

By: Representative Watson

To: Ways and Means

## HOUSE BILL NO. 1307

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

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

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

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

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

80 (a) "Gasoline" means:

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

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

94 (iii) Ethanol;

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

97                   (v) Gasohol.

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

99           The term "gasoline" shall not include:

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

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

111                   (iii) Racing gasoline.

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

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

121                   (d) "Distributor of gasoline" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

337       \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

509                 (iii) Any person exporting special fuel;

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

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

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

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

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

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

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

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

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

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



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

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

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

573 \* \* \*

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

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

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

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

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

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

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

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

596 (v) "Biodiesel" means a fuel composed of mono-alkyl  
597 esters of long chain fatty acids generally derived from vegetable  
598 oils, animal fats or biomass designated B100, and meeting the  
599 requirements of American Society of Testing Materials (ASTM)  
600 designation D-6751.

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

604 (x) "Biodiesel producer" means the operator of a  
605 facility manufacturing biodiesel.

606 (y) "Biofuel producer" means the operator of a facility  
607 manufacturing biofuel.

608 (z) "Undyed kerosene" means kerosene that does not  
609 meet dyeing requirements prescribed by the Internal Revenue  
610 Service.

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

613 27-55-508. (1) Any person operating a facility producing  
614 biodiesel shall be required to obtain a biodiesel producers  
615 permit.

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

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

621 (4) Application for the permits prescribed by this section  
622 shall be made on forms and in a manner prescribed by the  
623 commission.

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

626 27-55-519. (1) Any person engaged in business as a  
627 distributor of special fuel or who acts as a distributor of  
628 special fuel, as defined in this article, shall pay for the  
629 privilege of engaging in this business or acting as a distributor  
630 an excise tax on all special fuel stored, used, sold, distributed,  
631 manufactured, refined, distilled, blended or compounded in this  
632 state or received in this state for sale, storage, distribution or  
633 for any purpose, adjusted to sixty (60) degrees Fahrenheit.

634 The excise tax shall become due and payable when:

635 (a) Special fuel is withdrawn from storage at a  
636 refinery, marine or pipeline terminal, except when withdrawal is  
637 by barge or pipeline.

638 (b) Special fuel imported by a common carrier is  
639 unloaded by that carrier unless the special fuel is unloaded  
640 directly into the storage tanks of a refinery, marine or pipeline  
641 terminal.

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

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

648 (e) Special fuel is acquired tax free.

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

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

653           (b) Eighteen Cents (18¢) per gallon on undyed  
654 biodiesel, undyed biofuel or blends of undyed biodiesel and undyed  
655 diesel or blends of undyed biofuel and undyed diesel until the  
656 date specified in Section 65-39-35 and Fourteen and Three-fourths  
657 Cents (14.75¢) per gallon thereafter;

658           (c) Five and Three-fourths Cents (5.75¢) per gallon on  
659 all special fuel except undyed diesel fuel, undyed biodiesel,  
660 undyed biofuel and blends thereof and special fuel used as fuels  
661 in aircraft; and

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

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

666           27-55-521. (1) An excise tax at the rate of Eighteen Cents  
667 (18¢) per gallon until the date specified in Section 65-39-35,  
668 Mississippi Code of 1972, and Fourteen and Three-fourths Cents  
669 (14.75¢) per gallon thereafter is levied on any person engaged in  
670 business as a distributor of special fuel or who acts as such who  
671 sells:

672           (a) Special fuel for use in performing contracts for  
673 construction, reconstruction, maintenance or repairs, where the  
674 contracts are entered into with the State of Mississippi, any  
675 political subdivision of the State of Mississippi, or any  
676 department, agency, institution of the State of Mississippi or any  
677 political subdivision thereof.

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

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

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

685 (a) Uses dyed diesel fuel or kerosene in a motor  
686 vehicle on the highways of this state in violation of Section  
687 27-55-539.

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

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

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

698 (a) Blends biodiesel or biofuel with undyed diesel  
699 fuel.

700 (b) Sells undyed biodiesel or undyed biofuel.

701 (4) An excise tax at a rate of Five and Three-fourths Cents  
702 (5.75¢) per gallon is levied on any bonded distributor of special  
703 fuel who holds a blenders permit who:

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

705 (b) Sells dyed biodiesel or dyed biofuel.

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

708 27-55-527. (1) There shall not be included in the measure  
709 of the tax levied in this article any special fuel:

710 (a) Sold or delivered by a bonded distributor of  
711 special fuel to a second bonded distributor of special fuel within  
712 this state, but nothing in this exclusion shall exempt the second  
713 bonded distributor of special fuel from paying the tax unless the  
714 second bonded distributor of special fuel sells or delivers said  
715 special fuel to a third bonded distributor of special fuel, in  
716 which event the third bonded distributor of special fuel shall be  
717 liable for the tax.

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

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

723           (d) Exported to a destination beyond the borders of  
724 this state by a bonded distributor of special fuel when the tax on  
725 the special fuel has been paid or on which the tax liability  
726 imposed by this article has accrued against such bonded  
727 distributor.

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

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

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

739           (h) Sold to be consumed as fuel by any boat, vessel,  
740 ship, towboat or dredgeboat, or sold to the holder of a Marine  
741 Dealers Permit for resale or distribution as fuel for a boat,  
742 vessel, ship, towboat or dredgeboat.

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

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

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

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

751 fuel used in performing contracts for construction,  
752 reconstruction, maintenance or repairs, where the contracts are  
753 entered into with the State of Mississippi, any political  
754 subdivision of the State of Mississippi, or any department, agency  
755 or institution of the State of Mississippi or any political  
756 subdivision thereof.

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

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

765 (5) Any person other than a bonded distributor of special  
766 fuel who has delivered or sold special fuel on which the tax has  
767 been paid by him to the vendor may, if the special fuel is subject  
768 to exemption under this article, assign his claim for exemption to  
769 any bonded distributor of special fuel in this state. The  
770 distributor may deduct the amount of the tax exemption from his  
771 next special fuel report, provided the distributor furnishes  
772 evidence satisfactory to the commission that the claim for  
773 exemption is valid.

774 (6) When special fuel is withdrawn from the storage tank of  
775 a refiner, processor, marine or pipeline terminal operator and the  
776 tax is paid on the special fuel and it or any part thereof cannot  
777 be delivered to a purchaser, the refiner, processor, marine or  
778 pipeline terminal operator may deduct the tax on all or that  
779 portion of the special fuel not delivered to a purchaser from its  
780 next special fuel distributor's tax report, provided that the  
781 refiner, processor, marine or pipeline terminal operator submits  
782 with such tax report: (a) a written report setting forth the  
783 reasons why the delivery could not be made, and (b) proof or

784 evidence satisfactory to the commission that the tax in question  
785 had theretofore been paid to the commission, and (c) proof or  
786 evidence satisfactory to the commission that the nondelivered  
787 special fuel was actually returned to the refinery, processor,  
788 marine or pipeline terminal from which it was taken for the  
789 purpose of delivering it to a purchaser; and provided further,  
790 that immediately upon ascertainment by the refiner, processor,  
791 marine or pipeline terminal operator that the special fuel cannot  
792 be delivered, he or it shall immediately notify the commission of  
793 this fact and before moving his or its truck or other means of  
794 transporting such special fuel from the intended point of  
795 delivery; and should the commission desire to inspect the truck or  
796 other means of conveyance, the refiner, processor, marine or  
797 pipeline terminal operator shall arrange for the inspection at  
798 that point or at such other point that may be designated by the  
799 commission.

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

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

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

814 27-55-571. The provisions of this article relating to  
815 biodiesel and biofuel shall not apply to persons producing  
816 biodiesel and biofuel exclusively for use in their own motor



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

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

822         27-55-701. The State Tax Commission, hereinafter called the  
823 "commission," is vested with the sole power and authority, and is  
824 charged with the duty of administering and enforcing the terms and  
825 provisions of this article.

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

828         27-55-703. The words, terms and phrases as used in this  
829 article shall have the following meanings unless the context  
830 requires otherwise:

831                 (a) "Fuel alcohol" means alcohol derived from grain or  
832 other agricultural products or biomass and is denatured according  
833 to federal regulations.

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

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

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

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

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

850 (g) "Commission" means the State Tax Commission, acting  
851 either directly or through its duly authorized officers, agents or  
852 employees.

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

855 27-55-705. (1) An annual permit fee is hereby levied upon  
856 any person producing fuel alcohol, biodiesel or biofuel  
857 exclusively for their own use as follows:

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

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

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

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

870 27-55-707. (1) Any person who produces fuel alcohol,  
871 biodiesel or biofuel for their own use as a motor fuel and fails  
872 to pay the permit fees levied in this article may be subject to a  
873 penalty equal to twenty-five percent (25%) of the permit fee.

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

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

883 requirements of the Mississippi Gasoline Tax Law and/or the  
884 Mississippi Special Fuel Tax Law.

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

887         27-55-709. All administrative provisions of the Mississippi  
888 Sales Tax Law, including those which fix damages, penalties and  
889 interest for nonpayment of taxes, failure to file returns and for  
890 other noncompliance with the provisions of that law and all other  
891 requirements and duties imposed upon taxpayers shall apply to all  
892 persons liable for fees under the provisions of this article, and  
893 the commission shall exercise all the powers and authority and  
894 perform all the duties with respect to taxpayers under this  
895 article as are provided in the Sales Tax Law, except in cases of  
896 conflict, then the provisions of this article shall control.

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

899         27-55-711. Any person subject to the provisions of this  
900 article shall maintain for a period of three (3) years, a record  
901 of the quantity of fuel alcohol, biodiesel or biofuel produced  
902 each year and of the motor vehicles in which fuel alcohol,  
903 biodiesel or biofuel is used.

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

906         27-55-713. (1) The commission, its agents and employees  
907 shall have full access, ingress and egress at all reasonable hours  
908 to and from any place or building where fuel alcohol, biodiesel or  
909 biofuel is produced or stored.

910         (2) The commission, its agents and employees and enforcement  
911 officers of the Mississippi Department of Transportation are  
912 hereby authorized to inspect any motor vehicle equipped with a  
913 biofuel conversion kit, or any other device capable of producing  
914 motor fuel.

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

917           27-55-715. The amount received from the fees levied in this  
918 article shall be deposited by the commission in the State Treasury  
919 to the credit of the State Highway Fund.

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

922           27-55-717. The commission has the power and authority to  
923 make all rules and regulations necessary for the administration  
924 and enforcement of this article and the rules and regulations,  
925 when made, shall have the same binding force and effect as it  
926 incorporated into this article.

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

929           27-55-719. The United States government, the State of  
930 Mississippi and all agencies, departments and political  
931 subdivisions thereof are exempt from the provisions of this  
932 article.

933           **SECTION 23.** Nothing in this act shall affect or defeat any  
934 claim, assessment, appeal, suit, right or cause of action for  
935 taxes due or accrued under the gasoline tax laws and the special  
936 fuel tax laws before the date on which this act becomes effective,  
937 whether such claims, assessments, appeals, suits or actions have  
938 been begun before the date on which this act becomes effective or  
939 are begun thereafter; and the provisions of the gasoline and  
940 special fuel tax laws are expressly continued in full force,  
941 effect and operation for the purpose of the assessment, collection  
942 and enrollment of liens for any taxes due or accrued and the  
943 execution of any warrant under such laws before the date on which  
944 this act becomes effective, and for the imposition of any  
945 penalties, forfeitures or claims for failure to comply with such  
946 laws.

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