

By: Senator(s) Harkins, Burton

To: Finance

## SENATE BILL NO. 2908

1 AN ACT TO CREATE THE "ALTERNATIVE FUEL VEHICLES FOR  
2 MISSISSIPPI ACT OF 2013"; TO CREATE NEW SECTION 27-7-22.37,  
3 MISSISSIPPI CODE OF 1972, TO AUTHORIZE AN INCOME TAX CREDIT FOR  
4 ANY TAXPAYER PURCHASING, CONSTRUCTING OR INSTALLING AN ALTERNATIVE  
5 FUEL CONVERSION KIT ON A MOTOR VEHICLE, A MOTOR VEHICLE WITH AN  
6 ALTERNATIVE FUEL MOTOR FUEL SYSTEM AS ORIGINAL EQUIPMENT, A  
7 REFUELING SYSTEM INSTALLED AT A PRIVATE HOME OR RESIDENCE OR AT A  
8 BUSINESS FOR NONPUBLIC REFUELING WITH ALTERNATIVE FUEL OF PERSONAL  
9 OR BUSINESS ALTERNATIVE FUEL MOTOR VEHICLES, OR A REFUELING  
10 STATION OPERATED FOR REFUELING OF ALTERNATIVE FUEL MOTOR VEHICLES  
11 OWNED BY THE TAXPAYER, PRIVATE CUSTOMERS OF THE TAXPAYER OR THE  
12 GENERAL PUBLIC; TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF  
13 1972, TO EXCLUDE FROM SALES TAXATION THE SALE OF NATURAL GAS FOR  
14 USE AS TAXABLE MOTOR FUEL; TO AMEND SECTIONS 27-59-3, 27-59-7,  
15 27-59-9, 27-59-11, 27-59-12, 27-59-13, 27-59-17, 27-59-23,  
16 27-59-25, 27-59-29, 27-59-31, 27-59-33, 27-59-35, 27-59-41,  
17 27-59-47, 27-59-57 AND 27-59-59, MISSISSIPPI CODE OF 1972, TO  
18 PROVIDE FOR THE DELIVERY OF NATURAL GAS TO PRIVATE REFUELING  
19 SYSTEMS AND PUBLIC REFUELING STATIONS; TO PROVIDE FOR ANNUAL  
20 PRIVILEGE TAX PERMITS FOR GOVERNMENT VEHICLES AND FOR LICENSING OF  
21 REFUELING SYSTEMS, REFUELING STATIONS AND DEALER AND INSTALLERS OF  
22 COMPRESSED GAS FUEL EQUIPMENT; TO PROVIDE FOR MONTHLY REPORTS BY  
23 DEALERS AND INSTALLERS OF COMPRESSED GAS FUEL EQUIPMENT; TO  
24 AUTHORIZE THE CANCELLATION OF LICENSES OF SUCH DEALERS AND  
25 INSTALLERS UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR FORFEITURE  
26 BY DEALERS AND INSTALLERS OF LICENSES UNDER CERTAIN CIRCUMSTANCES;  
27 TO IMPOSE RECORD KEEPING REQUIREMENTS ON DEALERS AND INSTALLERS;  
28 TO REVISE REQUIREMENTS FOR THE ISSUANCE OF COMPRESSED GAS USER'S  
29 DECALS; TO REQUIRE THE OWNER OF A FLEET OF MOTOR VEHICLES USING  
30 COMPRESSED GAS AS A FUEL TO FILE ANNUAL REPORTS ON A FLEET BASIS  
31 AS OPPOSED TO AN INDIVIDUAL MOTOR VEHICLE BASIS; TO PROVIDE FOR  
32 THE INSPECTION OF PRIVATE REFUELING STATIONS; TO PROVIDE THE  
33 MANNER IN WHICH REFUNDS OF OVERPAYMENT OF TAXES SHALL BE MADE TO  
34 CERTAIN USERS AND DISTRIBUTORS; AND FOR RELATED PURPOSES.



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

36 **SECTION 1.** This act shall be known and may be cited as the  
37 "Alternative Fuel Vehicles for Mississippi Act of 2013."

38 **SECTION 2.** (1) In order to reduce motor vehicle fuel costs  
39 to the citizens of this state, to assist in job creation, to  
40 enhance domestic natural gas production and reduce dependency on  
41 foreign oil, to provide opportunities for savings in state and  
42 local government budgets, to reduce exhaust emissions from motor  
43 vehicles by using cleaner burning fuel, and to enhance state  
44 revenue, it is declared that it is in the public interest and it  
45 is the policy of the state to encourage the use of alternative  
46 fuels in motor vehicles operating on the highways of the state.

47 (2) It is, therefore, the intent of the Legislature to  
48 encourage the development of the usage of alternative fuels in  
49 motor vehicles and, consequently, to promote public access to  
50 alternative fuels refueling stations in the state in furtherance  
51 thereof by increasing the numbers of public access alternative  
52 fuel fueling stations along the interstate highway system and U.S.  
53 highways in the state, and the provisions of this act are to be  
54 liberally construed in furtherance of this stated intent.

55 (3) It shall be the goal of this state to have at least one  
56 (1) public access alternative fuel fueling station located  
57 approximately every one hundred (100) miles along the entire  
58 interstate highway system in the state by the end of year 2018,  
59 with this goal to increase to at least one (1) public access



60 alternative fuel fueling station approximately every fifty (50)  
61 miles on such interstates by the year 2023.

62 (4) It shall similarly be the goal of this state to have at  
63 least one (1) public access alternative fuel fueling station  
64 located approximately every one hundred (100) miles along the U.S.  
65 highways in the state by the year 2023, with this goal to increase  
66 to at least one (1) public access alternative fuel fueling station  
67 approximately every fifty (50) miles on such U.S. highways by the  
68 year 2028.

69 (5) The Mississippi Department of Transportation may take  
70 steps to meet the goals set forth in this section by assisting,  
71 cooperating with or entering into partnership agreements with  
72 private entities to construct the necessary alternative fuel  
73 fueling stations for use by the public, state agencies and  
74 political subdivisions of the state.

75 **SECTION 3.** The following shall be codified as Section  
76 27-7-22.37, Mississippi Code of 1972:

77 27-7-22.37. (1) The intent of this section is to provide  
78 incentives to taxpayers to invest in qualified alternative fuel  
79 motor vehicle fuel property as specified in this section. Any  
80 taxpayer purchasing, constructing or installing a qualified  
81 alternative fuel motor vehicle fuel property shall be allowed a  
82 credit against state income tax liability under this chapter as  
83 provided in subsection (3) of this section.

84 (2) As used in this section:



85 (a) "Alternative fuel" means compressed natural gas and  
86 liquefied natural gas, as defined in Section 27-59-3, propane and  
87 hydrogen fuel cell fuel when used as a fuel in a motor vehicle or  
88 motor vehicles on the highways of the state.

89 (b) "Conversion kit" means the fuel system equipment  
90 necessary in order to retrofit a motor vehicle propelled by  
91 gasoline, diesel or other fuel so that the motor vehicle may be  
92 converted or modified into an alternative fuel motor vehicle.

93 (c) "Cost of qualified alternative fuel motor vehicle  
94 fuel property" means any of the following:

95 (i) The actual cost per vehicle paid by the owner  
96 of a motor vehicle for the purchase and installation of qualified  
97 alternative fuel motor vehicle fuel property described in  
98 paragraph (1)(i) of this subsection, provided the motor vehicle is  
99 registered in this state.

100 (ii) The incremental cost per vehicle paid by the  
101 owner upon the purchase of an OEM alternative fuel motor vehicle  
102 for the qualified alternative fuel motor vehicle fuel property  
103 (including installation) described in paragraph (1)(ii) of this  
104 subsection.

105 (iii) The cost of the qualified alternative fuel  
106 motor vehicle fuel property described in paragraph (1)(iii) and  
107 (iv) of this subsection and its installation.

108 (iv) The cost of the qualified alternative fuel  
109 motor vehicle fuel property described in paragraph (1)(iv) of this



110 subsection and its construction and installation; however, only  
111 the first One Million Dollars (\$1,000,000.00) in cost per  
112 refueling station of the qualified alternative fuel motor vehicle  
113 fuel property described in paragraph (1)(iv) of this subsection  
114 shall qualify as cost of qualified alternative fuel motor vehicle  
115 fuel property described in paragraph (1)(iv) of this subsection.  
116 The cost directly related to a refueling station shall not include  
117 costs associated with exploration and development activities  
118 necessary for severing natural resources from the soil or ground.

119 (v) Subject to subsections (3) and (6) of this  
120 section, the cost of the qualified alternative fuel motor vehicle  
121 fuel property described in paragraph (1)(v) of this subsection and  
122 its installation as follows:

123 1. With respect to the replacement of a  
124 refueling system being retired from service prior to the end of  
125 any applicable credit carryforward period, the remaining tax  
126 credit carryforward with respect to the system shall continue in  
127 effect for the balance of its term, with the cost of qualified  
128 alternative fuel motor vehicle fuel property for the refueling  
129 system upgrade being equal to the cost of the new fueling system,  
130 including installation of the system, less the cost of the  
131 qualified alternative fuel motor vehicle fuel property for which  
132 the tax credit was previously allowed for the refueling system  
133 being retired from service.



134                   2. With respect to the addition of a  
135 refueling system unaccompanied by the retirement from service of  
136 another refueling system, the cost of the new refueling system,  
137 including the installation of the system.

138                   3. With respect to the replacement of a  
139 refueling system not being retired from service but being  
140 transferred to another location, the cost of the new refueling  
141 system, including installation of the system, subject to  
142 subsection (15) of this section with respect to qualified  
143 alternative fuel motor vehicle fuel property described in  
144 paragraph (1)(v) of this subsection, with any remaining credit  
145 carryforward with respect to the transferred refueling system to  
146 continue in effect for the balance of its term. Upgrades under  
147 this subparagraph (v) of this paragraph (b) to the refueling  
148 systems included in paragraph (1)(iv) of this subsection are not  
149 subject to the dollar limitation imposed on individual refueling  
150 stations by subparagraph (iv) of this paragraph (b).

151                   (d) "Fuel system equipment" means tanks, pumps, hoses,  
152 injectors, electronic controls and related supplies, materials,  
153 parts and components for the storage of alternative fuel as fuel  
154 for an alternative fuel motor vehicle, the delivery of alternative  
155 fuel to the engine of a natural gas motor vehicle, and the exhaust  
156 from an alternative fuel motor vehicle of gases from combustion of  
157 alternative fuel used to propel an alternative fuel motor vehicle,



158 excluding equipment necessary for operation of a motor vehicle on  
159 gasoline, diesel or any fuel other than alternative fuel.

160 (e) "Incremental cost" means:

161 (i) The stated MSRP of the fuel system equipment  
162 and its installation for an OEM alternative fuel motor vehicle; or

163 (ii) If no separate MSRP is stated, the difference  
164 between the MSRP of the OEM alternative fuel motor vehicle and the  
165 MSRP of the same make and model of motor vehicle manufactured  
166 without the fuel system equipment but otherwise identically  
167 equipped.

168 When an OEM alternative fuel motor vehicle is sold for less  
169 (or more) than its MSRP, the amount determined in subparagraph (i)  
170 or (ii) of this paragraph (d) shall be proportionately reduced (or  
171 increased) by the same percentage as the discount (or premium) on  
172 the MSRP, as applicable.

173 (f) "Licensed installer" has the meaning ascribed to  
174 such term in Section 27-59-3, as licensed under Section  
175 27-59-11(8).

176 (g) "OEM alternative fuel motor vehicle" means an  
177 alternative fuel motor vehicle manufactured by the original  
178 vehicle manufacturer (or its contractor) with the fuel system  
179 equipment installed as original equipment by the manufacturer (or  
180 its contractor) at the factory or at another installation site  
181 approved by the manufacturer (or its contractor).



182 (h) "Motor vehicle" shall have the meaning ascribed to  
183 such term in Section 27-59-3.

184 (i) "MSRP" means manufacturer's suggested retail price.

185 (j) "Alternative fuel motor vehicle" means a motor  
186 vehicle propelled by alternative fuel either as a dedicated  
187 alternative fuel vehicle, as a bi-fuel vehicle using alternative  
188 fuel as one of its fuels, or as a dual fuel vehicle using  
189 alternative fuel as one of its fuels.

190 (k) "Original purchase" means the purchase directly  
191 from a dealer at retail of a new OEM alternative fuel motor  
192 vehicle which has never been titled.

193 (l) "Qualified alternative fuel motor vehicle fuel  
194 property" means any of the following:

195 (i) A conversion kit which has not previously been  
196 used to retrofit any motor vehicle, is installed by a licensed  
197 installer, and results in a reduction in emissions.

198 (ii) The fuel system equipment on an OEM  
199 alternative fuel motor vehicle which results in a reduction in  
200 emissions.

201 (iii) A refueling system installed at a business  
202 by a licensed installer for the nonpublic refueling with  
203 alternative fuel of personal or business alternative fuel motor  
204 vehicles.

205 (iv) A refueling station located in the state and  
206 operated for refueling of alternative fuel motor vehicles owned by





207 the taxpayer, private customers of the taxpayer or the general  
208 public.

209 (v) Upgrades to a refueling system included in  
210 subparagraphs (iii) and (iv) of this paragraph (1).

211 (vi) Portable or mobile refueling systems.

212 (m) "Reduction in emissions" means a reduction in  
213 atmospheric emissions from fuel consumption by an alternative fuel  
214 motor vehicle as demonstrated by certification of the fuel system  
215 equipment by the federal Environmental Protection Agency or the  
216 Mississippi Department of Environmental Quality or any other test  
217 or standard recognized by the Mississippi Department of  
218 Environmental Quality.

219 (n) "Refueling system" means compressors (whether used  
220 separately or in combination with cascade tanks), process piping,  
221 hoses, dispensing units at the point where alternative fuel is  
222 delivered as a fuel, meters and other parts and equipment and  
223 installation supplies and materials therefor that constitute a  
224 refueling system capable of dispensing alternative fuel into fuel  
225 tanks of alternative fuel motor vehicles for use as a fuel.

226 (o) "Refueling station" means property constituting a  
227 facility operated for dispensing alternative fuel into fuel tanks  
228 of alternative fuel motor vehicles, which shall include:

229 (i) A refueling system; and



230 (ii) A building or other structural components  
231 constructed or installed as part of and directly related to such  
232 refueling system.

233 (p) "Retrofit" means the installation of a conversion  
234 kit in a motor vehicle designed to operate on gasoline, diesel or  
235 other fuel in order to convert or modify such motor vehicle into  
236 an alternative fuel motor vehicle.

237 (3) The tax credit provided for in subsection (1) of this  
238 section shall be allowed only once per alternative fuel motor  
239 vehicle, refueling system or refueling station against the state  
240 income tax liability of the taxpayer for the taxable year in which  
241 the qualified alternative fuel motor vehicle fuel property is  
242 placed into service in order that the property constituting such  
243 items which have previously received a tax credit under this  
244 section shall not be entitled to multiple credits; however, this  
245 is not intended to and does not prevent upgrades thereof described  
246 in subsection (2)(1)(v) of this section from independently  
247 qualifying for the tax credit provided for in subsection (1) of  
248 this section.

249 (4) The tax credit provided for in subsection (1) of this  
250 section shall be equal to fifty percent (50%) of the cost of the  
251 qualified alternative fuel motor vehicle fuel property.

252 (5) The tax credits provided by this section shall be  
253 applied against the state income tax liability determined under



254 this chapter after all other credits provided by this chapter to  
255 the taxpayer have been applied.

256 (6) No tax credit shall be allowed under this section with  
257 respect to the cost of any qualified alternative fuel motor  
258 vehicle fuel property for which any credit under this or any other  
259 section of this chapter has previously been allowed.

260 (7) The tax credit shall be claimed on the state income tax  
261 return filed for the taxable year for which the tax credit is  
262 allowed, which return shall contain, at a minimum, the following  
263 proof of qualification for the tax credit:

264 (a) Registration of the alternative fuel motor vehicle  
265 in the state and the date placed into service; or

266 (b) The incremental cost of the purchase of an OEM  
267 alternative fuel motor vehicle; or

268 (c) The purchase and installation cost of a conversion  
269 kit or a refueling system by a licensed installer, the date placed  
270 into service, and the cost thereof; or

271 (d) The cost of the qualified alternative fuel motor  
272 vehicle fuel property for a refueling station and the date placed  
273 into service.

274 (8) In cases where no previous tax credit has been claimed  
275 pursuant to this section for the cost of an OEM alternative fuel  
276 motor vehicle purchased by a taxpayer and the taxpayer is unable  
277 to, or elects not to, determine the exact incremental cost  
278 attributable to such qualified alternative fuel motor vehicle fuel



279 property, the taxpayer may claim a credit against the income tax  
280 for the taxable year in which the OEM alternative fuel motor  
281 vehicle is placed into service equal to fifteen percent (15%) of  
282 the cost of the OEM alternative fuel motor vehicle or Five  
283 Thousand Dollars (\$5,000.00), whichever is less, provided the OEM  
284 alternative fuel motor vehicle is registered in this state.

285 (9) If the amount of the tax credit allowable by this  
286 section exceeds the total state income tax liability of the  
287 taxpayer, or if the taxpayer otherwise has no state income tax  
288 liability, for the tax period in which the qualified alternative  
289 fuel motor vehicle fuel property is placed in service, the amount  
290 of the tax credit that exceeds the total state income tax  
291 liability and is not used to offset the state income tax liability  
292 in the taxable year in which the qualified alternative fuel motor  
293 vehicle fuel property is placed in service shall constitute an  
294 overpayment and, at the election of the taxpayer, may be  
295 carried forward for the ten (10) succeeding taxable years.

296 (10) A husband and wife who file separate returns for a  
297 taxable year in which they could have filed a joint return may  
298 each claim only one-half (1/2) of the tax credit that would  
299 otherwise have been allowed for a joint return.

300 (11) The Commissioner of Revenue of the Department of  
301 Revenue, in consultation, as appropriate, with the Executive  
302 Director of the Department of Environmental Quality, shall  
303 promulgate rules and regulations in accordance with the



304 Administrative Procedures Act as are necessary to implement the  
305 provisions of this section.

306 (12) Not-for-profit entities, including, but not limited to,  
307 nonprofit corporations organized under Section 79-11-101 et seq.  
308 shall not be eligible for the tax credit authorized by this  
309 section.

310 (13) Tax credits allowable to a partnership, a limited  
311 liability company taxed as a partnership or any other entity  
312 treated as a pass-through entity under this chapter shall be  
313 passed through to the partners, members or other owners on a pro  
314 rata basis or pursuant to an executed agreement among the  
315 partners, members or other owners documenting an alternative  
316 distribution method. A partnership, limited liability company  
317 taxed as a partnership or any other entity treated as a  
318 pass-through entity under this chapter shall be treated as the  
319 taxpayer for purposes of subsection (9) of this section.

320 (14) If a refueling station for which a taxpayer receives  
321 tax credits under this section ceases to sell alternative fuel for  
322 a period of more than twelve (12) months, any remaining tax credit  
323 carryforward period shall be forfeited beginning with the taxable  
324 year in which such twelve-month period expires but may be  
325 reinstated thereafter in any taxable year in which the refueling  
326 station subsequently begins to sell alternative fuel again within  
327 the remaining carryforward period; however, there shall be no  
328 recapture of tax credits with respect to such taxpayer's prior



329 taxable years which ended before the taxable year in which the  
330 forfeiture of tax credits began. If a refueling system  
331 constituting a component of such refueling station is relocated to  
332 another location and again begins to be used in the sale of  
333 alternative fuel within the twelve-month period, then the  
334 remaining tax credit carryforward period allocable to the  
335 relocated refueling system shall not be forfeited.

336 (15) This section shall be repealed from and after July 1,  
337 2023.

338 **SECTION 4.** Section 27-65-19, Mississippi Code of 1972, is  
339 amended as follows:

340 27-65-19. (1) (a) (i) Except as otherwise provided in  
341 this subsection, upon every person selling to consumers,  
342 electricity, current, power, potable water, steam, coal, natural  
343 gas, liquefied petroleum gas or other fuel, there is hereby  
344 levied, assessed and shall be collected a tax equal to seven  
345 percent (7%) of the gross income of the business. Provided, gross  
346 income from sales to consumers of electricity, current, power,  
347 natural gas, liquefied petroleum gas or other fuel for residential  
348 heating, lighting or other residential noncommercial or  
349 nonagricultural use, \* \* \* sales of potable water for residential,  
350 noncommercial or nonagricultural use, and sales of natural gas for  
351 use as a motor vehicle fuel subject to the liquefied compressed  
352 gas tax pursuant to Section 27-59-1 et seq. shall be excluded from  
353 taxable gross income of the business. Provided further, upon



354 every such seller using electricity, current, power, potable  
355 water, steam, coal, natural gas, liquefied petroleum gas or other  
356 fuel for nonindustrial purposes, there is hereby levied, assessed  
357 and shall be collected a tax equal to seven percent (7%) of the  
358 cost or value of the product or service used.

359 (ii) Gross income from sales to a church that is  
360 exempt from federal income taxation under 26 USCS Section  
361 501(c)(3) of electricity, current, power, natural gas, liquefied  
362 petroleum gas or other fuel for heating, lighting or other use,  
363 and sales of potable water to such a church shall be excluded from  
364 taxable gross income of the business if the electricity, current,  
365 power, natural gas, liquefied petroleum gas or potable water is  
366 utilized on property that is primarily used for religious or  
367 educational purposes.

368 (b) There is hereby levied, assessed and shall be  
369 collected a tax equal to one and one-half percent (1-1/2%) of the  
370 gross income of the business when the electricity, current, power,  
371 steam, coal, natural gas, liquefied petroleum gas or other fuel is  
372 sold to or used by a manufacturer, custom processor, technology  
373 intensive enterprise meeting the criteria provided for in Section  
374 27-65-17(1)(f), or public service company for industrial purposes,  
375 which shall include that used to generate electricity, to operate  
376 an electrical distribution or transmission system, to operate  
377 pipeline compressor or pumping stations or to operate railroad  
378 locomotives; however, the tax imposed on natural gas under this



379 paragraph shall not exceed Ten and One-half Cents (10.5¢) per one  
380 thousand (1,000) cubic feet and sales of fuel used to produce  
381 electric power by a company primarily engaged in the business of  
382 producing, generating or distributing electric power for sale  
383 shall be exempt from sales tax as provided in Section 27-65-107.

384 (c) (i) The one and one-half percent (1-1/2%)  
385 industrial rate provided for in this subsection shall also apply  
386 when the electricity, current, power, steam, coal, natural gas,  
387 liquefied petroleum gas or other fuel is sold to a producer or  
388 processor for use directly in the production of poultry or poultry  
389 products, the production of livestock and livestock products, the  
390 production of domesticated fish and domesticated fish products,  
391 the production of marine aquaculture products, the production of  
392 plants or food by commercial horticulturists, the processing of  
393 milk and milk products, the processing of poultry and livestock  
394 feed, and the irrigation of farm crops.

395 (ii) The one and one-half percent (1-1/2%) rate  
396 provided for in this subsection shall also apply to the sale of  
397 naturally occurring carbon dioxide and anthropogenic carbon  
398 dioxide lawfully injected into the earth for:

399 1. Use in an enhanced oil recovery project,  
400 including, but not limited to, use for cycling, repressuring or  
401 lifting of oil; or

402 2. Permanent sequestration in a geological  
403 formation.





404 (d) The one and one-half percent (1-1/2%) rate provided  
405 for in this subsection shall not apply to sales of fuel for  
406 automobiles, trucks, truck-tractors, buses, farm tractors or  
407 airplanes.

408 (e) (i) Upon every person providing services in this  
409 state, there is hereby levied, assessed and shall be collected:

410 1. A tax equal to seven percent (7%) of the  
411 gross income received from all charges for intrastate  
412 telecommunications services.

413 2. A tax equal to seven percent (7%) of the  
414 gross income received from all charges for interstate  
415 telecommunications services.

416 3. A tax equal to seven percent (7%) of the  
417 gross income received from all charges for international  
418 telecommunications services.

419 4. A tax equal to seven percent (7%) of the  
420 gross income received from all charges for ancillary services.

421 5. A tax equal to seven percent (7%) of the  
422 gross income received from all charges for products delivered  
423 electronically, including, but not limited to, software, music,  
424 games, reading materials or ring tones.

425 (ii) A person, upon proof that he has paid a tax  
426 in another state on an event described in subparagraph (i) of this  
427 paragraph (e), shall be allowed a credit against the tax imposed  
428 in this paragraph (e) on interstate telecommunications service



429 charges to the extent that the amount of such tax is properly due  
430 and actually paid in such other state and to the extent that the  
431 rate of sales tax imposed by and paid in such other state does not  
432 exceed the rate of sales tax imposed by this paragraph (e).

433 (iii) Charges by one (1) telecommunications  
434 provider to another telecommunications provider holding a permit  
435 issued under Section 27-65-27 for services that are resold by such  
436 other telecommunications provider, including, but not limited to,  
437 access charges, shall not be subject to the tax levied pursuant to  
438 this paragraph (e).

439 (iv) For purposes of this paragraph (e):

440 1. "Telecommunications service" means the  
441 electronic transmission, conveyance or routing of voice, data,  
442 audio, video or any other information or signals to a point, or  
443 between points. The term "telecommunications service" includes  
444 such transmission, conveyance or routing in which computer  
445 processing applications are used to act on the form, code or  
446 protocol of the content for purposes of transmission, conveyance  
447 or routing without regard to whether such service is referred to  
448 as voice over Internet protocol services or is classified by the  
449 Federal Communications Commission as enhanced or value added. The  
450 term "telecommunications service" shall not include:

451 a. Data processing and information  
452 services that allow data to be generated, acquired, stored,  
453 processed or retrieved and delivered by an electronic transmission



454 to a purchaser where such purchaser's primary purpose for the  
455 underlying transaction is the processed data or information;

456                   b. Installation or maintenance of wiring  
457 or equipment on a customer's premises;

458                   c. Tangible personal property;

459                   d. Advertising, including, but not  
460 limited to, directory advertising;

461                   e. Billing and collection services  
462 provided to third parties;

463                   f. Internet access service;

464                   g. Radio and television audio and video  
465 programming services regardless of the medium, including the  
466 furnishing of transmission, conveyance and routing of such  
467 services by the programming service provider. Radio and  
468 television audio and video programming services shall include, but  
469 not be limited to, cable service as defined in 47 USCS 522(6) and  
470 audio and video programming services delivered by commercial  
471 mobile radio service providers, as defined in 47 CFR 20.3;

472                   h. Ancillary services; or

473                   i. Digital products delivered  
474 electronically, including, but not limited to, software, music,  
475 video, reading materials or ring tones.

476                   2. "Ancillary services" means services that  
477 are associated with or incidental to the provision of  
478 telecommunications services, including, but not limited to,



479 detailed telecommunications billing, directory assistance,  
480 vertical service and voice mail service.

481 a. "Conference bridging" means an  
482 ancillary service that links two (2) or more participants of an  
483 audio or video conference call and may include the provision of a  
484 telephone number. Conference bridging does not include the  
485 telecommunications services used to reach the conference bridge.

486 b. "Detailed telecommunications billing  
487 service" means an ancillary service of separately stating  
488 information pertaining to individual calls on a customer's billing  
489 statement.

490 c. "Directory assistance" means an  
491 ancillary service of providing telephone number information and/or  
492 address information.

493 d. "Vertical service" means an ancillary  
494 service that is offered in connection with one or more  
495 telecommunications services, which offers advanced calling  
496 features that allow customers to identify callers and to manage  
497 multiple calls and call connections, including conference bridging  
498 services.

499 e. "Voice mail service" means an  
500 ancillary service that enables the customer to store, send or  
501 receive recorded messages. Voice mail service does not include  
502 any vertical services that the customer may be required to have in  
503 order to utilize the voice mail service.



504                   3. "Intrastate" means telecommunications  
505 service that originates in one (1) United States state or United  
506 States territory or possession, and terminates in the same United  
507 States state or United States territory or possession.

508                   4. "Interstate" means a telecommunications  
509 service that originates in one (1) United States state or United  
510 States territory or possession, and terminates in a different  
511 United States state or United States territory or possession.

512                   5. "International" means a telecommunications  
513 service that originates or terminates in the United States and  
514 terminates or originates outside the United States, respectively.

515                   (v) For purposes of paragraph (e), the following  
516 sourcing rules shall apply:

517                   1. Except for the defined telecommunications  
518 services in item 3 of this subparagraph, the sales of  
519 telecommunications services sold on a call-by-call basis shall be  
520 sourced to:

521                   a. Each level of taxing jurisdiction  
522 where the call originates and terminates in that jurisdiction, or

523                   b. Each level of taxing jurisdiction  
524 where the call either originates or terminates and in which the  
525 service address is also located.

526                   2. Except for the defined telecommunications  
527 services in item 3 of this subparagraph, a sale of  
528 telecommunications services sold on a basis other than a



529 call-by-call basis, is sourced to the customer's place of primary  
530 use.

531                   3. The sale of the following  
532 telecommunications services shall be sourced to each level of  
533 taxing jurisdiction as follows:

534                   a. A sale of mobile telecommunications  
535 services other than air-to-ground radiotelephone service and  
536 prepaid calling service is sourced to the customer's place of  
537 primary use as required by the Mobile Telecommunication Sourcing  
538 Act.

539                   A. A home service provider shall be  
540 responsible for obtaining and maintaining the customer's place of  
541 primary use. The home service provider shall be entitled to rely  
542 on the applicable residential or business street address supplied  
543 by such customer, if the home service provider's reliance is in  
544 good faith; and the home service provider shall be held harmless  
545 from liability for any additional taxes based on a different  
546 determination of the place of primary use for taxes that are  
547 customarily passed on to the customer as a separate itemized  
548 charge. A home service provider shall be allowed to treat the  
549 address used for purposes of the tax levied by this chapter for  
550 any customer under a service contract in effect on August 1, 2002,  
551 as that customer's place of primary use for the remaining term of  
552 such service contract or agreement, excluding any extension or  
553 renewal of such service contract or agreement. Month-to-month



554 services provided after the expiration of a contract shall be  
555 treated as an extension or renewal of such contract or agreement.

556 B. If the commissioner determines  
557 that the address used by a home service provider as a customer's  
558 place of primary use does not meet the definition of the term  
559 "place of primary use" as defined in subitem a.A. of this item 3,  
560 the commissioner shall give binding notice to the home service  
561 provider to change the place of primary use on a prospective basis  
562 from the date of notice of determination; however, the customer  
563 shall have the opportunity, prior to such notice of determination,  
564 to demonstrate that such address satisfies the definition.

565 C. The department has the right to  
566 collect any taxes due directly from the home service provider's  
567 customer that has failed to provide an address that meets the  
568 definition of the term "place of primary use" which resulted in a  
569 failure of tax otherwise due being remitted.

570 b. A sale of postpaid calling service is  
571 sourced to the origination point of the telecommunications signal  
572 as first identified by either:

573 A. The seller's telecommunications  
574 system; or

575 B. Information received by the  
576 seller from its service provider, where the system used to  
577 transport such signals is not that of the seller.



578                                   c. A sale of a prepaid calling service  
579 or prepaid wireless calling service shall be subject to the tax  
580 imposed by this paragraph if the sale takes place in this state.  
581 If the customer physically purchases a prepaid calling service or  
582 prepaid wireless calling service at the vendor's place of  
583 business, the sale is deemed to take place at the vendor's place  
584 of business. If the customer does not physically purchase the  
585 service at the vendor's place of business, the sale of a prepaid  
586 calling card or prepaid wireless calling card is deemed to take  
587 place at the first of the following locations that applies to the  
588 sale:

589                                   A. The customer's shipping address,  
590 if the sale involves a shipment;

591                                   B. The customer's billing address;

592                                   C. Any other address of the  
593 customer that is known by the vendor; or

594                                   D. The address of the vendor, or  
595 alternatively, in the case of a prepaid wireless calling service,  
596 the location associated with the mobile telephone number.

597                                   4. A sale of a private communication service  
598 is sourced as follows:

599                                   a. Service for a separate charge related  
600 to a customer channel termination point is sourced to each level  
601 of jurisdiction in which such customer channel termination point  
602 is located.





603                                   b. Service where all customer  
604 termination points are located entirely within one (1)  
605 jurisdiction or levels of jurisdiction is sourced in such  
606 jurisdiction in which the customer channel termination points are  
607 located.

608                                   c. Service for segments of a channel  
609 between two (2) customer channel termination points located in  
610 different jurisdictions and which segments of a channel are  
611 separately charged is sourced fifty percent (50%) in each level of  
612 jurisdiction in which the customer channel termination points are  
613 located.

614                                   d. Service for segments of a channel  
615 located in more than one (1) jurisdiction or levels of  
616 jurisdiction and which segments are not separately billed is  
617 sourced in each jurisdiction based on the percentage determined by  
618 dividing the number of customer channel termination points in such  
619 jurisdiction by the total number of customer channel termination  
620 points.

621                                   5. A sale of ancillary services is sourced to  
622 the customer's place of primary use.

623                                   (vi) For purposes of subparagraph (v) of this  
624 paragraph (e):

625                                   1. "Air-to-ground radiotelephone service"  
626 means a radio service, as that term is defined in 47 CFR 22.99, in



627 which common carriers are authorized to offer and provide radio  
628 telecommunications service for hire to subscribers in aircraft.

629           2. "Call-by-call basis" means any method of  
630 charging for telecommunications services where the price is  
631 measured by individual calls.

632           3. "Communications channel" means a physical  
633 or virtual path of communications over which signals are  
634 transmitted between or among customer channel termination points.

635           4. "Customer" means the person or entity that  
636 contracts with the seller of telecommunications services. If the  
637 end user of telecommunications services is not the contracting  
638 party, the end user of the telecommunications service is the  
639 customer of the telecommunications service. Customer does not  
640 include a reseller of telecommunications service or for mobile  
641 telecommunications service of a serving carrier under an agreement  
642 to serve the customer outside the home service provider's licensed  
643 service area.

644           5. "Customer channel termination point" means  
645 the location where the customer either inputs or receives the  
646 communications.

647           6. "End user" means the person who utilizes  
648 the telecommunications service. In the case of an entity, "end  
649 user" means the individual who utilizes the service on behalf of  
650 the entity.



651                   7. "Home service provider" has the meaning  
652 ascribed to such term in Section 124(5) of Public Law 106-252  
653 (Mobile Telecommunications Sourcing Act).

654                   8. "Mobile telecommunications service" has  
655 the meaning ascribed to such term in Section 124(7) of Public Law  
656 106-252 (Mobile Telecommunications Sourcing Act).

657                   9. "Place of primary use" means the street  
658 address representative of where the customer's use of the  
659 telecommunications service primarily occurs, which must be the  
660 residential street address or the primary business street address  
661 of the customer. In the case of mobile telecommunications  
662 services, the place of primary use must be within the licensed  
663 service area of the home service provider.

664                   10. "Post-paid calling service" means the  
665 telecommunications service obtained by making a payment on a  
666 call-by-call basis either through the use of a credit card or  
667 payment mechanism such as a bank card, travel card, credit card or  
668 debit card, or by charge made to a telephone number which is not  
669 associated with the origination or termination of the  
670 telecommunications service. A post-paid calling service includes  
671 a telecommunications service, except a prepaid wireless calling  
672 service that would be a prepaid calling service except it is not  
673 exclusively a telecommunications service.

674                   11. "Prepaid calling service" means the right  
675 to access exclusively telecommunications services, which must be



676 paid for in advance and which enables the origination of calls  
677 using an access number or authorization code, whether manually or  
678 electronically dialed, and that is sold in predetermined units or  
679 dollars of which the number declines with use in a known amount.

680           12. "Prepaid wireless calling service" means  
681 a telecommunications service that provides the right to utilize  
682 mobile wireless service as well as other nontelecommunications  
683 services, including the download of digital products delivered  
684 electronically, content and ancillary service, which must be paid  
685 for in advance that is sold in predetermined units or dollars of  
686 which the number declines with use in a known amount.

687           13. "Private communication service" means a  
688 telecommunications service that entitles the customer to exclusive  
689 or priority use of a communications channel or group of channels  
690 between or among termination points, regardless of the manner in  
691 which such channel or channels are connected, and includes  
692 switching capacity, extension lines, stations and any other  
693 associated services that are provided in connection with the use  
694 of such channel or channels.

695           14. "Service address" means:

696                   a. The location of the  
697 telecommunications equipment to which a customer's call is charged  
698 and from which the call originates or terminates, regardless of  
699 where the call is billed or paid.



700                   b. If the location in subitem a of this  
701 item 14 is not known, the origination point of the signal of the  
702 telecommunications services first identified by either the  
703 seller's telecommunications system or in information received by  
704 the seller from its service provider, where the system used to  
705 transport such signals is not that of the seller.

706                   c. If the location in subitems a and b  
707 of this item 14 are not known, the location of the customer's  
708 place of primary use.

709                   (vii) 1. For purposes of this subparagraph (vii),  
710 "bundled transaction" means a transaction that consists of  
711 distinct and identifiable properties or services which are sold  
712 for a single nonitemized price but which are treated differently  
713 for tax purposes.

714                   2. In the case of a bundled transaction that  
715 includes telecommunications services, ancillary services, Internet  
716 access, or audio or video programming services taxed under this  
717 chapter in which the price of the bundled transaction is  
718 attributable to properties or services that are taxable and  
719 nontaxable, the portion of the price that is attributable to any  
720 nontaxable property or service shall be subject to the tax unless  
721 the provider can reasonably identify that portion from its books  
722 and records kept in the regular course of business.

723                   3. In the case of a bundled transaction that  
724 includes telecommunications services, ancillary services, Internet



725 access, audio or video programming services subject to tax under  
726 this chapter in which the price is attributable to properties or  
727 services that are subject to the tax but the tax revenue from the  
728 different properties or services are dedicated to different funds  
729 or purposes, the provider shall allocate the price among the  
730 properties or services:

731                   a. By reasonably identifying the portion  
732 of the price attributable to each of the properties and services  
733 from its books and records kept in the regular course of business;  
734 or

735                   b. Based on a reasonable allocation  
736 methodology approved by the department.

737                   4. This subparagraph (vii) shall not create a  
738 right of action for a customer to require that the provider or the  
739 department, for purposes of determining the amount of tax  
740 applicable to a bundled transaction, allocate the price to the  
741 different portions of the transaction in order to minimize the  
742 amount of tax charged to the customer. A customer shall not be  
743 entitled to rely on the fact that a portion of the price is  
744 attributable to properties or services not subject to tax unless  
745 the provider elects, after receiving a written request from the  
746 customer in the form required by the provider, to provide  
747 verifiable data based upon the provider's books and records that  
748 are kept in the regular course of business that reasonably



749 identifies the portion of the price attributable to the properties  
750 or services not subject to the tax.

751 (2) Persons making sales to consumers of electricity,  
752 current, power, natural gas, liquefied petroleum gas or other fuel  
753 for residential heating, lighting or other residential  
754 noncommercial or nonagricultural use or sales of potable water for  
755 residential, noncommercial or nonagricultural use shall indicate  
756 on each statement rendered to customers that such charges are  
757 exempt from sales taxes.

758 (3) There is hereby levied, assessed and shall be paid on  
759 transportation charges on shipments moving between points within  
760 this state when paid directly by the consumer, a tax equal to the  
761 rate applicable to the sale of the property being transported.  
762 Such tax shall be reported and paid directly to the Department of  
763 Revenue by the consumer.

764 **SECTION 5.** Section 27-59-3, Mississippi Code of 1972, is  
765 amended as follows:

766 27-59-3. The words, terms and phrases as used in this  
767 chapter shall have the following meanings unless the context  
768 requires otherwise:

769 (a) "Person" means any individual, firm, copartnership,  
770 joint venture, association, corporation, company, estate, trust,  
771 limited liability company, government (and any political  
772 subdivision, agency or instrumentality thereof) subject to Section  
773 27-55-12 or any other entity or group or combination acting as a



774 unit, and the plural as well as the singular number unless the  
775 intention to give a more limited meaning is disclosed by the  
776 context.

777 (b) "Highway" means and includes every way or place, of  
778 whatever nature, including public roads, toll roads, streets, and  
779 alleys of the state generally open to the use of the public or to  
780 be opened or reopened to the use of the public for the purpose of  
781 vehicular travel, and notwithstanding that the same may be  
782 temporarily closed for the purpose of construction,  
783 reconstruction, maintenance or repair. Provided further, that the  
784 confines of a highway shall include the entire width and length of  
785 the right-of-way.

786 (c) "Motor vehicle" means every vehicle licensed for  
787 highway use by which any person or property is transported or  
788 drawn upon the highways of this state and which is self-propelled.

789 (d) "Liquefied compressed gas" means gases derived from  
790 petroleum or natural gas which are in the gaseous state at normal  
791 atmospheric temperature and pressure, but which may be maintained  
792 in the liquid state at normal atmospheric temperature by suitable  
793 pressure. As used herein, the term shall be deemed to mean and  
794 include methane, ethane, propane, ethylene, propylene, butylene,  
795 butane, isobutane, and any and all liquid flammable materials  
796 derived from petroleum or natural gas having a vapor pressure  
797 exceeding forty (40) pounds per square inch, absolute, at one





798 hundred (100) degrees F. Normal storage of these gases is a  
799 liquid under pressure.

800 (e) "Compressed natural gas" and "liquefied natural  
801 gas" mean natural gas after it has been compressed or liquefied  
802 for use as a fuel in a motor vehicle and shall not include natural  
803 gas prior to such final compression or liquefaction.

804 (f) "Compressed gas" means "liquefied compressed gas,"  
805 "liquefied natural gas," "compressed natural gas" and any other  
806 liquefied or compressed gas that is used or is usable as fuel in a  
807 motor vehicle.

808 (g) "Use" means, in addition to its original meaning,  
809 the receipt of compressed gas by any person into the fuel supply  
810 tank of a motor vehicle or into a receptacle from which compressed  
811 gas is supplied by any person to his own or other motor vehicles.

812 (h) "Terminal" means a tank farm within this state with  
813 the minimum storage capacity for the receipt of a full barge  
814 delivery or common carrier pipeline delivery of compressed gas.

815 (i) "Refiner" or "processor" means every person who  
816 shall produce, manufacture, refine, distill, compress or liquefy  
817 compressed gas in this state, excluding, however, any person  
818 operating a private refueling system.

819 (j) "Public utility" means a person engaged in the  
820 distribution of natural gas whose rates are subject to regulation  
821 by the Public Service Commission of the State of Mississippi.



822 (k) "Distributor" means any person who sells or  
823 delivers compressed gas for use in the operation of a motor  
824 vehicle or motor vehicles on the highways of this state and any  
825 person who shall import, receive, purchase, acquire, manufacture,  
826 refine, use, store or sell any compressed gas in this state, on  
827 which the excise taxes hereinafter levied by this chapter have not  
828 been paid or the payment of which is not covered by the bond of a  
829 qualified Mississippi distributor of compressed gas, excluding,  
830 however, any person operating a private refueling system. All  
831 "refiners" and "processors" shall qualify as distributors of  
832 compressed gas. All persons operating marine or pipeline  
833 terminals and all persons operating underground storage facilities  
834 exclusive of those storing natural gas shall qualify as  
835 distributors of compressed gas. No person may qualify as a  
836 distributor for the sole purpose of using compressed gas as a fuel  
837 to propel a motor vehicle or motor vehicles owned by him on the  
838 highways of this state.

839 (l) "User" means any person who uses compressed gas to  
840 propel a motor vehicle over the highways of this state.

841 (m) "Commission" or "department" means the Department  
842 of Revenue of the State of Mississippi, either acting directly or  
843 through its duly authorized officers, agents and employees.

844 (n) "United States government" means and includes all  
845 purchasing officers of the Armed Forces of the United States and  
846 the United States Property and Fiscal Officer for the State of



847 Mississippi or any other state, appointed pursuant to Section 708,  
848 Title 32, United States Code, when purchasing compressed gas with  
849 federal funds for the account of and use by a component of the  
850 Armed Forces as defined herein.

851 (o) "Armed Forces" means and includes all components of  
852 the Armed Forces of the United States, including the Army National  
853 Guard, the Army National Guard of the United States, the Air  
854 National Guard and the Air National Guard of the United States, as  
855 those terms are defined in Section 101, Title 10, United States  
856 Code, and any other reserve component of the Armed Forces of the  
857 United States enumerated in Section 261, Title 10, United States  
858 Code.

859 (p) "Fleet" means twenty (20) or more business or  
860 commercial motor vehicles owned by a single user operating on the  
861 highways of this state and using or capable of using compressed  
862 natural gas or liquefied natural gas, which may be composed of  
863 Class I, Class II or Class III motor vehicles, as defined in  
864 Section 25-59-29, or any combination thereof.

865 (q) "Private refueling system" means compressed gas  
866 refueling equipment necessary in order for natural gas to be  
867 delivered directly through the transportation system of a utility  
868 to a private residence or place of business of a user for  
869 compression into compressed for use in the operation of the user's  
870 own motor vehicle or motor vehicles on the highways of the state.



871 (r) "Dealer" means a person engaged in the business of  
872 selling compressed gas fuel equipment for installation into motor  
873 vehicles or compressed gas refueling equipment, or both, or a  
874 person engaged in the business of selling motor vehicles with the  
875 compressed gas fuel equipment as manufacturer's original factory  
876 installed equipment.

877 (s) "Installer" means a person engaged in the business  
878 of installing compressed gas fuel equipment into motor vehicles or  
879 compressed gas refueling equipment, or both.

880 (t) "Nonpermitted use" means an owner or operator of  
881 motor vehicles operating on the highways of the state and using or  
882 capable of using compressed gas which are classified as such by  
883 the department pursuant to Section 27-59-11(6).

884 (u) "Class I motor vehicles" means motor vehicles using  
885 or capable of using compressed gas as a motor fuel and having a  
886 gross license tag weight classification of ten thousand (10,000)  
887 pounds or less.

888 (v) "Class II motor vehicles" means motor vehicles  
889 using or capable of using compressed gas as a motor fuel and  
890 having a gross license tag weight classification of greater than  
891 ten thousand (10,000) pounds but not exceeding twenty thousand  
892 (20,000) pounds.

893 (w) "Class III motor vehicles" means motor vehicles  
894 using or capable of using compressed gas as a motor fuel and



895 having a gross license tag weight classification greater than  
896 twenty thousand (20,000) pounds.

897 (x) "Class IV motor vehicles" means motor vehicles  
898 using or capable of using compressed gas as a motor fuel and which  
899 are owned or operated by nonpermitted users.

900 (y) "Compressed gas fuel equipment" means tanks, pumps,  
901 hoses, injectors, electronic controls, and related supplies,  
902 materials, parts and components for the storage of compressed  
903 natural gas in a motor vehicle as fuel for the motor vehicle, the  
904 delivery of natural gas to the engine of a motor vehicle, and the  
905 exhaust from a motor vehicle of gases from combustion of natural  
906 gas used to propel a motor vehicle.

907 (z) "Compressed gas refueling equipment" means  
908 compressors (whether used separately or in combination with  
909 cascade tanks), process piping, hoses, dispensing units at the  
910 point where compressed natural gas is delivered into motor  
911 vehicles as fuel, meters and other parts and equipment that  
912 constitute a refueling system capable of dispensing compressed  
913 natural gas into fuel tanks of motor vehicles for use as a fuel.

914 (aa) "Public refueling station" means compressed gas  
915 refueling equipment and other property necessary in order for  
916 natural gas to be delivered directly through the transportation  
917 system of a utility to a distributor for compression into  
918 compressed natural gas for sale to a third-party user or users for  
919 use in the operation of such third-party user's or users' motor



920 vehicle or motor vehicles on the highways of the state, including,  
921 but not limited to, sales to the general public, as well as for  
922 use in the motor vehicle or motor vehicles owned by the  
923 distributor on the highways of this state.

924 (bb) "Private utility" means a person engaged in the  
925 distribution and sale of natural gas whose rates are not subject  
926 to regulation by the Public Service Commission of the State of  
927 Mississippi, including, but not limited to, municipal natural gas  
928 utilities, cooperative natural gas associations, and producers,  
929 gatherers and distributors of natural gas.

930 (cc) "Utility" means a public utility and a private  
931 utility. A utility is not a refiner, processor or distributor  
932 based solely upon its sale of natural gas to a refiner, processor  
933 or distributor of compressed gas.

934 **SECTION 6.** Section 27-59-7, Mississippi Code of 1972, is  
935 amended as follows:

936 27-59-7. (1) Before any person shall engage in business as  
937 a distributor of compressed gas, he shall first make application  
938 to the \* \* \* department, upon forms prescribed by the \* \* \*  
939 department, for a permit to engage in \* \* \* business as a  
940 distributor of compressed gas for each physical location at which  
941 he intends to engage in the business, which application shall also  
942 specify the particular type or types of compressed gas to be sold  
943 or delivered at each location.



944        (2) (a) If \* \* \* the application is approved, the \* \* \*  
945 department may require \* \* \* the applicant to enter into a good  
946 and sufficient surety bond, written by a company qualified to  
947 write \* \* \* bonds in the State of Mississippi \* \* \*. \* \* \* The  
948 bond shall be made payable to the State of Mississippi, in a sum  
949 equal to the compressed gas taxes estimated to become due by the  
950 distributor for any three-month period and not less than One  
951 Thousand Dollars (\$1,000.00) \* \* \*; or in lieu \* \* \* of a bond,  
952 the department may require the applicant to deposit with the \* \* \*  
953 department a cash bond in the \* \* \* above amount. A personal bond  
954 in the \* \* \* above amounts shall also be acceptable if \* \* \* it is  
955 secured by the bonds of the State of Mississippi or the United  
956 States Government. \* \* \* The bond or bonds shall be in an amount  
957 not to exceed \* \* \* the greater of the compressed gas taxes  
958 estimated to become due by the \* \* \* distributor for any \* \* \*  
959 three-month period or One Thousand Dollars (\$1,000.00). The  
960 bond \* \* \* shall be increased within the limits \* \* \* set forth  
961 from time to time if deemed insufficient by the \* \* \* department,  
962 giving to the distributor fifteen (15) days' notice, in writing,  
963 to increase \* \* \* the bond, \* \* \* the notice \* \* \* shall state the  
964 amount of increase demanded.

965        (b) \* \* \* The bond shall be conditioned that the  
966 distributor will fully comply with all laws pertaining to  
967 distributors of compressed gas as regulated by this chapter and to  
968 pay the compressed gas taxes and penalties provided. \* \* \*



969 However, \* \* \* any person who has already furnished bond under a  
970 prior petroleum tax law or shall furnish a bond to meet the  
971 requirements of any petroleum tax law administered by the \* \* \*  
972 department shall not be required to furnish an additional bond,  
973 but \* \* \* the person shall be subject to all other conditions,  
974 requirements and liabilities imposed herein upon a distributor of  
975 compressed gas.

976 (3) Before any \* \* \* utility sells or delivers natural gas  
977 to the private refueling system of a user or the public refueling  
978 station of a distributor for use as a fuel in a motor vehicle or  
979 motor vehicles in this state \* \* \*, the \* \* \* utility shall  
980 notify, in writing, the \* \* \* department of its intention to  
981 engage in such activity.

982 (4) A \* \* \* utility who sells or delivers natural gas  
983 to \* \* \* the owner of a nonresidential private refueling system to  
984 be compressed by a user or of a public refueling station to be  
985 compressed and sold by a distributor for use as a fuel in a motor  
986 vehicle or motor vehicles on the highways of the state shall  
987 install or cause to be installed a separate meter for the natural  
988 gas to be used by the nonresidential private refueling system or  
989 the public refueling station. Prior to the installation of the  
990 meter by or on behalf of the utility, the user or distributor, as  
991 applicable, shall provide a copy of its private refueling system  
992 or public refueling station permit, issued pursuant to Section  
993 27-59-11(7), to the utility. No utility shall install or cause to





994 be installed any such separate meter for or sell or deliver  
995 natural gas to a nonresidential private refueling system or to a  
996 public refueling station without first receiving a copy of such  
997 private refueling system or public refueling station permit from  
998 the user or distributor, as applicable, and no utility shall  
999 install or cause to be installed such meter for or sell or deliver  
1000 natural gas to a nonresidential private refueling system or to a  
1001 public refueling station except in accordance with such permit. A  
1002 utility which sells or delivers natural gas to a user or  
1003 distributor by any means shall also be subject to the same  
1004 requirements and penalties as distributors of compressed gas  
1005 except that the \* \* \* utility shall not be required to comply with  
1006 Section 75-57-49.

1007       **SECTION 7.** Section 27-59-9, Mississippi Code of 1972, is  
1008 amended as follows:

1009       27-59-9. If the \* \* \* department approves the application  
1010 and bond, it shall issue a permit authorizing \* \* \* the applicant  
1011 to engage in business as a distributor and \* \* \* the permit shall  
1012 not be assignable or otherwise transferable \* \* \* ; however, \* \* \*  
1013 no such permit shall be issued unless the applicant has complied  
1014 with the provisions of Section 75-57-49, \* \* \* excluding a permit  
1015 to engage in business as a distributor of compressed natural  
1016 gas. \* \* \* The permit may be revoked for a single business  
1017 location or any such locations by the \* \* \* department at any time  
1018 upon ten (10) days' written notice, if \* \* \* the distributor shall



1019 fail to pay the compressed gas taxes and penalties due within the  
1020 time provided by law, or shall fail in any way to comply with all  
1021 the provisions of this chapter, but \* \* \* the cancellation shall  
1022 not relieve the distributor or his sureties from liability on the  
1023 distributor's bond. No permit shall be issued any applicant who  
1024 is in arrears, or default to the state or any subdivision thereof  
1025 for any taxes.

1026 Any person engaging in the business of a distributor without  
1027 a permit having first been obtained as provided \* \* \* in this  
1028 section, or after any permit granted a distributor has been  
1029 revoked, shall forfeit all right to do business as a distributor  
1030 in the State of Mississippi for a period of not less than one (1)  
1031 year, nor more than five (5) years. It shall be the duty of  
1032 the \* \* \* department, when it shall have knowledge, that any  
1033 person is engaging in business as a distributor without a valid  
1034 permit, to proceed by injunction or otherwise to prevent the  
1035 continuance of \* \* \* the business of distributor of compressed  
1036 gas, and any judge or chancellor, now authorized to grant  
1037 injunctions, shall grant an injunction enjoining the continuance  
1038 of \* \* \* the business for not less than one (1) year nor more than  
1039 five (5) years.

1040 **SECTION 8.** Section 27-59-11, Mississippi Code of 1972, is  
1041 amended as follows:

1042 27-59-11. (1) A tax at the rate of One-fourth Cent (1/4¢)  
1043 per gallon is hereby levied upon any person engaged in business as



1044 a distributor of compressed gas, excepting natural gas, for the  
1045 privilege of engaging in such business or acting as such  
1046 distributor. The tax shall be based on all compressed gas,  
1047 excepting natural gas, stored, used, distributed, manufactured,  
1048 refined, distilled, blended or compounded in this state or  
1049 received in this state for sale, storage, distribution or for any  
1050 other purpose.

1051 The tax levied herein shall become due and payable when:

1052 (a) Compressed gas is withdrawn from storage at a  
1053 refinery, marine or pipeline terminal, or underground caverns or  
1054 cavities except when withdrawal is by pipeline or barge;

1055 (b) Compressed gas imported by a common carrier is  
1056 unloaded by that carrier unless the compressed gas is unloaded  
1057 directly into an underground cavern or cavity for storage or  
1058 directly into the storage tanks of a refinery, marine or pipeline  
1059 terminal; or

1060 (c) Compressed gas imported by any person, other than a  
1061 common carrier, enters the State of Mississippi, unless the  
1062 compressed gas is unloaded directly into an underground cavern or  
1063 cavity for storage or directly into the storage tanks of a  
1064 refinery, marine or pipeline terminal.

1065 (2) A tax at the rate of Seventeen Cents (17¢) per gallon  
1066 until the date specified in Section 65-39-35, and Thirteen and  
1067 Four-tenths Cents (13.4¢) per gallon thereafter, is levied upon  
1068 any distributor of compressed gas for the privilege of engaging in



1069 the business of selling or delivering compressed gas, excepting  
1070 compressed natural gas and liquefied natural gas, for use in a  
1071 motor vehicle or motor vehicles on the highways of this state. A  
1072 tax at the rate of Eighteen Cents (18¢) per one hundred (100)  
1073 cubic feet until the date specified in Section 65-39-35, and  
1074 Fourteen and Four-tenths Cents (14.4¢) per one hundred (100) cubic  
1075 feet thereafter, is levied upon any distributor of compressed gas  
1076 for the privilege of engaging in the business of selling or  
1077 delivering compressed natural gas and liquefied natural gas for  
1078 use in a motor vehicle or motor vehicles on the highways of this  
1079 state. A tax at the rate of Eighteen Cents (18¢) per one hundred  
1080 (100) cubic feet until the date specified in Section 65-39-35, and  
1081 Fourteen and Four-tenths Cents (14.4¢) per one hundred (100) cubic  
1082 feet thereafter, is levied upon any \* \* \* utility for the  
1083 privilege of engaging in the business of selling or delivering  
1084 natural gas to a user for the purpose of being used as a fuel in a  
1085 motor vehicle or motor vehicles on the highways of this state, and  
1086 the taxes shall be collected from the user whenever practical.  
1087 The taxes levied in this subsection shall not apply when sales or  
1088 deliveries are made to persons who are holders of permitted  
1089 compressed gas user's decals.

1090 (3) Upon every person operating on the highways of this  
1091 state a motor vehicle or motor vehicles \* \* \*, there is hereby  
1092 levied an annual privilege tax of One Hundred Ninety-five Dollars  
1093 (\$195.00) until the date specified in Section 65-39-35, and One



1094 Hundred Sixty-five Dollars (\$165.00) thereafter. However, upon  
1095 every person subject to Section 27-55-12 operating on the highways  
1096 of this state a Class I motor vehicle or motor vehicles having a  
1097 "government" or "G" tax-exempt motor vehicle license tag, there is  
1098 hereby levied an annual privilege tax of One Hundred Sixty-five  
1099 Dollars (\$165.00) until the date specified in Section 65-39-35,  
1100 and One Hundred Forty Dollars (\$140.00) thereafter.

1101 (4) Upon every person operating on the highways of this  
1102 state a motor vehicle or motor vehicles using or capable of using  
1103 compressed gas and having a gross license tag weight  
1104 classification greater than ten thousand (10,000) pounds, there is  
1105 hereby levied a privilege tax of Seventeen Cents (17¢) per gallon  
1106 until the date specified in Section 65-39-35, and Thirteen and  
1107 Four-tenths Cents (13.4¢) per gallon thereafter, on all compressed  
1108 gas, excepting compressed natural gas and liquefied natural gas,  
1109 used on the highways of this state. Upon every person operating  
1110 on the highways of this state a Class II or Class III motor  
1111 vehicle or motor vehicles, there is hereby levied a privilege tax  
1112 of Eighteen Cents (18¢) per one hundred (100) cubic feet until the  
1113 date specified in Section 65-39-35, and Fourteen and Four-tenths  
1114 Cents (14.4¢) per one hundred (100) cubic feet thereafter, on all  
1115 compressed natural gas and liquefied natural gas used on the  
1116 highways of this state. The taxes levied in this \* \* \* subsection  
1117 shall not apply to owners or operators classified by the  
1118 commission as nonpermitted users.



1119 (5) All owners and operators of Class II motor  
1120 vehicles \* \* \* shall prepay Three Hundred Dollars (\$300.00) of  
1121 such tax annually; however, all owners and operators of Class II  
1122 motor vehicles subject to Section 27-55-12 having a "government"  
1123 or "G" tax-exempt motor vehicle license tag shall prepay One  
1124 Hundred Eighty-five Dollars (\$185.00) of such tax annually, and  
1125 all owners and operators of Class III motor vehicles subject to  
1126 Section 27-55-12 having a "government" or "G" tax-exempt motor  
1127 vehicle license tag shall prepay Two Hundred Fifty Dollars  
1128 (\$250.00) of such tax annually. On Class II and Class III motor  
1129 vehicles that \* \* \* are exclusively used by a farmer for  
1130 transporting farm products produced on his own farm and also farm  
1131 supplies, materials and equipment used in the growing or  
1132 production of his agricultural products and have a "farm" or "F"  
1133 motor vehicle license tag, the prepaid portion of said privilege  
1134 tax shall be One Hundred Fifty Dollars (\$150.00). A private  
1135 refueling system located at a private residence or home shall be  
1136 used only for Class I motor vehicles and shall not be used to  
1137 refuel any Class II, Class III, Class IV or Class I fleet motor  
1138 vehicles unless records are maintained by the user of compressed  
1139 natural gas used for all such classes of motor vehicles.

1140 (6) The \* \* \* department, in its discretion, may authorize  
1141 or require the owner or operator of five (5) or more motor  
1142 vehicles that use or are capable of using compressed gas on the  
1143 highway to pay the excise tax on all compressed gas purchased for



1144 any purpose and the excise tax shall be collected by the  
1145 distributor of compressed gas at the time of sale or delivery.  
1146 The owners or operators authorized or required to do so shall be  
1147 classified as nonpermitted users.

1148 (7) Every person desiring to operate a private refueling  
1149 system or public refueling station shall first file an application  
1150 with the department for a permit for such private refueling system  
1151 or public refueling station and pay a one-time, nonrefundable  
1152 application fee to the department of Twenty-five Dollars (\$25.00)  
1153 at the time of filing the application. Upon the issuance of a  
1154 private refueling system or public refueling station permit by the  
1155 department to the user or distributor, the user or distributor, as  
1156 applicable, shall then be entitled to purchase from a dealer  
1157 licensed pursuant to subsection (8) of this section, and have  
1158 installed by an installer, licensed pursuant to subsection (8) of  
1159 this section, a private refueling system or public refueling  
1160 station in accordance with the permit and shall provide a copy of  
1161 the permit to the dealer and installer prior to the sale and  
1162 installation. No licensed dealer shall sell, and no licensed  
1163 installer shall install, any private refueling system or public  
1164 refueling station equipment without first receiving a copy of the  
1165 private refueling system or public refueling station permit from  
1166 the user or distributor, as applicable, and no licensed installer  
1167 shall install a private refueling system or public refueling  
1168 station equipment except in accordance with the permit.



1169       (8) Every person desiring to engage in business as a dealer  
1170 or installer, or both, shall first file an application with the  
1171 department for a license to engage in that business or businesses  
1172 and pay a one-time, nonrefundable application fee to the  
1173 department of Twenty-five Dollars (\$25.00) at the time of filing  
1174 the application. Upon the issuance of a license by the department  
1175 to the person, the licensee shall be authorized to engage in the  
1176 business or businesses for which it is licensed. No person not  
1177 licensed by the department shall engage in business as a dealer or  
1178 installer.

1179       **SECTION 9.** Section 27-59-12, Mississippi Code of 1972, is  
1180 amended as follows:

1181       27-59-12. There shall not be included in the measure of the  
1182 tax levied in this chapter any compressed gas:

1183           (a) Sold or delivered by a permitted distributor of  
1184 compressed gas to a second permitted distributor of compressed  
1185 gas, who shall become liable for the tax unless said compressed  
1186 gas is sold by the second permitted distributor to a third  
1187 permitted distributor. The third permitted distributor of  
1188 compressed gas shall be liable for the tax.

1189           (b) Which as an unfinished product, is used by a  
1190 refinery in the manufacturing or refining of petroleum products.

1191           (c) Sold to the United States government for use of the  
1192 armed forces only, and delivered in quantities of not less than  
1193 four thousand (4,000) gallons per individual delivery.





1194 (d) Delivered to a bonded warehouse for storage within  
1195 this state for the United States Department of Interior.

1196 (e) Exported to a destination beyond the boundaries of  
1197 this state by a permitted distributor of compressed gas, when the  
1198 tax on such compressed gas has been paid or on which the tax  
1199 liability imposed by this chapter has accrued against said  
1200 permitted distributor.

1201 (f) Exported by any person to a destination beyond the  
1202 borders of this state in quantities of not less than three  
1203 thousand (3,000) gallons by ship, vessel, barge, railroad tank  
1204 car, or pipeline, or by tank truck if such tank truck is operated  
1205 by a common or contract carrier.

1206 (g) Sold or delivered to any person within this state  
1207 to be used in a commercial process where it becomes a component  
1208 part of any manufactured product or where used as a processing  
1209 agent in the treatment of raw material in any manufacturing  
1210 process.

1211 (h) Sold or delivered to be used for test purposes at  
1212 any regularly established testing laboratory in this state.

1213 (i) Sold or delivered to be used for the purpose of  
1214 generating electricity.

1215 (j) To the extent that it is subject to exemption or  
1216 partial exemption pursuant to Section 27-55-12.

1217 When compressed gas is excluded from the tax levied in this  
1218 chapter by one or more of the exemptions provided, the deduction



1219 for the exemption may be taken, without the prior approval of  
1220 the \* \* \* department, on the monthly tax report of the distributor  
1221 of compressed gas importing, selling, delivering or exporting such  
1222 compressed gas. The \* \* \* department may require \* \* \* proof as  
1223 is reasonably necessary for the administration of this chapter.

1224 Any person who has delivered or sold compressed gas on which  
1225 the tax has been paid by him to the vendor may, if the compressed  
1226 gas is subject to exemption under this chapter, assign his claim  
1227 for exemption to any permitted distributor of compressed gas in  
1228 this state. \* \* \* The distributor may deduct the amount of the  
1229 tax exemption from his next compressed gas tax report, provided  
1230 the distributor furnishes evidence satisfactory to the \* \* \*  
1231 department that the claim for exemption is valid.

1232 In order to claim exemptions provided for under this chapter,  
1233 the distributor of compressed gas must file claims \* \* \* for the  
1234 exemptions within three (3) years from the date of sale or  
1235 delivery \* \* \* , otherwise, claims for such exemptions shall be  
1236 disallowed.

1237 **SECTION 10.** Section 27-59-13, Mississippi Code of 1972, is  
1238 amended as follows:

1239 27-59-13. (1) The excise taxes levied in this chapter shall  
1240 become due and payable on or before the twentieth day of the month  
1241 succeeding the month in which the tax accrues. Each distributor  
1242 shall file with the \* \* \* department a monthly report setting  
1243 forth the quantity of compressed gas received within this state,



1244 less any authorized exemptions; the quantity of compressed gas  
1245 sold for use on the highways of this state; and any other  
1246 information as may be reasonably necessary for the administration  
1247 of this chapter. The distributor shall remit to the \* \* \*  
1248 department, with the monthly report, the full amount of the excise  
1249 tax shown \* \* \* on the report to be due.

1250 (2) Each licensed dealer and installer shall file with the  
1251 department a monthly report setting forth the names and addresses  
1252 of the purchasers of compressed gas fuel equipment and compressed  
1253 gas refueling equipment sold and installed, the permit numbers of  
1254 their private refueling system and/or public refueling station  
1255 permits related thereto, and a description of the type of  
1256 equipment sold or installed, as applicable, and any other  
1257 information as may be reasonably necessary for the administration  
1258 of this chapter. In addition, the monthly report of a dealer or  
1259 installer shall include the applications for compressed gas user's  
1260 decals and the remittance of the compressed gas user's annual  
1261 privilege taxes required by Section 27-59-29 to be obtained and  
1262 collected and remitted, respectively, by dealers and installers.

1263 (3) Reports and payments sent to the \* \* \* department by  
1264 mail must be postmarked by the due date in order to be considered  
1265 timely filed, except when the due date falls on a weekend or  
1266 holiday, in which case such reports and payments must be  
1267 postmarked by the first working day following the due date in  
1268 order to be considered timely filed.



1269       (4) An amount equal to One-fourth Cent (1/4¢) per gallon on  
1270 all compressed gas shown to be taxable for highway use may be  
1271 deducted; provided, that the One-fourth Cent (1/4¢) per gallon tax  
1272 on such compressed gas has been paid or is covered by the bond of  
1273 a distributor of compressed gas.

1274       (5) The monthly report of the distributor shall be prepared  
1275 and filed with the \* \* \* department on forms prescribed by  
1276 the \* \* \* department or the distributor may, with the approval of  
1277 the \* \* \* department, furnish the required information on  
1278 machine-prepared schedules. \* \* \* The monthly reports shall be  
1279 signed by the distributor or his duly authorized agent and contain  
1280 a declaration that the statements contained therein are true and  
1281 are made under the penalty of perjury.

1282       (6) All persons storing compressed gases, excepting natural  
1283 gas, in underground caverns or cavities in this state shall make  
1284 monthly reports of withdrawals of such compressed gases from  
1285 storage, on forms prescribed by the \* \* \* department at the same  
1286 time, in the same manner, and subject to the same terms,  
1287 conditions and penalties as is otherwise provided for distributors  
1288 of compressed gas. Sales and deliveries of compressed gases to  
1289 nonpermitted distributors shall be listed and reported on \* \* \*  
1290 the reports separately from sales and deliveries to permitted  
1291 distributors.

1292       **SECTION 11.** Section 27-59-17, Mississippi Code of 1972, is  
1293 amended as follows:



1294           27-59-17. If a permittee or licensee shall at any time file  
1295 a false report of any date or information required by this  
1296 chapter, or shall fail, refuse or neglect to file any report as  
1297 required by this chapter, or to pay the full amount of any tax  
1298 required by this chapter, or fail to maintain accurately any  
1299 required records, the \* \* \* department may cancel his permit or  
1300 license. \* \* \* Before canceling any such permit or license,  
1301 the \* \* \* department shall notify the permittee or licensee to  
1302 show cause within ten (10) days of the date of the notice  
1303 why \* \* \* the permit or license should not be canceled; \* \* \*  
1304 however, at any time prior to and pending \* \* \* the hearing  
1305 the \* \* \* department may, in the exercise of reasonable  
1306 discretion, suspend \* \* \* the permit.

1307           **SECTION 12.** Section 27-59-23, Mississippi Code of 1972, is  
1308 amended as follows:

1309           27-59-23. When any distributor, dealer, installer or other  
1310 person shall fail to submit his or its monthly report as \* \* \*  
1311 required by this chapter, or when any distributor, dealer,  
1312 installer or other person shall fail to keep \* \* \* records as  
1313 required \* \* \* by this chapter, or fail to allow inspection  
1314 of \* \* \* required records as provided in this chapter, \* \* \* the  
1315 distributor, dealer, installer or other person shall forfeit his  
1316 right to do business as a distributor, dealer or installer in this  
1317 state for a period of not less than three (3) months, and an  
1318 injunction shall be issued by any judge or chancellor, authorized



1319 to issue injunctions, enjoining said distributor, dealer,  
1320 installer or other persons from continuing \* \* \* the business of  
1321 distributor, dealer or installer for not less than three (3)  
1322 months.

1323 **SECTION 13.** Section 27-59-25, Mississippi Code of 1972, is  
1324 amended as follows:

1325 27-59-25. (1) Each distributor of compressed gas shall  
1326 maintain and keep for a period of three (3) years a record of all  
1327 compressed gas received, acquired, manufactured, refined,  
1328 purchased, sold or delivered within this state, together with  
1329 invoices, bills of lading and other pertinent records and papers  
1330 as the \* \* \* department may deem reasonably necessary for the  
1331 administration of this chapter.

1332 (2) Each dealer and installer shall maintain and keep for a  
1333 period of three (3) years a record of all compressed gas fuel  
1334 equipment and compressed gas refueling equipment received,  
1335 purchased, acquired, sold, delivered or installed, as applicable,  
1336 within the state, together with invoices, bills of lading and  
1337 other pertinent records and papers as the department may deem  
1338 reasonably necessary for the administration of this chapter.

1339 (3) Any person owning or operating a Class II or Class III  
1340 motor vehicle or motor vehicles, or a Class I motor vehicle or  
1341 motor vehicles which are part of a fleet, \* \* \* that use or are  
1342 capable of using compressed gas as a motor fuel shall maintain and  
1343 keep for a period of three (3) years records from which an



1344 accurate determination of the number of miles traveled in this  
1345 state and the quantity of compressed gas purchased and consumed in  
1346 this state can be made.

1347       (4) If a distributor of compressed gas or the owner or  
1348 operator fails to maintain adequate records, or if an audit of the  
1349 records of the distributor or owner or operator, or any report  
1350 filed by him, or any other information discloses that taxes are  
1351 due and unpaid, the \* \* \* department shall make assessments of  
1352 taxes, damages and interest from any information available, which  
1353 assessments shall be prima facie correct.

1354       (5) If, in the normal conduct of a distributor's, \* \* \*  
1355 owner's, \* \* \* operator's, dealer's or installer's business, the  
1356 records of the distributor, owner, \* \* \* operator, dealer or  
1357 installer are maintained and kept at an office outside the State  
1358 of Mississippi, it shall be a sufficient compliance with this  
1359 section if the records shall be made available for audit and  
1360 examination by the \* \* \* department at \* \* \* the office location  
1361 outside Mississippi. If a distributor, owner, \* \* \* operator,  
1362 dealer or installer fails or refuses to permit the \* \* \*  
1363 department or any of its employees to check and audit his records  
1364 during the usual business hours of the day, the \* \* \* department  
1365 shall have authority to subpoena the records and have them brought  
1366 to the office of the \* \* \* department within ten (10) days after  
1367 the subpoena is served on the distributor, owner, \* \* \* operator,  
1368 dealer or installer.



1369       (6) All actions by the state for the recovery of additional  
1370 amounts claimed as tax due under this chapter must be commenced  
1371 within a period of three (3) years from the date of the filing of  
1372 the required report with the \* \* \* department, provided that in  
1373 the case of fraudulent or false report with intent to evade tax or  
1374 of a failure to file a report, action may be commenced at any  
1375 time. However, when an examination of a taxpayer's records to  
1376 verify returns made under this chapter has been initiated and the  
1377 taxpayer notified thereof either by certified mail or personal  
1378 delivery of a notice by an agent of the \* \* \* department, within  
1379 the thirty-six-month examination period \* \* \*, the determination  
1380 of the correct tax liability may be made by the \* \* \* department  
1381 after the expiration of \* \* \* the thirty-six-month examination  
1382 period, provided that the determination shall be made with  
1383 reasonable promptness and diligence.

1384       **SECTION 14.** Section 27-59-29, Mississippi Code of 1972, is  
1385 amended as follows:

1386       27-59-29. (1) Any person operating a motor vehicle or motor  
1387 vehicles of any type on the highways of the State of Mississippi  
1388 that use or are capable of using compressed gas as a motor fuel  
1389 shall, before operating \* \* \* the motor vehicle or motor vehicles,  
1390 obtain from the \* \* \* department a compressed gas user's decal.

1391       (2) The owner or operator of such motor vehicle or motor  
1392 vehicles shall no later than fifteen (15) days after the  
1393 installation of the compressed gas \* \* \* fuel equipment or the





1394 acquisition of such motor vehicle or motor vehicles equipped with  
1395 compressed gas fuel equipment, file with the \* \* \* department an  
1396 application for a compressed gas user's decal for each vehicle.

1397 \* \* \* The application shall be made on forms prescribed by  
1398 the \* \* \* department and shall contain such information as  
1399 the \* \* \* department may deem reasonably necessary for  
1400 administration of this chapter.

1401 (3) No motor vehicle privilege license tag and decal shall  
1402 be issued by the county tax collector to the operator of a motor  
1403 vehicle that uses or is capable of using compressed gas on the  
1404 highways of this state unless an application for a compressed gas  
1405 user's decal has been filed or the motor vehicle bears a current  
1406 compressed gas user's decal. The county tax collector shall  
1407 require an application and the annual privilege tax required by  
1408 this chapter from each applicant for a motor vehicle privilege  
1409 license tag and decals, whether the tag and decals are to be  
1410 issued by the tax collector or by the \* \* \* department, unless  
1411 proof is provided that the application for a compressed gas user's  
1412 decal has already been filed and the annual privilege tax required  
1413 by this chapter has already been collected by the dealer or  
1414 installer. If \* \* \* the applicant has obtained the approval of  
1415 the \* \* \* department to operate as a "nonpermitted user," then the  
1416 prepayment of taxes is not required; however, an application for a  
1417 decal must be made. The county tax collector shall forward the  
1418 application and fee to the \* \* \* department within fifteen (15)



1419 days from the date received by him, and the county tax collector  
1420 shall be entitled to retain One Dollar (\$1.00) for each  
1421 application and fee received by him and forwarded to the \* \* \*  
1422 department. \* \* \* The fee shall be forfeited by the county tax  
1423 collector if he fails to forward any application and remittance  
1424 within fifteen (15) days of receipt by him.

1425 (4) Unless proof of prior filing is provided, every person  
1426 engaged in business as a dealer \* \* \* or in \* \* \* business \* \* \*  
1427 as an installer shall, at the time of sale or installation,  
1428 require an application by the owner or operator of the motor  
1429 vehicle or motor vehicles for a compressed gas user's decal and  
1430 collect the compressed gas user's annual privilege tax. If the  
1431 operator of \* \* \* the motor vehicle has obtained the approval of  
1432 the \* \* \* department to operate as a nonpermitted user, then the  
1433 prepayment of taxes is not required; however, an application for a  
1434 decal must be made. The dealer or installer shall forward any  
1435 application and remittance to the \* \* \* department within fifteen  
1436 (15) days of receipt by him. The dealer and installer shall be  
1437 subject to the same requirements and penalties as a distributor of  
1438 compressed gas.

1439 (5) No automobile or truck dealer shall operate any motor  
1440 vehicle, for demonstration purposes bearing a Mississippi motor  
1441 vehicle dealer tag, that uses or is capable of using compressed  
1442 gas on the highways of this state, unless \* \* \* the dealer has  
1443 paid the annual privilege tax applicable to each vehicle and



1444 secured from the \* \* \* department a certificate of authority to  
1445 operate the motor vehicle or motor vehicles on the highways of  
1446 this state for demonstration purposes only. No dealer may receive  
1447 or use a certificate of authority for the operation of any motor  
1448 vehicle that does not bear a Mississippi dealer tag.

1449 \* \* \*

1450 (6) The \* \* \* department shall provide for the issuance of  
1451 decals for \* \* \* Class I, Class II, Class III and Class IV user's  
1452 classifications and \* \* \* the decals shall be in such form and  
1453 size as the \* \* \* department may prescribe. \* \* \* The decals  
1454 shall be displayed on the motor vehicle at all times and in a  
1455 manner prescribed by the \* \* \* department.

1456 (7) The decals shall expire at the same time as the motor  
1457 vehicle privilege license tag expires and shall be valid for one  
1458 (1) year; \* \* \* however, \* \* \* when a motor vehicle is converted  
1459 to compressed gas in a month other than when the license tag is  
1460 purchased or renewed, then the pro rata portion of the annual  
1461 privilege tax shall be due on the number of months until the motor  
1462 vehicle privilege license tag expires. \* \* \* When a motor vehicle  
1463 equipped with a compressed gas \* \* \* fuel system is acquired or a  
1464 motor vehicle is converted to compressed gas, the compressed gas  
1465 decal year shall begin with the month following the month in which  
1466 the motor vehicle is acquired or converted.

1467 **SECTION 15.** Section 27-59-31, Mississippi Code of 1972, is  
1468 amended as follows:



1469           27-59-31. (1) No person shall operate or cause to be  
1470 operated, upon the highways of this state, a motor vehicle or  
1471 motor vehicles that use or are capable of using compressed gas as  
1472 a motor fuel, when \* \* \* the person has not paid the taxes levied  
1473 in this chapter and the motor vehicle does not display a  
1474 compressed gas user's decal.

1475           (2) Any person who does not file an application to obtain a  
1476 compressed gas user's decal within fifteen (15) days from the date  
1477 of the installation of the compressed gas \* \* \* fuel equipment or  
1478 the acquisition of a motor vehicle or motor vehicles \* \* \*  
1479 equipped with compressed gas fuel equipment \* \* \* or who fails to  
1480 file a renewal application within fifteen (15) days after the  
1481 expiration of the compressed gas user's decal, shall be liable for  
1482 the full amount of the annual privilege tax or prepaid portion  
1483 thereof and a penalty of twenty-five percent (25%) of the taxes  
1484 levied \* \* \* by this chapter may be added as damages.

1485           (3) If any county tax collector \* \* \* enforces the  
1486 collection of any delinquent annual privilege tax or annual permit  
1487 fee, together with the penalty thereon required by law, then such  
1488 county tax collector shall be entitled to one-half (1/2) of the  
1489 penalty. The fee shall be forfeited by the county tax collector  
1490 if he \* \* \* fails to forward any application and remittance within  
1491 fifteen (15) days of receipt by him.

1492           **SECTION 16.** Section 27-59-33, Mississippi Code of 1972, is  
1493 amended as follows:



1494           27-59-33. (1) Each person to whom a Class II or Class III  
1495 compressed gas user's decal is issued shall file an annual report  
1496 with the \* \* \* department. \* \* \* The report shall be filed at a  
1497 time designated by the \* \* \* department, shall be on forms  
1498 prescribed by the \* \* \* department and shall contain such  
1499 information as the \* \* \* department deems reasonably necessary for  
1500 the administration of this chapter.

1501           (2) The \* \* \* department is authorized and empowered to  
1502 promulgate rules and regulations setting forth the method for  
1503 determining the quantity of compressed gas used on the highways of  
1504 this state.

1505           (3) The portion of the privilege taxes prepaid at the time  
1506 the application for the permit was made shall be deducted from the  
1507 amount of tax shown to be due on the quantity of compressed gas  
1508 used on the highways. Any balance due shall be paid to the \* \* \*  
1509 department at the same time the annual report is filed. If the  
1510 amount prepaid exceeds the amount of tax shown to be due, a claim  
1511 for refund \* \* \* may be made. All \* \* \* claims shall be supported  
1512 by sufficient proof as to the extent of the claimant's tax  
1513 liability on each motor vehicle. \* \* \*

1514           (4) The operator of any motor vehicle or motor vehicles  
1515 which are equipped so that more than one (1) type of fuel can be  
1516 used shall be liable for the tax upon the total quantity of  
1517 compressed gas consumed within the state, with no credit allowed  
1518 for the purchase of any fuel other than compressed gas.



1519       (5) Each person owning or operating a fleet shall file such  
1520 annual report on a fleet basis as opposed to an individual motor  
1521 vehicle basis. For Class I motor vehicles which are part of a  
1522 fleet, the privilege taxes paid at the time the application for  
1523 the user's permit was made shall, solely for purposes of  
1524 subsection (3) of this section, be treated as a prepayment. The  
1525 aggregate amount of tax due or net amount of refund due shall  
1526 first be calculated on a separate class-by-class basis for all  
1527 motor vehicles in each class in the fleet. The aggregate tax due  
1528 or net refund due for all Class I motor vehicles in the fleet, the  
1529 aggregate tax due or net refund due for all Class II motor  
1530 vehicles in the fleet, and the aggregate tax due or refund due for  
1531 all Class III motor vehicles in the fleet shall be separately  
1532 calculated, with the class-by-class aggregate taxes due and  
1533 refunds due then finally being combined into a single amount of  
1534 aggregate tax due or refund due for the entire fleet. This  
1535 subsection shall not apply to owners or operators classified by  
1536 the department as nonpermitted users.

1537       (6) If the department decides that the taxpayer is entitled  
1538 to the refund claimed, it shall refund the amount claimed to the  
1539 taxpayer, with all of the refunds to be made from current  
1540 compressed gas privilege tax collections.

1541       **SECTION 17.** Section 27-59-35, Mississippi Code of 1972, is  
1542 amended as follows:



1543           27-59-35. (1) If a motor vehicle on which the annual  
1544 privilege tax or portion thereof has been paid is damaged to the  
1545 extent it cannot be used or the compressed gas \* \* \* fuel  
1546 equipment has been removed from \* \* \* the motor vehicle, the owner  
1547 or operator may obtain a refund of the unexpired portion of the  
1548 tax. \* \* \* The refund shall be prorated from the first day of the  
1549 month succeeding the month in which the motor vehicle was damaged  
1550 to the extent it cannot be used or the compressed gas equipment  
1551 was removed. In order to obtain \* \* \* the refund the claimant  
1552 shall prove to the satisfaction of the \* \* \* department that the  
1553 motor vehicle was damaged to the extent it cannot be used or the  
1554 compressed gas \* \* \* fuel equipment was removed.

1555           (2) When a motor vehicle that uses or is capable of using  
1556 compressed gas is sold or traded, the decal may be transferred to  
1557 the new owner or the former owner may remove it, return it to  
1558 the \* \* \* department and file a claim for a refund on the  
1559 unexpired portion.

1560           (3) If a claim for refund is approved, the amount thereof  
1561 shall be refunded as provided in Section \* \* \* 27-59-33(6).

1562           **SECTION 18.** Section 27-59-41, Mississippi Code of 1972, is  
1563 amended as follows:

1564           27-59-41. (1) The \* \* \* department shall have full access,  
1565 ingress, and egress at all reasonable hours to and from any place  
1566 or building where compressed gas may be received, stored,  
1567 transported, sold, offered or exposed for sale, manufactured,



1568 refined, distilled, compounded or blended, including private  
1569 refueling system locations. The \* \* \* department shall have the  
1570 right to open and inspect any case, package, or other container,  
1571 and any tank, pump, tank car or storage tank in which compressed  
1572 gas is kept and enter upon any barge, vessel, or other vehicle  
1573 transporting compressed gas and, with instruments conforming to  
1574 the weights and measures adopted by the United States Bureau of  
1575 Standards, check any measuring device or volume of weight of the  
1576 contents of any such container.

1577 (2) The \* \* \* department shall have the right, at any time,  
1578 to stop any motor vehicle traveling on the highways of this state,  
1579 and make any examination necessary to ascertain that the  
1580 provisions of this chapter are complied with fully. The \* \* \*  
1581 department is also authorized to impound any motor vehicle  
1582 operating in violation of this chapter and hold it until such time  
1583 as all taxes and fines have been paid and until the owner or  
1584 operator has obtained necessary permit decal or permit decals.

1585 **SECTION 19.** Section 27-59-47, Mississippi Code of 1972, is  
1586 amended as follows:

1587 27-59-47. (1) In the event that any taxes, permit fees or  
1588 penalties imposed by this chapter have been erroneously or  
1589 illegally collected from a distributor or other person filing a  
1590 monthly report and making monthly payments of privilege tax,  
1591 the \* \* \* department may \* \* \* permit \* \* \* the distributor or  
1592 other person to take credit against a subsequent monthly tax





1593 report for the amount of the erroneous overpayment, or may issue  
1594 payment for that amount. \* \* \*

1595 (2) No refunds shall be made under the provisions of this  
1596 section unless a written claim is filed setting forth the  
1597 circumstances by reason of which \* \* \* the refund should be  
1598 allowed. \* \* \* The claim shall be in such form as the \* \* \*  
1599 department shall prescribe, and shall be filed with the \* \* \*  
1600 department within three (3) years from the date of payment of the  
1601 taxes or permit fees erroneously or illegally collected.

1602 (3) Nothing in this chapter shall be construed to prohibit a  
1603 refund or credit for tax paid on liquefied compressed gas not  
1604 subject to tax or which is exempt from tax, provided there has not  
1605 been a willful disregard of the provisions of this chapter, and  
1606 provided this claim is filed within three (3) years.

1607 (4) Except as otherwise provided in Sections 27-59-33(6) and  
1608 27-59-35 for persons filing annual reports and making annual  
1609 payments of privilege tax, if the department decides that the  
1610 distributor or other person is entitled to the allowance claimed,  
1611 the taxpayer shall be allowed to deduct from the payments made in  
1612 his next monthly report. In cases where the amount of such credit  
1613 cannot be absorbed on the estimated tax liability of the taxpayer  
1614 making such payments during the next six (6) months, the amount  
1615 shall instead be refunded by the department to the taxpayer, with  
1616 the refunds to be made from current compressed gas privilege tax  
1617 collections.



1618           **SECTION 20.** Section 27-59-57, Mississippi Code of 1972, is  
1619 amended as follows:

1620           27-59-57. The \* \* \* department is hereby given power and  
1621 authority to make all rules and regulations, not inconsistent with  
1622 the provisions of this chapter, with reference to all petroleum  
1623 excise tax provisions and exemptions governing the making of  
1624 reports and contents of same and doing any and all other duties  
1625 pertaining to the making of reports and payment of taxes, and such  
1626 other matters as will, in the judgment of the \* \* \* department,  
1627 contribute to a more efficient administration of all the petroleum  
1628 excise tax provisions of this chapter. Such rules and  
1629 regulations, when made, shall have the same binding force and  
1630 effect as if incorporated in this chapter.

1631           **SECTION 21.** Section 27-59-59, Mississippi Code of 1972, is  
1632 amended as follows:

1633           27-59-59. This chapter shall not release or relinquish any  
1634 liability or penalty incurred or right accrued under the  
1635 provisions of Chapter 264, Laws of 1946, as amended, or Chapter  
1636 267, Laws of 1946, as amended, as they existed before November 1,  
1637 1969, and such provisions shall be considered as remaining in  
1638 force for the purpose of instituting or sustaining any proper  
1639 action or prosecution for the enforcement of any such liability,  
1640 penalty or right. Such provisions shall govern the reporting and  
1641 payment of taxes on liquefied compressed gas sold, delivered or  
1642 used by bonded distributors or other persons for highway use



1643 before November 1, 1969. Any and all matters, orders, hearings,  
1644 and proceedings pending before the \* \* \* department or before any  
1645 court under provisions of such prior law shall continue with the  
1646 same effect as though such prior provisions were not amended or  
1647 repealed.

1648           **SECTION 22.** This act shall take effect and be in force from  
1649 and after July 1, 2013.

