

By: Senator(s) Hewes, Gollott

To: Finance

SENATE BILL NO. 3109  
(As Sent to Governor)

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5 STORED OR WITHDRAWN FROM STORAGE AND USED TO PROPEL AIRCRAFT ON AN  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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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