

1 Senator Williams of the 19th offered the following amendment:

2 Amend the Senate Finance Committee substitute to HB 504 by striking "to change certain  
3 provisions regarding exemptions with respect to motor fuels;" from lines 5 and 6 of page 1.

4 By striking line 12 of page 2 through line 28 of page 5 and inserting in their place the  
5 following:

6 **"SECTION 3.**

7 Said title is further amended in Code Section 48-8-2, relating to definitions, by adding a new  
8 paragraph immediately following paragraph (5), to be designated paragraph (5.1), to read as  
9 follows:

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

21 **SECTION 4.**

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

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

28 (2) If the estimated tax liability of a dealer for any taxable period exceeds \$2,500.00, the  
29 dealer shall file a return and remit to the commissioner not less than 50 percent of the  
30 estimated tax liability for the taxable period on or before the twentieth day of the period.  
31 The amount of the payment of the estimated tax liability shall be credited against the  
32 amount to be due on the return required under subsection (a) of this Code section. This

1 subsection shall not apply to any dealer unless during the previous fiscal year the dealer's  
 2 monthly payments exceeded \$2,500.00 per month for three consecutive months or more  
 3 nor shall this subsection apply to any dealer whose primary business is the sale of motor  
 4 fuels who is remitting prepaid state tax under paragraph (2) of subsection (b) of Code  
 5 Section 48-9-14. No local sales taxes shall be included in determining any estimated tax  
 6 liability.'

#### 7 SECTION 5.

8 Said title is further amended by striking paragraph (3) of subsection (b) of Code Section  
 9 48-8-50, relating to compensation of dealers, and inserting in its place a new paragraph (3)  
 10 to read as follows:

11 '(3) With respect to each certificate of registration number on such return, a deduction  
 12 of 3 percent of the combined total amount due of all sales and use taxes on motor fuel as  
 13 defined under paragraph (9) of Code Section 48-9-2, which are imposed under any  
 14 provision of this title, including, but not limited to, ~~Code Section 48-9-14~~ and sales and  
 15 use taxes on motor fuel imposed under any of the provisions described in subsection (f)  
 16 of this Code section but not including Code Section 48-9-14.'

#### 17 SECTION 6.

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

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

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

26 (B) At the time the tax imposed by Code Section 48-9-3 attaches to a sale or transfer  
 27 of motor fuels, a prepaid state tax shall be collected. The same person remitting the tax  
 28 imposed under Code Section 48-9-3, but on a separate schedule, shall remit the prepaid  
 29 state tax to the state. The tax shall be separately invoiced throughout the chain of  
 30 distribution until it reaches the dealer who makes the retail sale. The commissioner  
 31 shall issue the rate of prepaid state tax on a semiannual basis, rounded to the nearest  
 32 \$.001 per gallon for use in the following the semiannual period. The rate shall be  
 33 calculated at 4 percent of the state-wide average retail price by motor fuel type as  
 34 compiled by the Energy Information Agency of the United States Department of  
 35 Energy, the Oil Pricing Information Service, or a similar reliable published index less  
 36 taxes imposed under Code Section 48-9-3, this subsection, and all local sales and use

1 taxes. In the event that the retail price changes by 25 percent or more within a  
 2 semiannual period, the commissioner shall issue a revised prepaid state tax rate for the  
 3 remainder of that period.'

#### 4 **SECTION 7.**

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

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

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

#### 15 **SECTION 8.**

16 (a) This section and Section 9 of this Act shall become effective upon its approval by the  
 17 Governor or upon its becoming law without such approval.

18 (b) Sections 1 and 2 of this Act shall become effective upon its approval by the Governor  
 19 or upon its becoming law without such approval and shall apply to all claims for refunds filed  
 20 or actions for refunds brought pursuant to Code Section 48-2-35 before, on, or after such  
 21 effective date.

22 (c) Sections 3, 4, 5, 6, and 7 of this Act shall become effective on January 1, 2004.

#### 23 **SECTION 9.**

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