191 Armed Forces as herein defined.

192 (p) "Armed Forces" means and includes all components of
193 the Armed Forces of the United States including the Army National

194 Guard, the Army National Guard of the United States, the Air
195 National Guard and the Air National Guard of the United States, as
196 those terms are defined in Section 101, Title 10, United States
197 Code, and any other reserve component of the Armed Forces of the
198 United States enumerated in Section 261, Title 10, United States
199 Code.

200 (q) "Blend stock" means * * * methanol or any other
201 products blended with gasoline to produce motor fuel.

202 (r) "Blender" means any person other than a refiner who
203 blends blend stock or ethanol with gasoline or who sells or
204 distributes blend stock for the purpose of being blended with
205 gasoline.

206 (s) "Racing gasoline" means gasoline manufactured
207 exclusively for use in racing and gasoline containing lead, or
208 having an octane rating of 105 or higher that is not suitable for
209 use on the highways.

210 (t) "Ethanol" means alcohol derived from grain or other
211 agricultural products of any biomass that meets American Society
212 of Testing Materials (ASTM) designation D-4806-956 and is
213 denatured according to federal regulations.

214 (u) "Ethanol producer" means the operator of a facility
215 producing ethanol.

216 (v) "Gasohol" means a blend of gasoline and ethanol.

217 **SECTION 2.** The following provision shall be codified as
218 Section 27-55-8, Mississippi Code of 1972:

219 27-55-8. (1) Any person operating a facility producing
220 ethanol shall be required to obtain an ethanol producers permit.

221 (2) Any person who blends ethanol, methanol or any other
222 product with gasoline to produce motor fuel shall be required to
223 obtain a blenders permit.

224 (3) Application for the permits prescribed by this section
225 shall be made on forms and in a manner prescribed by the
226 commission.

227 **SECTION 3.** Section 27-55-11, Mississippi Code of 1972, is
228 amended as follows:

229 27-55-11. (1) Any person in business as a distributor of
230 gasoline or who acts as a distributor of gasoline, as defined in
231 this article, shall pay for the privilege of engaging in such
232 business or acting as such distributor an excise tax equal to
233 Eighteen Cents (18¢) per gallon until the date specified in
234 Section 65-39-35, and Fourteen and Four-tenths Cents (14.4¢) per
235 gallon thereafter, on all gasoline and blend stock stored, sold,
236 distributed, manufactured, refined, distilled, blended or
237 compounded in this state or received in this state for sale, use
238 on the highways, storage, distribution, or for any purpose.

239 (2) Any person in business as a distributor of aviation
240 gasoline, or who acts as a distributor of aviation gasoline, shall
241 pay for the privilege of engaging in such business or acting as
242 such distributor an excise tax equal to Six and Four-tenths Cents
243 (6.4¢) per gallon on all aviation gasoline stored, sold,
244 distributed, manufactured, refined, distilled, blended or
245 compounded in this state or received in this state for sale,
246 storage, distribution or for any purpose.

247 (3) The excise taxes collected under this section shall be
248 paid and distributed in accordance with Section 27-5-101.

249 (4) The tax herein imposed and assessed shall be collected
250 and paid to the State of Mississippi but once in respect to any
251 gasoline. The basis for determining the tax liability shall be
252 the correct invoiced gallons, adjusted to sixty (60) degrees
253 Fahrenheit at the refinery or point of origin of shipment when
254 such shipment is made by tank car or by motor carrier.

255 (5) The point of origin of shipment of gasoline transported
256 into this state by pipelines shall be deemed to be that point in
257 this state where such gasoline is withdrawn from the pipeline for
258 storage or distribution, and adjustment to sixty (60) degrees
259 Fahrenheit shall there be made.

260 (6) The basis for determining the tax liability on gasoline
261 shipped into this state in barge cargoes and by pipeline shall be
262 the actual number of gallons adjusted to sixty (60) degrees
263 Fahrenheit unloaded into storage tanks or other containers in this
264 state, such gallonage to be determined by measurement and/or gauge
265 of storage tank or tanks or by any other method authorized by the
266 commission. * * *

267 (7) The tax levied herein shall accrue at the time gasoline
268 is withdrawn from a refinery in this state except when withdrawal
269 is by pipeline, barge, ship or vessel. The refiner shall pay to
270 the commission the tax levied herein when gasoline is sold or
271 delivered to persons who do not hold gasoline distributor permits.
272 The refiner shall report to the commission all sales and
273 deliveries of gasoline to bonded distributors of gasoline. The
274 bonded distributor of gasoline who purchases, receives or acquires
275 gasoline from a refinery in this state shall report such gasoline
276 and pay the tax levied herein.

277 (8) Gasoline imported by common carrier shall be deemed to
278 be received by the distributor of gasoline, and the tax levied
279 herein shall accrue, when the car or tank truck containing such
280 gasoline is unloaded by the carrier.

281 (9) With respect to distributors or other persons who bring,
282 ship, have transported, or have brought into this state gasoline
283 by means other than through a common carrier, the tax accrues and
284 the tax liability attaches on the distributor or other person for
285 each gallon of gasoline brought into the state at the time when
286 and at the point where such gasoline is brought into the state.

287 (10) The tax levied herein shall accrue at the time ethanol
288 is withdrawn from an ethanol production facility in this state.
289 The ethanol producer shall pay to the commission the tax levied
290 herein when ethanol is sold or delivered to persons who do not
291 hold gasoline distributor permits. The ethanol producer shall
292 report to the commission all sales and deliveries of ethanol to

293 bonded distributors of gasoline. The bonded distributor who
294 purchases, receives or acquires ethanol from an ethanol production
295 facility in this state shall report such ethanol and pay the tax
296 levied herein.

297 (11) The tax levied herein shall accrue on blend stock at
298 the time it is blended with gasoline. The blender shall pay to
299 the commission the tax levied herein when blend stock is sold or
300 delivered to persons who do not hold gasoline distributor permits.
301 The blender shall report to the commission all sales and
302 deliveries of blend stock to bonded distributors of gasoline. The
303 bonded distributor of gasoline who purchases, receives or acquires
304 blend stock from a blender in this state shall report blend stock
305 and pay the tax levied herein.

306 **SECTION 4.** Section 27-55-19, Mississippi Code of 1972, is
307 amended as follows:

308 27-55-19. (1) There shall not be included in the measure of
309 the tax levied hereunder any gasoline:

310 (a) Sold or delivered by a bonded distributor of
311 gasoline to a second bonded distributor of gasoline within this
312 state, but nothing in this exclusion shall exempt the second
313 bonded distributor of gasoline from paying the tax, unless the
314 second bonded distributor of gasoline sells or delivers said
315 gasoline to a third bonded distributor of gasoline in which event
316 the third bonded distributor of gasoline shall be liable for the
317 tax.

318 (b) Sold to the United States government for use of the
319 Armed Forces only, and delivered in quantities of not less than
320 four thousand (4,000) gallons. Any exemption provided in this
321 paragraph (b) may be deducted without the prior approval of the
322 commission, provided that satisfactory proof of such exemption
323 shall be furnished to the commission. However, the exemption may
324 be disallowed by the commission if the distributor fails to
325 furnish satisfactory proof of the exemption to the commission.

326 (c) Exported to a destination beyond the borders of
327 this state by a bonded distributor of gasoline when the tax on the
328 gasoline has been paid or on which the tax liability imposed by
329 this article has accrued against the bonded distributor. Any
330 exemption provided in this paragraph (c) may be deducted without
331 the prior approval of the commission, provided that satisfactory
332 proof of the exemption shall be furnished to the commission;
333 however, such exemption may be disallowed by the commission if the
334 distributor fails to furnish satisfactory proof of the exemption
335 to the commission within ninety (90) days from the sale or
336 delivery of the gasoline.

337 * * *

338 (d) Imported by, or sold to, any refiner or processor
339 in this state for the purpose of being refined or further
340 processed.

341 (e) Sold to any manufacturer for blending or
342 compounding to the end that it becomes a component part of any
343 manufactured product, or where used as a processing agent in the
344 treatment of raw material in manufacturing a product which does
345 not fall within the meaning of the term "gasoline" as defined in
346 this article.

347 (f) Sold or delivered to be used for test purposes at
348 any regularly established testing laboratory in this state.

349 (2) Except as provided in paragraphs (b) and (c) of
350 subsection (1) of this section, evidence of exempt transactions
351 provided in this section * * *, satisfactory to the commission,
352 shall be submitted by the distributor desiring an allowance of the
353 exemptions to the commission with the payment of the excise tax on
354 the gasoline on which the exemption is claimed. If the commission
355 decides that the distributor is entitled to the exemption and
356 allowance claimed, it shall notify the distributor in writing of
357 the allowance. The distributor shall then be allowed to deduct
358 from the payments made in his next monthly report, after the

359 allowance, the amount of tax which he paid on this exempted
360 gasoline which amount shall be arrived at by taking the amount of
361 exempted gasoline minus two percent (2%) allowed for evaporation,
362 shrinkage and other losses on gasoline, and multiplying the
363 remainder by the amount of excise tax per gallon. In cases where
364 the amount of the tax cannot be absorbed on the estimated tax
365 liability of the distributor during the next six (6) months, the
366 amount shall be refunded to the distributor. The amount shall be
367 certified to the State Auditor of Public Accounts by the
368 commission. The * * * Auditor is hereby authorized to make such
369 investigation and audit of the claim as he finds necessary. If he
370 finds that the commission is correct in its determination, the
371 Auditor may issue his warrant to the State Treasurer in favor of
372 the distributor for the amount of tax * * * paid, the refunds to
373 be made from current gasoline, or special fuel tax collections.

374 (3) Except as otherwise provided in this section, in order
375 to claim exemptions provided for under this article, the
376 distributor of gasoline must file claims therefor within three (3)
377 years from the date of sale or delivery; otherwise, claims for
378 such exemptions shall be disallowed.

379 (4) (a) In case gasoline and special fuel on which the tax
380 has been previously paid are accidentally mixed, the distributor
381 of gasoline or other person owning the mixture may ship the
382 mixture out of the State of Mississippi, or to a Mississippi
383 refinery, and may claim credit for the gasoline and/or special
384 fuel tax on the gasoline and special fuel so mixed. The
385 distributor of gasoline or other person may also ship the mixture
386 to a barge or pipeline storage terminal within the State of
387 Mississippi to be brought up to gasoline specifications, or
388 lowered to special fuel specifications, as the case might be,
389 under the supervision of a representative of the commission. It
390 shall be the duty of the distributor of gasoline or other person

391 to whom the mixed product belongs to notify the commission
392 immediately after knowledge that the mixture has occurred.

393 (b) In case the distributor of gasoline or other person
394 elects to ship the mixture to a barge or pipeline terminal for
395 storage within this state, the commission shall supervise the
396 unloading of the mixture.

397 (c) In order to perfect a claim for credit for the tax
398 on the gasoline and special fuel constituting any such mixture,
399 the distributor of gasoline or other person making the claim shall
400 do so in writing and shall furnish proof satisfactory to the
401 commission that the mixture was either shipped out of this state
402 or to a refinery or other approved place of storage within this
403 state. The commission shall notify the claimant, in writing,
404 whether or not his claim is approved, and, if approved, the
405 claimant may deduct the amount of the claim from his next tax
406 report. No such claim shall be allowed unless filed within three
407 (3) years after the date of such accidental mixture. Bonded
408 distributors of gasoline having no gasoline tax liability with the
409 commission may assign such tax credit to a bonded distributor of
410 gasoline having such tax liability.

411 (5) No tax liability shall accrue against the operator of a
412 refinery when shipments of gasoline are made from the refinery,
413 either by common carrier or by tank trucks owned and operated by
414 the operator of said refinery, to a tax-exempt account within this
415 state or to another refinery within this state; * * *
416 however, * * * when gasoline is withdrawn from the storage tank of
417 a refiner or processor on which the tax is paid on such gasoline
418 and it or any part thereof cannot be delivered to a purchaser, the
419 refiner or processor may deduct the tax on all or that portion of
420 the gasoline not delivered to a purchaser from its next gasoline
421 distributor's tax report; provided that the refiner or processor
422 submits with the tax report: (a) a written report setting forth
423 the reasons why the delivery could not be made, and (b) proof or

424 evidence satisfactory to the commission that the tax in question
425 had theretofore been paid to the commission, and (c) proof or
426 evidence satisfactory to the commission that the nondelivered
427 gasoline was actually returned to the refinery or processor from
428 which it was taken for the purpose of delivering it to a
429 purchaser; and provided further, that immediately upon
430 ascertainment by the refiner or processor that said gasoline
431 cannot be delivered, he or it shall immediately notify the
432 commission of this fact and before moving his or its truck or
433 other means of transporting the gasoline from the intended point
434 of delivery; and should the commission desire to inspect the
435 truck, or other means of conveyance, the refiner or processor
436 shall arrange for the inspection at the point or at such other
437 point that may be designated by the commission.

438 (6) The United States government, the State of Mississippi,
439 counties, municipalities, school districts and all other political
440 subdivisions of the state and volunteer fire departments chartered
441 under the laws of the State of Mississippi as nonprofit
442 corporations shall be exempt from Five and Four-tenths Cents
443 (5.4¢) of the portion of the gasoline excise tax rate which
444 exceeds Nine Cents (9¢) per gallon. Any exemption provided in
445 this subsection may be deducted without the prior approval of the
446 commission.

447 **SECTION 5.** Section 27-55-45, Mississippi Code of 1972, is
448 amended as follows:

449 27-55-45. In the event that any taxes or penalties imposed
450 by this article have been erroneously or illegally collected from
451 a distributor of gasoline or other person, the commission may,
452 upon approval by the commission, permit the distributor or other
453 person to take credit against a subsequent tax report for the
454 amount of the erroneous overpayment or the amount thereof may be
455 refunded to the distributor or other person in the same manner as
456 provided in Section 27-55-19. * * *

457 No refunds shall be made under the provisions of this section
458 unless a written claim is filed setting forth the circumstances by
459 reason of which such refund should be allowed. The claim shall be
460 in such form as the commission shall prescribe, and shall be filed
461 with the commission within three (3) years from the date of
462 payment of the taxes erroneously or illegally collected. Nothing
463 in this article shall be construed to prohibit a refund or credit
464 for tax paid on gasoline not subject to tax or which is exempt
465 from tax, provided there has not been a willful disregard of the
466 provisions of this article and further provided that the claim
467 therefor is filed within three (3) years.

468 **SECTION 6.** The following provision shall be codified as
469 Section 27-55-67, Mississippi Code of 1972:

470 27-55-67. The provisions of this article relating to ethanol
471 producers shall not apply to persons producing ethanol exclusively
472 for use in their own motor vehicles who have obtained a permit
473 from the commission under the provision of Sections 27-55-701, et
474 seq., and whose annual production is less than five thousand
475 (5,000) gallons.

476 **SECTION 7.** Section 27-55-505, Mississippi Code of 1972, is
477 amended as follows:

478 27-55-505. The words, terms and phrases as used in this
479 article shall have the following meanings unless the context
480 requires otherwise:

481 (a) "Special fuel" means kerosene, diesel fuel, fuel
482 oils, * * * any petroleum fuel, biodiesel, biofuel and blends of
483 petroleum diesel and biodiesel or biofuel or any other product
484 other than gasoline or compressed gas which is usable as fuel in
485 an internal combustion engine, and any combustible liquid other
486 than gasoline or compressed gas used or capable of being used as a
487 fuel in aircraft. The term "special fuel" shall not include
488 racing gasoline as defined in Section 27-55-5.

489 (b) "Bunker oil" means a residual product obtained in
490 the refining of crude petroleum intended for use for the
491 generation of heat in a firebox or furnace when its flash point,
492 as determined by use of the Pensky-Martens tester, shall not be
493 less than one hundred fifty (150) degrees Fahrenheit and when its
494 viscosity at one hundred (100) degrees Fahrenheit shall not be
495 less than one hundred fifty (150) seconds when determined by use
496 of the Saybolt Universal Tubes.

497 (c) "Person" means any individual, firm, copartnership,
498 joint venture, association, corporation, estate, trust, or any
499 group or combination acting as a unit, and the plural as well as
500 the singular number unless the intention to give a more limited
501 meaning is disclosed by the context.

502 (d) "Distributor of special fuel" means:

503 (i) Any person importing special fuel into this
504 state;

505 (ii) Any person who shall receive, purchase,
506 acquire, use, store or sell any special fuel in this state on
507 which the excise tax hereinafter imposed by this article has not
508 been paid;

509 (iii) Any person exporting special fuel;

510 (iv) Any person engaged in the distribution of
511 special fuel by tank car or tank truck or both; however, no person
512 may qualify as a distributor of special fuel for the sole purpose
513 of using special fuel, as defined in this article, as a fuel to
514 propel a vehicle or vehicles owned or operated by him on the
515 highways of this state; and

516 (v) All persons meeting the definition of
517 "refiners," "processors," "terminal operator," "blenders,"
518 "biodiesel producer," "biofuel producer" and any person licensed
519 to sell motor fuel in another state or jurisdiction who is
520 authorized by that state or jurisdiction to collect the special
521 fuel excise tax imposed by this article.

522 (e) "Bonded distributor of special fuel" means any
523 person holding a valid distributor of special fuel permit issued
524 by the State Tax Commission.

525 (f) "Refiner" * * * means every person who manufactures
526 finished petroleum products from crude oil, unfinished oils,
527 natural gas liquids or other hydrocarbons * * *.

528 (g) "For nonhighway purposes" means special fuel which
529 is not used for operating motor vehicles or motor-propelled
530 machines of any description along the public roads, streets,
531 alleys or highways of this state as defined in this article.

532 (h) "Highway" means every way or place of whatever
533 nature, including public roads, toll roads, streets and alleys of
534 this state generally open to the use of the public or to be opened
535 or reopened to the use of the public for the purpose of vehicular
536 travel, and notwithstanding that they may be temporarily closed
537 for the purpose of construction, reconstruction, maintenance or
538 repair. The confines of a highway shall include the entire width
539 and length of the right-of-way.

540 (i) "Commission" means the State Tax Commission of the
541 State of Mississippi, acting either directly or through its duly
542 authorized officers, agents or employees.

543 (j) "Terminal" means a tank farm within the State of
544 Mississippi with storage capacity for the receipt of a full barge
545 delivery or common carrier pipeline delivery of taxable petroleum
546 products when the products are to be distributed within the state.

547 (k) "Marine dealer" means any person selling special
548 fuel from marine or dockside storage facilities when the special
549 fuel is for use in boats, vessels, barges or ships.

550 (l) "United States government" means and includes all
551 purchasing officers of the Armed Forces of the United States and
552 the United States Property and Fiscal Officer for the State of
553 Mississippi or any other state appointed pursuant to Section 708,
554 Title 32, United States Code, when purchasing special fuel with

555 federal funds for the account of and use by a component of the
556 Armed Forces as herein defined.

557 (m) "Armed Forces" means and includes all components of
558 the Armed Forces of the United States including the Army National
559 Guard, the Army National Guard of the United States, the Air
560 National Guard and the Air National Guard of the United States, as
561 those terms are defined in Section 101, Title 10, United States
562 Code, and any other reserve component of the Armed Forces of the
563 United States enumerated in Section 261, Title 10, United States
564 Code.

565 (n) "Motor vehicle" means every vehicle designed,
566 constructed for or used on the highways of this state which is
567 self-propelled, except a farm tractor using the highways solely in
568 hauling or transporting farm products of the soil from the farm to
569 a gin or market when the title to such products is still in the
570 producer, or a farm tractor used in transporting fertilizer or
571 food to a farm when the title to such products is still in the
572 user.

573 * * *

574 (o) "Retail dealer" means any person who operates a
575 retail station.

576 (p) "Dyed diesel fuel" means diesel fuel that is dyed
577 in accordance with United States Environmental Protection Agency
578 or Internal Revenue Service requirements.

579 (q) "Dyed kerosene" means kerosene that is dyed in
580 accordance with United States Environmental Protection Agency or
581 Internal Revenue Service requirements.

582 (r) "Undyed diesel fuel" means diesel fuel that does
583 not meet the dyeing requirements prescribed by United States
584 Environmental Protection Agency or Internal Revenue Service
585 Regulations.

586 (s) "Fuel oil" means a general classification for one
587 of the petroleum fractions produced in conventional distillation

588 operations. For the purposes of this article, "fuel oil" is No.
589 1, No. 2 and No. 4 fuel oils and No. 1, No. 2 and No. 4 diesel
590 fuels.

591 (t) "Blender" shall mean any person who blends or
592 compounds biodiesel, biofuel or any other product to produce
593 special fuel.

594 (u) "Terminal operator" means any person who owns,
595 operates or otherwise controls a terminal.

596 (v) "Biodiesel" means:

597 (i) A fuel composed of mono-alkyl esters of long
598 chain fatty acids generally derived from vegetable oils, animal
599 fats or biomass, designated B100, and meeting the requirements of
600 American Society of Testing Materials (ASTM) designation D-6751;
601 or

602 (ii) A fuel which meets the registration
603 requirements for fuels and fuel additives established under 40 CFR
604 part 79, is not a mono-alkyl ester, is intended for use in engines
605 that are designed to run on conventional petroleum derived diesel
606 fuel and is derived or refined in a unit that normally processes
607 gasoline or diesel from crude oil from nonpetroleum renewable
608 resources, including, but not limited to, biomass, animal wastes,
609 including poultry fats and poultry wastes, and other waste
610 materials, or municipal solid waste and sludges and oils derived
611 from wastewater and the treatment of wastewater.

612 (w) "Biofuel" means any product derived from vegetable
613 oil, soybean oil or any other agricultural product of animal fats
614 or biomass that is used as fuel in a diesel engine.

615 (x) "Biodiesel producer" means the operator of a
616 facility manufacturing biodiesel.

617 (y) "Biofuel producer" means the operator of a facility
618 manufacturing biofuel.

619 (z) "Undyed kerosene" means kerosene that does not
620 meet dyeing requirements prescribe by the Internal Revenue
621 Service.

622 (aa) "Biomass" means:

623 (i) Any organic material grown for the purpose of
624 being converted to energy;

625 (ii) Any organic byproduct of agriculture
626 (including wastes from food production and processing) that can be
627 converted into energy; or

628 (iii) Any waste material that can be converted to
629 energy, is segregated from other waste materials and is derived
630 from:

631 1. Any of the following forest-related
632 resources: mill residues, precommercial thinnings, slash, brush,
633 or otherwise nonmerchantable material; or

634 2. Wood waste materials, including waste
635 pallets, crates, dunnage, manufacturing and construction wood
636 wastes (other than pressure-treated, chemically treated, or
637 painted wood wastes), and landscape or right-of-way tree
638 trimmings, but not including municipal solid waste, gas derived
639 from the biodegradation of municipal solid waste or paper that is
640 commonly recycled.

641 **SECTION 8.** The following provision shall be codified as
642 Section 27-55-508, Mississippi Code of 1972:

643 27-55-508. (1) Any person operating a facility producing
644 biodiesel shall be required to obtain an biodiesel producers
645 permit.

646 (2) Any person operating a facility producing biofuel shall
647 be required to obtain a biofuel producers permit.

648 (3) Any person who blends biodiesel, biofuel or any other
649 product with gasoline to produce special fuel shall be required to
650 obtain a blenders permit.

651 (4) Application for the permits prescribed by this section
652 shall be made on forms and in a manner prescribed by the
653 commission.

654 **SECTION 9.** Section 27-55-519, Mississippi Code of 1972, is
655 amended as follows:

656 27-55-519. (1) Any person engaged in business as a
657 distributor of special fuel or who acts as a distributor of
658 special fuel, as defined in this article, shall pay for the
659 privilege of engaging in this business or acting as a distributor
660 an excise tax on all special fuel stored, used, sold, distributed,
661 manufactured, refined, distilled, blended or compounded in this
662 state or received in this state for sale, storage, distribution or
663 for any purpose, adjusted to sixty (60) degrees Fahrenheit.

664 The excise tax shall become due and payable when:

665 (a) Special fuel is withdrawn from storage at a
666 refinery, marine or pipeline terminal, except when withdrawal is
667 by barge or pipeline.

668 (b) Special fuel imported by a common carrier is
669 unloaded by that carrier unless the special fuel is unloaded
670 directly into the storage tanks of a refinery, marine or pipeline
671 terminal.

672 (c) Special fuel imported by any person other than a
673 common carrier enters the State of Mississippi unless the special
674 fuel is unloaded directly into the storage tanks of a refinery,
675 marine or pipeline terminal.

676 (d) Special fuel is blended in this state unless such
677 blending occurs in a refinery, marine or pipeline terminal.

678 (e) Special fuel is acquired tax free.

679 (2) The special fuel excise tax shall be as follows:

680 (a) Eighteen Cents (18¢) per gallon on undyed diesel
681 fuel until the date specified in Section 65-39-35 and Fourteen and
682 Three-fourths Cents (14.75¢) per gallon thereafter;

683 (b) Eighteen Cents (18¢) per gallon on undyed
684 biodiesel, undyed biofuel or blends of undyed biodiesel and undyed
685 diesel or blends of undyed biofuel and undyed diesel until the
686 date specified in Section 65-39-35 and Fourteen and Three-fourths
687 Cents (14.75¢) per gallon thereafter;

688 (c) Five and Three-fourths Cents (5.75¢) per gallon on
689 all special fuel except undyed diesel fuel, undyed biodiesel,
690 undyed biofuel and blends thereof and special fuel used as fuels
691 in aircraft; and

692 (d) Five and One-fourth Cents (5.25¢) per gallon on
693 special fuel used as fuel in aircraft.

694 **SECTION 10.** Section 27-55-521, Mississippi Code of 1972, is
695 amended as follows:

696 27-55-521. (1) An excise tax at the rate of Eighteen Cents
697 (18¢) per gallon until the date specified in Section 65-39-35,
698 Mississippi Code of 1972, and Fourteen and Three-fourths Cents
699 (14.75¢) per gallon thereafter is levied on any person engaged in
700 business as a distributor of special fuel or who acts as such who
701 sells:

702 (a) Special fuel for use in performing contracts for
703 construction, reconstruction, maintenance or repairs, where the
704 contracts are entered into with the State of Mississippi, any
705 political subdivision of the State of Mississippi, or any
706 department, agency, institution of the State of Mississippi or any
707 political subdivision thereof.

708 (b) Dyed diesel fuel or kerosene to a state or local
709 governmental entity for use on the highways in a motor vehicle.

710 (c) Special fuel for use on the highway.

711 (2) An excise tax at the rate of Eighteen Cents (18¢) per
712 gallon until the date specified in Section 65-39-35, Mississippi
713 Code of 1972, and Fourteen and Three-fourths Cents (14.75¢) per
714 gallon thereafter is levied on any person who:

715 (a) Uses dyed diesel fuel or kerosene in a motor
716 vehicle on the highways of this state in violation of Section
717 27-55-539.

718 (b) Purchases or acquires undyed diesel fuel or
719 kerosene for nonhighway use and subsequently uses this diesel fuel
720 or kerosene in a motor vehicle on the highways of this state.

721 (c) Purchases or acquires special fuel for use in
722 performing contracts as specified in this section.

723 (3) An excise tax at the rate of Eighteen Cents (18¢) per
724 gallon until the date specified in Section 65-39-35, Mississippi
725 Code of 1972, and Fourteen and Three-fourths Cents (14.75¢) per
726 gallon thereafter is levied on any bonded distributor of special
727 fuel who holds a blenders permit who:

728 (a) Blends biodiesel or biofuel with undyed diesel
729 fuel.

730 (b) Sells undyed biodiesel or undyed biofuel.

731 (4) An excise tax at a rate of Five and Three-fourths Cents
732 (5.75¢) per gallon is levied on any bonded distributor of special
733 fuel who holds a blenders permit who:

734 (a) Blends biodiesel or biofuel with dyed diesel fuel.

735 (b) Sells dyed biodiesel or dyed biofuel.

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

738 27-55-527. (1) There shall not be included in the measure
739 of the tax levied in this article any special fuel:

740 (a) Sold or delivered by a bonded distributor of
741 special fuel to a second bonded distributor of special fuel within
742 this state, but nothing in this exclusion shall exempt the second
743 bonded distributor of special fuel from paying the tax unless the
744 second bonded distributor of special fuel sells or delivers said
745 special fuel to a third bonded distributor of special fuel, in
746 which event the third bonded distributor of special fuel shall be
747 liable for the tax.

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

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

753 (d) Exported to a destination beyond the borders of
754 this state by a bonded distributor of special fuel when the tax on
755 the special fuel has been paid or on which the tax liability
756 imposed by this article has accrued against such bonded
757 distributor.

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

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

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

769 (h) Sold to be consumed as fuel by any boat, vessel,
770 ship, towboat or dredgeboat, or sold to the holder of a Marine
771 Dealers Permit for resale or distribution as fuel for a boat,
772 vessel, ship, towboat or dredgeboat.

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

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

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

779 (2) The exemptions set forth in paragraphs (f), (h), (i) and
780 (j) of subsection (1) of this section shall not apply to special

781 fuel used in performing contracts for construction,
782 reconstruction, maintenance or repairs, where the contracts are
783 entered into with the State of Mississippi, any political
784 subdivision of the State of Mississippi, or any department, agency
785 or institution of the State of Mississippi or any political
786 subdivision thereof.

787 (3) Biodiesel or biofuel sold to, acquired by, imported by
788 or produced by a special fuel distributor who holds a blenders
789 permit is not subject to the tax levied in this article until
790 blended with petroleum diesel fuel or any other product or is sold
791 for use as fuel.

792 (4) Evidence of exempt transactions provided in this
793 section * * * shall consist of copies of invoices, documents or
794 any other evidence that may be required by the commission.

795 (5) Any person other than a bonded distributor of special
796 fuel who has delivered or sold special fuel on which the tax has
797 been paid by him to the vendor may, if the special fuel is subject
798 to exemption under this article, assign his claim for exemption to
799 any bonded distributor of special fuel in this state. The
800 distributor may deduct the amount of the tax exemption from his
801 next special fuel report, provided the distributor furnishes
802 evidence satisfactory to the commission that the claim for
803 exemption is valid.

804 (6) When special fuel is withdrawn from the storage tank of
805 a refiner, processor, marine or pipeline terminal operator and the
806 tax is paid on the special fuel and it or any part thereof cannot
807 be delivered to a purchaser, the refiner, processor, marine or
808 pipeline terminal operator may deduct the tax on all or that
809 portion of the special fuel not delivered to a purchaser from its
810 next special fuel distributor's tax report, provided that the
811 refiner, processor, marine or pipeline terminal operator submits
812 with such tax report: (a) a written report setting forth the
813 reasons why the delivery could not be made, and (b) proof or

814 evidence satisfactory to the commission that the tax in question
815 had theretofore been paid to the commission, and (c) proof or
816 evidence satisfactory to the commission that the nondelivered
817 special fuel was actually returned to the refinery, processor,
818 marine or pipeline terminal from which it was taken for the
819 purpose of delivering it to a purchaser; and provided further,
820 that immediately upon ascertainment by the refiner, processor,
821 marine or pipeline terminal operator that the special fuel cannot
822 be delivered, he or it shall immediately notify the commission of
823 this fact and before moving his or its truck or other means of
824 transporting such special fuel from the intended point of
825 delivery; and should the commission desire to inspect the truck or
826 other means of conveyance, the refiner, processor, marine or
827 pipeline terminal operator shall arrange for the inspection at
828 that point or at such other point that may be designated by the
829 commission.

830 (7) In order to claim exemptions provided for under this
831 article, the distributor of special fuel must file claims therefor
832 within three (3) years from the date of sale or delivery;
833 otherwise, claims for such exemptions shall be disallowed.

834 (8) A bonded distributor of special fuel who sells or
835 delivers special fuel subject to an exemption set forth in this
836 section or Section 27-55-12 on which tax has previously been paid,
837 and whose estimated tax liability cannot absorb the amount of tax
838 exempted within six (6) months, shall be entitled to receive a
839 refund of the amount that cannot be absorbed by the estimated tax
840 liability. The amount shall be refunded in the same manner as
841 provided in Section 27-55-19.

842 **SECTION 12.** The following provision shall be codified as
843 Section 27-55-571, Mississippi Code of 1972:

844 27-55-571. The provisions of this article relating to
845 biodiesel and biofuel shall not apply to persons producing
846 biodiesel and biofuel exclusively for use in their own motor

847 vehicles who have obtained a permit from the commission under the
848 provision of Section 27-55-701 et seq., and whose annual
849 production is less than five thousand (5,000) gallons.

850 **SECTION 13.** The following provision shall be codified as
851 Section 27-55-701, Mississippi Code of 1972:

852 27-55-701. The State Tax Commission, hereinafter called the
853 "commission," is vested with the sole power and authority, and is
854 charged with the duty of administering and enforcing the terms and
855 provisions of this article.

856 **SECTION 14.** The following provision shall be codified as
857 Section 27-55-703, Mississippi Code of 1972:

858 27-55-703. The words, terms and phrases as used in this
859 article shall have the following meanings unless the context
860 requires otherwise:

861 (a) "Fuel alcohol" means alcohol derived from grain or
862 other agricultural products or biomass and is denatured according
863 to federal regulations.

864 (b) "Fuel alcohol producers" means any person operating
865 a still producing fuel alcohol exclusively for use in their own
866 motor vehicles.

867 (c) "Biofuel" means any product derived from vegetable
868 oil, soybean oil or any other agricultural product or animal fats
869 or biomass that is usable as fuel in a diesel engine.

870 (d) "Biofuel producer" means any person producing
871 biofuel for their own use.

872 (e) "Biofuel conversion kit" means any equipment
873 installed on a motor vehicle that allows the use of biofuel in an
874 internal combustion engine.

875 (f) "Person" means any individual, firm, copartnership,
876 joint venture, association, corporation, estate, trust or any
877 group or combination acting as a unit, and the plural as well as
878 the singular number unless the intention to give a more limited
879 meaning is disclosed by the text.

880 (g) "Commission" means the State Tax Commission, acting
881 either directly or through its duly authorized officers, agents or
882 employees.

883 **SECTION 15.** The following provision shall be codified as
884 Section 27-55-705, Mississippi Code of 1972:

885 27-55-705. (1) An annual permit fee is hereby levied upon
886 any person producing fuel alcohol, biodiesel or biofuel
887 exclusively for their own use as follows:

888 (a) For facilities with an annual production capacity
889 not exceeding two thousand (2,000) gallons shall be One Hundred
890 Fifty Dollars (\$150.00).

891 (b) For facilities with an annual production capacity
892 greater than two thousand (2,000) gallons but less than five
893 thousand (5,000) gallons shall be Three Hundred Dollars (\$300.00).

894 (2) An annual fee of One Hundred Fifty Dollars (\$150.00) is
895 hereby levied on each person who installs a biofuel conversion kit
896 or any other device capable of producing fuel on their motor
897 vehicle.

898 **SECTION 16.** The following provision shall be codified as
899 Section 27-55-707, Mississippi Code of 1972:

900 27-55-707. (1) Any person who produces fuel alcohol,
901 biodiesel or biofuel for their own use as a motor fuel and fails
902 to pay the permit fees levied in this article may be subject to a
903 penalty equal to twenty-five percent (25%) of the permit fee.

904 (2) Any person who operates a motor vehicle with a biofuel
905 conversion kit or other device capable of producing fuel without
906 having paid the permit fee levied in this article may be subject
907 to a penalty equal to twenty-five percent (25%) of the permit fee.

908 (3) Any person subject to the provisions of this article who
909 sells or distributes fuel alcohol, biodiesel or biofuel may be
910 subject to a penalty of One Thousand Dollars (\$1,000.00) for the
911 first offense, and a penalty of Two Thousand Dollars (\$2,000.00)
912 for each subsequent offense. Such person shall be subject to the

913 requirements of the Mississippi Gasoline Tax Law and/or the
914 Mississippi Special Fuel Tax Law.

915 **SECTION 17.** The following provision shall be codified as
916 Section 27-55-709, Mississippi Code of 1972:

917 27-55-709. All administrative provisions of the Mississippi
918 Sales Tax Law, including those which fix damages, penalties and
919 interest for nonpayment of taxes, failure to file returns and for
920 other noncompliance with the provisions of that law and all other
921 requirements and duties imposed upon taxpayers shall apply to all
922 persons liable for fees under the provisions of this article, and
923 the commission shall exercise all the powers and authority and
924 perform all the duties with respect to taxpayers under this
925 article as are provided in the Sales Tax Law, except in cases of
926 conflict, then the provisions of this article shall control.

927 **SECTION 18.** The following provision shall be codified as
928 Section 27-55-711, Mississippi Code of 1972:

929 27-55-711. Any person subject to the provisions of this
930 article shall maintain for a period of three (3) years, a record
931 of the quantity of fuel alcohol, biodiesel or biofuel produced
932 each year and of the motor vehicles in which fuel alcohol,
933 biodiesel or biofuel is used.

934 **SECTION 19.** The following provision shall be codified as
935 Section 27-55-713, Mississippi Code of 1972:

936 27-55-713. (1) The commission, its agents and employees,
937 shall have full access, ingress and egress at all reasonable hours
938 to and from any place or building where fuel alcohol, biodiesel or
939 biofuel is produced or stored.

940 (2) The commission, its agents and employees and enforcement
941 officers of the Mississippi Department of Transportation are
942 hereby authorized to inspect any motor vehicle equipped with a
943 biofuel conversion kit, or any other device capable of producing
944 motor fuel.

945 **SECTION 20.** The following provision shall be codified as
946 Section 27-55-715, Mississippi Code of 1972:

947 27-55-715. The amount received from the fees levied in this
948 article shall be deposited by the commission in the State Treasury
949 to the credit of the State Highway Fund.

950 **SECTION 21.** The following provision shall be codified as
951 Section 27-55-717, Mississippi Code of 1972:

952 27-55-717. The commission has the power and authority to
953 make all rules and regulations necessary for the administration
954 and enforcement of this article and the rules and regulations,
955 when made, shall have the same binding force and effect as it
956 incorporated into this article.

957 **SECTION 22.** The following provision shall be codified as
958 Section 27-55-719, Mississippi Code of 1972:

959 27-55-719. The United States government, the State of
960 Mississippi and all agencies, departments and political
961 subdivisions thereof are exempt from the provisions of this
962 article.

963 **SECTION 23.** Nothing in this act shall affect or defeat any
964 claim, assessment, appeal, suit, right or cause of action for
965 taxes due or accrued under the gasoline tax laws and the special
966 fuel tax laws before the date on which this act becomes effective,
967 whether such claims, assessments, appeals, suits or actions have
968 been begun before the date on which this act becomes effective or
969 are begun thereafter; and the provisions of the gasoline and
970 special fuel tax laws are expressly continued in full force,
971 effect and operation for the purpose of the assessment, collection
972 and enrollment of liens for any taxes due or accrued and the
973 execution of any warrant under such laws before the date on which
974 this act becomes effective, and for the imposition of any
975 penalties, forfeitures or claims for failure to comply with such
976 laws.

977 **SECTION 24.** This act shall take effect and be in force from
978 and after July 1, 2007.