

1 SB219
2 190179-1
3 By Senator Shelnutt
4 RFD: County and Municipal Government
5 First Read: 25-JAN-18

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8 SYNOPSIS: This bill would require the Department of
9 Revenue to develop and make available a single
10 point of filing and payment system for county and
11 municipal motor fuel taxes. This bill would also
12 require the standardization of county and municipal
13 motor fuel taxes. The bill would also establish a
14 Local Motor Fuel Tax Advisory Committee to advise
15 the Department of Revenue on procedures and the
16 operation of the system.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to motor fuel taxes; to require the
23 Department of Revenue to develop and make available a system
24 which allows any taxpayer required to file and remit a county
25 or municipal motor fuel tax to file and remit the motor fuel
26 tax returns and payments through an electronic single point of
27 filing and payment system; to provide for the use of the local

1 electronic single point of filing and payment system by a
2 taxpayer or local taxing jurisdiction at no charge; to provide
3 for standardization among all county and municipal motor fuel
4 tax levies regarding point of collection, measure of taxation,
5 due dates, penalties, and exemptions, but not the rate of tax;
6 to allow the Department of Revenue to adopt rules to implement
7 this act; and to create a Local Motor Fuel Tax Advisory
8 Committee to provide advice to the Commissioner of Revenue and
9 to provide for its members, powers, and duties.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. For the purposes of this act, the
12 following words have the following meanings:

13 (1) DEPARTMENT. The Department of Revenue.

14 (2) DIESEL FUEL. Any liquid that is advertised,
15 offered for sale, or sold for use as or used as a motor fuel
16 in a diesel-powered engine. Diesel fuel includes #1 and #2
17 fuel oils, kerosene, special fuels, and blended fuels which
18 contain diesel fuel, but does not include gasoline or aviation
19 fuel.

20 (3) DISTRIBUTOR. Any person who engages in the
21 selling of motor fuel in this state by wholesale domestic
22 trade.

23 (4) DYED DIESEL FUEL. Diesel fuel that meets the
24 dyeing and marking requirements of Section 4082, Title 26 of
25 the United States Code.

26 (5) GASOLINE. Any product commonly or commercially
27 known as gasoline, or any substitute therefor, regardless of

1 classification, that is advertised, offered for sale, or sold
2 for use as or used as fuel in an internal combustion engine,
3 including gasohol and blended fuel which contains gasoline.
4 Gasoline does not include aviation gasoline sold for use in an
5 aircraft motor.

6 (6) IMPORTER. A person who imports motor fuel into a
7 county or municipality.

8 (7) KEROSENE. All grades of kerosene, including, but
9 not limited to, the two grades of kerosene, No. 1-K and No.
10 2-K, commonly known as K-1 kerosene and K-2 kerosene,
11 respectively, described in the American Society for Testing
12 Materials Standard D-3699, in effect on January 1, 1999, and
13 kerosene-type jet fuel described in the American Society for
14 Testing Materials Standard D-1655 and military specifications
15 MIL-t-5624r and MIL-t-83133d (grades jp-5 and jp8), and any
16 grade described as kerosene or kerosene-type jet fuel by the
17 Internal Revenue Code and administrative guidance adopted
18 thereunder.

19 (8) MOTOR FUEL. Gasoline and diesel fuel, but does
20 not include aviation fuel.

21 (9) PERSON. Any individual, firm, cooperative,
22 association, corporation, limited liability corporation,
23 trust, business trust, syndicate, partnership, limited
24 liability partnership, joint venture, receiver, trustee in
25 bankruptcy, club, society, or other group or combination
26 acting as a unit.

1 (10) REFINERY. A facility, other than a natural gas
2 processing or fractionation plant, used to produce taxable
3 motor fuel from crude oil, unfinished oils, natural gas
4 liquids, or other hydrocarbons and from which taxable motor
5 fuel may be removed by pipeline, by vessel, or at a rack.

6 (11) RETAIL DEALER. A person other than a wholesale
7 distributor that engages in the business of selling or
8 distributing motor fuel to the end user within this state.

9 (12) SPECIAL FUEL. Any liquid, other than gasoline,
10 used or suitable for use as motor fuel in a diesel-powered
11 engine or motor to propel any form of vehicle, machine, or
12 mechanical contrivance, and includes products commonly known
13 as biodiesel fuel. Special fuel does not include any petroleum
14 product or chemical compound such as alcohol, industrial
15 solvent, or lubricant, unless blended in or sold for use as
16 motor fuel in a diesel powered engine.

17 (13) TAX. Any amount of tax on motor fuel, including
18 applicable penalty and interest, levied or assessed against a
19 taxpayer and which the department or any county, municipality,
20 or their designees are required or authorized to administer
21 under the laws of this state.

22 (14) TAXPAYER. Any person subject to or liable for
23 any local tax; any person required to file a return with
24 respect to, or to pay, or withhold and remit any local tax or
25 to report any information or value to the department, a
26 county, municipality, or its designee; or any person required
27 to obtain or holding any interest in any license, permit, or

1 certificate of title issued by the department, a county,
2 municipality, or its designee, or any person that may be
3 affected by any act or refusal to act by the department, a
4 county, municipality, or its designee, or to keep any records
5 required by this chapter.

6 Section 2. (a) Not later than November 1 following
7 the effective date of this section, the Department of Revenue
8 shall develop and make available a system which allows any
9 taxpayer required to file and remit a county or municipal
10 motor fuel tax the capability to file and remit motor fuel tax
11 returns and payments through an electronic single point of
12 filing and payment system. The system shall be available for
13 use by any taxpayer for tax periods after September 30
14 following the effective date of this section. The system shall
15 allow for motor fuel tax return filing and tax remittance only
16 and shall not provide for the administration or enforcement of
17 local motor fuel taxes unless otherwise provided for by law.
18 This subsection applies to any local motor fuel tax whether
19 called a tax, license fee, privilege license tax, or
20 otherwise.

21 (b) There shall be no charge to a local taxing
22 jurisdiction for use of the system by a taxpayer or a local
23 taxing jurisdiction or its designee.

24 (c) The system developed and implemented pursuant to
25 subsection (a) shall allow a taxpayer to file an electronic
26 tax return for each local taxing jurisdiction where the
27 taxpayer is required to file and remit a motor fuel tax. The

1 returns to be filed using the single point filing system shall
2 be filed electronically in a manner as prescribed by the
3 department. All information included in the electronic tax
4 return shall be electronically available to each appropriate
5 local taxing jurisdiction without delay. The department shall
6 consult with the Local Motor Fuel Tax Advisory Committee
7 established in Section 6 regarding development and
8 implementation of the system.

9 (d) Every local taxing jurisdiction levying or
10 administering a motor fuel tax shall submit to the department
11 a list of the motor fuel taxes levied or administered by that
12 local taxing jurisdiction including current rates by January
13 15 following the effective date of this section. Every local
14 taxing jurisdiction shall submit to the department written
15 notification of any new or amended motor fuel tax at least 90
16 days prior to the effective date of the tax or amendment.
17 Failure to notify the department of a change to the levy shall
18 suspend the change to the tax, and the department shall not be
19 required to program new motor fuel taxes or tax rates in the
20 system until the notice is provided as required in this
21 section. The department shall then have 90 days from the
22 receipt date of the written notification to update the system.

23 Section 3. (a) (1) All local taxing jurisdictions in
24 the state shall require use of the single point filing and
25 payment system by any taxpayer required to file a local motor
26 fuel tax return or remit the tax payments. Any taxpayer using
27 the system for filing an electronic tax return for a local

1 taxing jurisdiction shall be required to simultaneously remit
2 payment through the system or through another electronic
3 method of payment accepted by the local taxing jurisdiction or
4 its designee for which payment is being made. The taxpayer
5 shall be required to report all motor fuel sold or delivered
6 by store location which shall include the name of the store,
7 the physical address of the store, the sales tax number for
8 each store, the number of gallons of excise taxable motor fuel
9 by product type sold by the distributor to the store, the
10 local excise tax paid, and any other information required by
11 the department.

12 (2) Effective October 1 following the effective date
13 of this section, each local taxing jurisdiction levying a
14 motor fuel tax shall be prohibited from accepting any local
15 motor fuel tax return not filed through the single point
16 filing system. Any local motor fuel tax return or payment made
17 to a local taxing jurisdiction that does not conform to this
18 act shall be invalid.

19 (b) It is the intent of this act that the tax be
20 collected and paid by the distributor. The distributor shall
21 collect and pay the tax on the basis of the number of gallons
22 of motor fuel distributed. If the tax levied by the locality
23 has been collected and paid by a distributor, that payment
24 shall be sufficient, the intent being that the tax shall be
25 paid once. If the tax has not been collected by the
26 distributor, the retail dealer shall be liable for the tax if
27 motor fuel is dropped at the retail station in the county or

1 municipality. A retail dealer paying the tax as provided in
2 this section shall pay the tax on the basis of gallons of
3 motor fuel purchased. Storage does not include motor fuel
4 located at the retail level.

5 (c) Any person importing motor fuel into the county
6 or municipality shall collect and pay the county or
7 municipality taxes on the basis of gallons of motor fuel
8 dropped within the locality unless the taxes are otherwise
9 collected or assumed by a distributor.

10 (d) If any taxpayer fails to timely file a return or
11 fails to timely pay the tax imposed by the county or
12 municipality, the tax shall be deemed delinquent and there
13 shall be added to the amount of the tax a penalty of 25
14 percent of the amount of tax due.

15 (e) Any taxpayer requesting a refund from a
16 non-state administered locality for local motor fuel taxes or
17 any penalties imposed by this act shall make the refund
18 directly through the non-state administered locality or its
19 designee.

20 (f) Not later than February 1 following the
21 effective date of this section, each local taxing jurisdiction
22 shall provide the department with necessary information to
23 allow all motor fuel tax payments to be remitted directly to
24 the bank account or other account designated by the local
25 taxing jurisdiction. Each non-state administered local taxing
26 jurisdiction shall set up its accounts to allow dishonored
27 payments to be reversed. All tax payments made through the

1 system for non-state administered local taxing jurisdictions
2 shall be remitted directly from the taxpayer to the designated
3 bank account or other account of the local taxing jurisdiction
4 with the system serving as a conduit only.

5 (g) The local motor fuel tax return and payment
6 submitted through this system shall be due on or before the
7 20th day of the month next succeeding the month in which the
8 tax accrues.

9 Section 4. For the tax periods after September 30
10 following the effective date of this section, the following
11 shall be exempt from any excise tax subject to this act:

12 (1) Motor fuel when used in governmental functions
13 by the federal government or any agency of the federal
14 government, the state or any agency of the state, county
15 governing agencies, municipalities, and boards of education.

16 (2) Dyed diesel fuel as defined in Section
17 40-17-322, Code of Alabama 1975, except dyed diesel fuel used
18 to operate a highway vehicle by a nonexempt person or entity.

19 (3) The sale of motor fuel in interstate commerce.

20 (4) Aviation fuel as defined in Section 40-17-322,
21 Code of Alabama 1975.

22 (5) A refinery that uses motor fuel in the refining
23 process.

24 (6) A person who holds a federal permit to blend
25 motor fuels under federal law who pays the federal excise tax
26 on motor fuels directly to the federal government when the
27 person uses gasoline in the state in the blending process.

1 Section 5. (a) (1) Effective October 1 following the
2 effective date of this section, any existing county motor fuel
3 tax levy that is inconsistent with this act regarding point of
4 collection, measure of taxation, due dates, penalties, and
5 exemptions, but not the rate of tax, shall be superseded and
6 the levy shall be collected and reported in accordance with
7 this act.

8 (2) Any new county motor fuel tax levy enacted after
9 October 1 following the effective date of this section shall
10 conform to this act. Any new county motor fuel tax levy that
11 is inconsistent with this act regarding point of collection,
12 measure of taxation, due dates, penalties, and exemptions, but
13 not the rate of tax, shall be superseded and the levy shall be
14 collected and reported in accordance with the terms of this
15 act.

16 (b) (1) Effective October 1 following the effective
17 date of this section, all municipal motor fuel tax levies
18 shall conform to this act regarding point of collection,
19 measure of taxation, due dates, penalties, and exemptions, but
20 not rate of tax. Any municipal motor fuel tax levy which does
21 not conform to this act regarding point of collection, measure
22 of taxation, due dates, penalties, and exemptions, but not
23 rate of tax, shall be invalid. Notice of the municipal motor
24 fuel tax ordinance shall be provided to the department no
25 later than February 1 following the effective date of this
26 section.

1 (2) Any new municipal motor fuel tax levy enacted
2 after October 1 following the effective date of this section
3 shall conform to this act. Notice of the municipal motor fuel
4 tax ordinance shall be provided to the department at least 90
5 days prior to the effective date of the new municipal motor
6 fuel tax levy. Any municipal motor fuel tax levy that does not
7 conform to this act regarding point of collection, measure of
8 taxation, due dates, penalties, and exemptions, but not rate
9 of tax, shall be invalid.

10 (3) Each local taxing jurisdiction shall notify all
11 licensed distributors of motor fuels within its jurisdiction
12 of its intent to adopt a new or amended motor fuel tax at
13 least 30 days prior to the adoption of the new or amended
14 motor fuel tax. Notification shall be in writing and delivered
15 by United States mail. Failure of the local taxing
16 jurisdiction to notify licensed distributors as required by
17 this subdivision shall nullify the adoption of the new or
18 amended motor fuel tax.

19 Section 6. (a) (1) To ensure that industry and local
20 taxing jurisdictions have meaningful input into the
21 development and operation of the tax filing, payment, and
22 collection of the system provided in this act, the Local Motor
23 Fuel Tax Advisory Committee is established to review the
24 design and operation of the system and to make recommendations
25 regarding system requirements and functionality to the
26 Commissioner of Revenue.

1 (2) The committee shall consist of the following
2 persons:

3 a. Three representatives of county government
4 appointed by the Association of County Commissions of Alabama.

5 b. Three representatives of municipal government
6 appointed by the Alabama League of Municipalities.

7 c. Three representatives of the retail or
8 distributor community appointed by the Petroleum and
9 Convenience Marketers of Alabama.

10 d. One representative of a county or municipality
11 which levies a motor fuel tax appointed by the Speaker of the
12 House of Representatives who shall be a nonvoting member.

13 e. One representative of the business community
14 appointed by the President Pro Tempore of the Senate who shall
15 be a nonvoting member.

16 f. One representative of the Department of Revenue
17 appointed by the Commissioner of Revenue.

18 (3) The committee members shall receive no
19 compensation or reimbursement of expenses from the state for
20 serving on the committee.

21 (b) The committee shall meet with the commissioner
22 or his or her representative and with other employees of the
23 department as the commissioner deems appropriate. The initial
24 meeting shall be at a time and place to be determined by the
25 commissioner and shall be held not later than September 30
26 following the effective date of this section. At the initial
27 meeting, the committee shall organize itself, elect a chair of

1 the committee, and determine the timing and frequency of
2 subsequent meetings.

3 (c) The role of the committee shall be limited to
4 providing input and recommendations on the development and
5 functionality of the system related to the filing of motor
6 fuel tax returns and remittance of payments using the system.
7 The committee may not review the department's administration
8 of state taxes, state-administered local taxes, or any other
9 department matter beyond the system.

10 Section 7. The Commissioner of the Department of
11 Revenue may adopt rules necessary to effectuate the reporting,
12 collection, administration, and enforcement of this act.

13 Section 8. Section 6 of this act shall become
14 effective July 1, 2018, following its passage and approval by
15 the Governor, or its otherwise becoming law. The remaining
16 sections of this act shall become effective January 1, 2020,
17 following its passage and approval by the Governor or its
18 otherwise becoming law.