

House Bill 504 (COMMITTEE SUBSTITUTE)

By: Representatives Royal of the 140th, Buck of the 112th, Parham of the 94th, Borders of the 142nd, Floyd of the 132nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to change certain provisions regarding definitions; to change certain
3 provisions regarding exemptions with respect to motor fuels; to change certain provisions
4 regarding dealers' sales and use tax returns; to provide for prepayments of certain taxes with
5 respect to motor fuels; to provide for procedures, conditions, and limitations; to change
6 certain provisions regarding penalties; to provide an effective date; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
11 amended in Code Section 48-8-2, relating to definitions, by adding a new paragraph
12 immediately following paragraph (5), to be designated paragraph (5.1), to read as follows:

13 "(5.1) 'Prepaid state tax' means the tax levied under Code Section 48-8-30 in conjunction
14 with Code Section 48-8-3.1 and Code Section 48-9-14 on the retail sale of motor fuels
15 for highway use and collected prior to that retail sale. This tax is based upon the average
16 retail sales price as set forth in Code Section 48-9-14. This shall not apply to any local
17 sales and use tax which is levied on the sale or use of motor fuel and imposed in an area
18 consisting of less than the entire state, however authorized, including, but not limited to,
19 such taxes authorized by or pursuant to constitutional amendment; by or pursuant to
20 Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended,
21 known as the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or pursuant
22 to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; or by or pursuant
23 to Article 3 of this chapter."

SECTION 2.

Said title is further amended by striking subsection (b) of Code Section 48-8-49, relating to dealers' sales and use tax returns, and inserting in its place a new subsection (b) to read as follows:

"(b)(1) As used in this subsection, the term 'estimated tax liability' means a dealer's tax liability, adjusted to account for any subsequent change in the state sales and use tax rate, based on ~~his~~ the dealer's average monthly payments for the last fiscal year.

(2) If the estimated tax liability of a dealer for any taxable period exceeds \$2,500.00, the dealer shall file a return and remit to the commissioner not less than 50 percent of the estimated tax liability for the taxable period on or before the twentieth day of the period. The amount of the payment of the estimated tax liability shall be credited against the amount to be due on the return required under subsection (a) of this Code section. This subsection shall not apply to any dealer unless during the previous fiscal year the dealer's monthly payments exceeded \$2,500.00 per month for three consecutive months or more nor shall this subsection apply to any dealer whose primary business is the sale of motor fuels who is remitting prepaid state tax under paragraph (2) of subsection (b) of Code Section 48-9-14. No local sales taxes shall be included in determining any estimated tax liability."

SECTION 3.

Said title is further amended by striking subsection (b) of Code Section 48-9-14, relating to the second motor fuel tax, and inserting in its place a new subsection (b) to read as follows:

"(b)(1) The motor fuel tax imposed by this Code section is levied at the rate of 3 percent of the retail sale price less the tax imposed by Code Section 48-9-3 upon the sale, use, or consumption, as defined in Code Section 48-8-2, of motor fuel in this state. This tax shall be subject only to the exemptions provided in Code Section 48-9-3.

(2)(A) As used in this paragraph, the term 'prepaid state tax' shall have the same meaning as provided in paragraph (5.1) of Code Section 48-8-2.

(B) At the time the tax imposed by Code Section 48-9-3 attaches to a sale or transfer of motor fuels, a prepaid state tax shall be collected. The same person remitting the tax imposed under Code Section 48-9-3, but on a separate schedule, shall remit the prepaid state tax to the state. The tax shall be separately invoiced throughout the chain of distribution until it reaches the dealer who makes the retail sale. The commissioner shall issue the rate of prepaid state tax on a semiannual basis, rounded to the nearest \$.001 per gallon for use in the following the semiannual period. The rate shall be calculated at 4 percent of the state-wide average retail price by motor fuel type as compiled by the Energy Information Agency of the United States Department of

1 Energy, the Oil Pricing Information Service, or a similar reliable published index less
2 taxes imposed under Code Section 48-9-3, this subsection, and all local sales and use
3 taxes. In the event that the retail price changes by 25 percent or more within a
4 semiannual period, the commissioner shall issue a revised prepaid state tax rate for the
5 remainder of that period."

6 **SECTION 4.**

7 Said title is further amended by striking subsections (b) and (d) of Code Section 48-9-16,
8 relating to penalties, and inserting in their place new subsections (b) and (d), respectively,
9 to read as follows:

10 "(b) When any distributor fails to pay the tax or any part of the tax due under ~~paragraph~~
11 ~~(1) of subsection (a) of Code Section 48-9-3 or 48-9-14, he~~ the distributor shall be subject
12 to a penalty of 10 percent of the amount of unpaid taxes due."

13 "(d) When any distributor fails to pay the tax or any part of the tax due under ~~paragraph~~
14 ~~(1) of subsection (a) of Code Section 48-9-3 or 48-9-14, he~~ the distributor shall pay interest
15 on the unpaid tax at the rate specified in Code Section 48-2-40 from the time the tax
16 became due until paid."

17 **SECTION 5.**

18 This Act shall become effective on January 1, 2004.

19 **SECTION 6.**

20 All laws and parts of laws in conflict with this Act are repealed.