

By: Senator(s) Hewes

To: Finance

SENATE BILL NO. 2526
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-55-33, MISSISSIPPI CODE OF 1972,
2 TO MAKE IT UNLAWFUL FOR SHIP, BOAT, TOWBOAT, VESSEL OR BARGE TO
3 OFFLOAD ANY TAXABLE PETROLEUM PRODUCT EXCEPT AT A TERMINAL
4 REGISTERED WITH THE INTERNAL REVENUE SERVICE; TO AMEND SECTION
5 27-55-53, MISSISSIPPI CODE OF 1972, TO MAKE IT UNLAWFUL FOR
6 CARRIERS OR TRANSPORTERS TO DIVERT GASOLINE TO A DESTINATION OTHER
7 THAN THE DESTINATION ON THE MANIFEST OR BILL OF LADING, AND TO
8 PROVIDE PENALTIES THEREFOR; TO AMEND SECTION 27-55-559,
9 MISSISSIPPI CODE OF 1972, TO MAKE IT UNLAWFUL FOR CARRIERS OR
10 TRANSPORTERS TO DIVERT SPECIAL FUEL SHIPMENTS TO A DESTINATION
11 OTHER THAN THE DESTINATION ON THE MANIFEST OR BILL OF LADING, AND
12 TO PROVIDE PENALTIES THEREFOR; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 27-55-33, Mississippi Code of 1972, is
15 amended as follows:

16 27-55-33. Every common or contract carrier transporting
17 gasoline by whatever means, from a point outside this state to any
18 point in this state, shall report, in writing, all deliveries of
19 gasoline to points within this state to the commission on forms
20 prescribed by the commission or, with the approval of the
21 commission, furnish the required information on machine-prepared
22 schedules, and such other information as may be necessary for the
23 proper administration of this article.

24 The reports required in this section shall be for information
25 purposes only and the commission may, in its discretion, waive the
26 filing of any of these reports not necessary for proper
27 administration of this article. The reports required in this
28 section shall be signed and contain a declaration that the
29 statements contained therein are true and are made under penalty
30 of perjury. Such reports required in this section shall be filed
31 with the commission on or before the 20th day of each month
32 following the month in which the transaction occurred.

33 Any such person failing or refusing to file said report on or
34 before the date required by law, or who shall omit any shipment of
35 gasoline from said report, shall be subject to a penalty which
36 shall be a percentage of the tax imposed by law on the total
37 amount of the taxable products involved as follows:

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

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

42 The commission may waive the penalty imposed in the preceding
43 paragraph upon good cause shown.

44 All ships, boats, towboats, vessels or barges delivering
45 taxable petroleum products into this state shall have all inlets
46 and outlets sealed with different numbered seals, the number of
47 which shall be recorded on the invoices, manifests, bills of
48 lading, or other records accompanying the shipment. Any captain
49 of a ship, boat, barge, towboat or vessel found in violation of
50 this provision shall be guilty of a misdemeanor and fined not less
51 than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty
52 Dollars (\$250.00) for the first offense, and not less than Two
53 Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars
54 (\$500.00) for each offense thereafter.

55 It shall be unlawful for any ship, boat, towboat, vessel or
56 barge delivering taxable petroleum products into this state to
57 unload such taxable petroleum products in this state unless the
58 delivery is to a terminal approved by and registered with the
59 Internal Revenue Service. Any captain of a ship, boat, barge,
60 towboat or vessel who violates this provision shall be fined One
61 Thousand Dollars (\$1,000.00) per offense and the entire amount of
62 the state excise tax upon such taxable petroleum product shall be
63 deemed due and payable, plus a penalty of twenty-five percent
64 (25%) of the amount of such tax, and any authorized representative
65 of the commission or the enforcement officers of the Mississippi

66 Department of Transportation shall have the right to seize or
67 impound such ship, boat, towboat, vessel or barge until such
68 excise tax and penalty have been paid.

69 **SECTION 2.** Section 27-55-53, Mississippi Code of 1972, is
70 amended as follows:

71 27-55-53. Every person hauling, transporting or conveying
72 more than fifty (50) gallons of gasoline over the highways,
73 streets, alleys or waters of this state, or into this state over
74 any highway, street, alley or water route, shall, during the
75 entire time he is so engaged, have in his possession a bill of
76 sale, bills of lading, invoices or other written evidence, each of
77 which shall be serially numbered, showing the kind and amount of
78 gasoline being transported, the name and address of the person
79 from whom said gasoline was received, and the name and address of
80 the person to whom delivery is to be made. The vehicle or boat
81 conveying said gasoline shall have clearly printed on it the name
82 and address of the person transporting such gasoline on both sides
83 of the vehicle, or boat, in well-balanced letters of not less than
84 two (2) inches in height on a contrasting background.

85 Any person transporting gasoline without a shipping document
86 containing the information set forth in this section or who
87 diverts a shipment of gasoline to a destination other than the
88 destination listed on such shipping document or who alters a
89 shipping document without notice to the commission shall be liable
90 for a fine of One Thousand Dollars (\$1,000.00) per offense and the
91 entire amount of the state excise tax upon such gasoline shall be
92 deemed due and payable, plus a penalty of twenty-five percent
93 (25%) of the amount of such tax. Any authorized representative of
94 the commission or the enforcement officers of the Mississippi
95 Department of Transportation shall have the right to seize or
96 impound such vehicle or boat until the excise tax and penalty have
97 been paid. Notice to the commission shall consist of contacting

98 the National Diversion Registry, reporting the diversion and
99 obtaining a registration number.

100 The commission, its employees or agents, including the
101 enforcement officers of the Mississippi Department of
102 Transportation, or any sheriff, deputy sheriff, constable or
103 police officer of this state is hereby authorized to inspect any
104 vehicle or boat transporting gasoline over the highways, streets,
105 alleys or waters of this state, to examine the contents of any
106 such vehicle or boat, to take a sample of each grade of gasoline
107 contained in said vehicle or boat provided no sample shall exceed
108 one (1) gallon, and to inspect the bills of lading, invoices or
109 other records pertaining to the gasoline being transported in such
110 vehicle or boat.

111 Any person other than a common or contract carrier bringing
112 gasoline into this state in quantities of more than fifty (50)
113 gallons shall give notice to the commission of his intent to
114 import such gasoline. The commission is authorized to promulgate
115 rules setting forth the manner in which such notice is to be
116 given. However, if information on gasoline imported into this
117 state can be accurately secured from other sources by the
118 commission, it may waive the requirements of such notice.

119 If any person, other than a common or contract carrier, shall
120 transport gasoline over the highways of this state by motor
121 vehicle without having given the notice required by this section,
122 or if a copy of such notice is not carried in such motor vehicle
123 as required by this section, the entire amount of the state excise
124 tax upon such gasoline being transported shall be deemed due and
125 payable, plus a penalty of twenty-five percent (25%) of the amount
126 of such tax, and any authorized representative of the commission
127 or the enforcement officers of the Mississippi Department of
128 Transportation shall have the right to seize or impound the motor
129 vehicle in which such gasoline is being transported until such
130 excise tax together with the penalty thereon has been paid.

131 Provided, however, that said penalty shall not apply when the
132 driver of the truck stops at the first weighing station in the
133 line of travel and secures the signature of the officer on duty on
134 the import notice.

135 **SECTION 3.** Section 27-55-559, Mississippi Code of 1972, is
136 amended as follows:

137 27-55-559. Every person hauling, transporting or conveying
138 more than five hundred (500) gallons of special fuel over the
139 highways, streets, alleys or waters of this state, or into this
140 state over any highway, street, alley or water route, shall,
141 during the entire time he is so engaged, have in his possession a
142 bill of sale, bills of lading, invoices or other written evidence,
143 each of which shall be serially numbered, showing the kind and
144 amount of special fuel being transported, the name and address of
145 the person from whom such special fuel was received, and the name
146 and address of the person to whom delivery is to be made. The
147 vehicle or boat conveying such special fuel shall have clearly
148 printed on it the name and address of the person transporting the
149 special fuel on both sides of the vehicle or boat in well-balanced
150 letters of not less than two (2) inches in height on a contrasting
151 background.

152 Any person transporting special fuel without a shipping
153 document containing the required information or who diverts a
154 shipment of special fuel to a destination other than the
155 destination listed on such shipping document or who alters a
156 shipping document without notice to the commission shall be liable
157 for a fine of One Thousand Dollars (\$1,000.00) per offense and the
158 entire amount of the state excise tax upon such special fuel shall
159 be deemed due and payable, plus a penalty of twenty-five percent
160 (25%) of the amount of such tax. Any authorized representative of
161 the commission or the enforcement officers of the Mississippi
162 Department of Transportation shall have the right to seize or
163 impound such vehicle or boat until the excise tax and penalty have

164 been paid. Notice to the commission shall consist of contacting
165 the National Diversion Registry, reporting the diversion and
166 obtaining a registration number.

167 Any person other than a common or contract carrier bringing
168 special fuel into this state in quantities of more than five
169 hundred (500) gallons shall give notice to the commission of his
170 intent to import such special fuel. The commission is authorized
171 to promulgate rules setting forth the manner in which such notice
172 is to be given. However, if information on special fuel imported
173 into this state can be accurately secured from other sources by
174 the commission, it may waive the requirements of such notice.

175 If any person, other than a common or contract carrier, shall
176 transport special fuel over the highways of this state by motor
177 vehicle without having given the notice required by this section,
178 or if a copy of such notice is not carried in such motor vehicle
179 as required by this section, the entire amount of the state excise
180 tax upon such special fuel being transported shall be deemed due
181 and payable, plus a penalty of twenty-five percent (25%) of the
182 amount of such tax, and any authorized representative of the
183 commission or enforcement officers of the Mississippi Department
184 of Transportation shall have the right to seize or impound the
185 motor vehicle in which such special fuel is being transported
186 until such excise tax together with the penalty thereon has been
187 paid. Provided, however, that the penalty shall not apply when
188 the driver of the truck stops at the first weighing station in the
189 line of travel and secures the signature of the officer on duty on
190 the import notice.

191 **SECTION 4.** Nothing in this act shall affect or defeat any
192 claim, assessment, appeal, suit, right or cause of action for
193 taxes due or accrued under Chapter 55, Title 27, Mississippi Code
194 of 1972, before the date on which this act becomes effective,
195 whether such claims, assessments, appeals, suits or actions have
196 been begun before the date on which this act becomes effective or

197 are begun thereafter; and the provisions of such laws are
198 expressly continued in full force, effect and operation for the
199 purpose of the assessment, collection and enrollment of liens for
200 any taxes due or accrued and the execution of any warrant under
201 such laws before the date on which this act becomes effective, and
202 for the imposition of any penalties, forfeitures or claims for
203 failure to comply with such laws.

204 **SECTION 5.** This act shall take effect and be in force from
205 and after July 1, 2004.