

House Bill 293

By: Representative Davis of the 109<sup>th</sup>

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 provide for the comprehensive revision of the "Motor Fuel Tax Law" into  
3 the "Gas Unification and Tax Simplification Act of 2007"; to eliminate the second motor fuel  
4 tax; to change certain provisions relating to definitions regarding sales and use taxes; to  
5 change certain provisions relating to sales and use tax exemptions regarding motor fuel; to  
6 change certain provisions relating to dealers' sales and use tax returns; to change certain  
7 provisions relating to compensation of dealers; to provide for the collection of motor fuel  
8 excise taxes at the point of removal of motor fuel from a registered refinery or terminal; to  
9 provide for a short title; to provide for definitions; to provide for procedures, administration,  
10 conditions, and limitations; to provide for powers, duties, and authority of the state revenue  
11 commissioner and the Department of Revenue; to provide for civil and criminal penalties;  
12 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for  
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
17 amended by revising paragraph (5.1) of Code Section 48-8-2, relating to definitions  
18 regarding sales and use taxes, as follows:

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

1 known as the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or pursuant  
 2 to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; or by or pursuant  
 3 to Article 3 of this chapter. Reserved."

#### 4 SECTION 2.

5 Said title is further amended by revising Code Section 48-8-3.1, relating to sales and use tax  
 6 exemptions regarding motor fuel, as follows:

7 "48-8-3.1.

8 (a) ~~Except as provided in subsection (b) of this Code section, sales~~ Sales and use of motor  
 9 fuels as defined in paragraph ~~(9)~~ (49) of Code Section 48-9-2 shall be exempt from the ~~first~~  
 10 ~~3 4~~ percent of the state sales and use taxes tax levied or imposed by this article and shall  
 11 be subject to the ~~remaining 1 percent of the~~ local sales and use taxes levied or imposed by  
 12 this ~~article~~ chapter unless otherwise specifically exempted by this chapter. For the  
 13 purposes of this subsection, the term 'local sales and use tax' shall mean any sales tax, use  
 14 tax, or local sales and use tax which is levied and imposed in an area consisting of less than  
 15 the entire state, however authorized, including, but not limited to, such taxes authorized by  
 16 or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved  
 17 March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid  
 18 Transit Authority Act of 1965'; by or pursuant to Article 2 of this chapter; by or pursuant  
 19 to Article 2A of this chapter; by or pursuant to Part 1 of Article 3 of this chapter; by or  
 20 pursuant to Part 2 of Article 3 of this chapter; by or pursuant to Article 4 of this chapter.

21 (b) Sales and use of motor fuel other than gasoline which motor fuel other than gasoline  
 22 is purchased for purposes other than propelling motor vehicles on public highways as  
 23 defined in Article 1 of Chapter 9 of this title shall be fully subject to the 4 percent sales and  
 24 use taxes levied or imposed by this article unless otherwise specifically exempted by this  
 25 article.

26 (c) It is specifically declared to be the intent of the General Assembly that taxation  
 27 imposed on sales and use of motor fuel wholly or partially subject to taxation under this  
 28 Code section shall not constitute motor fuel taxes for purposes of any provision of the  
 29 Constitution providing for the automatic or mandatory appropriation of any amount of  
 30 funds equal to funds derived from motor fuel taxes."

#### 31 SECTION 3.

32 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section  
 33 48-8-49, relating to dealers' sales and use tax returns, as follows:

34 "(2) If the estimated tax liability of a dealer for any taxable period exceeds \$5,000.00,  
 35 the dealer shall file a return and remit to the commissioner not less than 50 percent of the

1 estimated tax liability for the taxable period on or before the twentieth day of the period.  
 2 The amount of the payment of the estimated tax liability shall be credited against the  
 3 amount to be due on the return required under subsection (a) of this Code section. This  
 4 subsection shall not apply to any dealer unless during the previous fiscal year the dealer's  
 5 monthly payments exceeded \$5,000.00 per month for three consecutive months or more  
 6 ~~nor shall this subsection apply to any dealer whose primary business is the sale of motor~~  
 7 ~~fuels who is remitting prepaid state tax under paragraph (2) of subsection (b) of Code~~  
 8 ~~Section 48-9-14.~~ No local sales taxes shall be included in determining any estimated tax  
 9 liability."

#### 10 SECTION 4.

11 Said title is further amended by revising subsection (b) of Code Section 48-8-50, relating to  
 12 compensation of dealers, as follows:

13 "(b) Each dealer required to file a return under this article shall include such dealer's  
 14 certificate of registration number or numbers for each sales location or affiliated entity of  
 15 such dealer on such return. In reporting and paying the amount of tax due under this  
 16 article, each dealer shall be allowed the following deduction, but only if the return was  
 17 timely filed and the amount due was not delinquent at the time of payment; and that  
 18 deduction shall be subject to the provisions of subsection (f) of this Code section pertaining  
 19 to calculation of the deduction when more than one tax is reported on the same return:

20 (1) With respect to each certificate of registration number on such return, a deduction of  
 21 3 percent of the first \$3,000.00 of the combined total amount of all sales and use taxes  
 22 reported due on such return for each location other than the taxes specified in  
 23 paragraph (3) of this subsection;

24 (2) With respect to each certificate of registration number on such return, a deduction of  
 25 one-half of 1 percent of that portion exceeding \$3,000.00 of the combined total amount  
 26 of all sales and use taxes reported due on such return for each location other than the  
 27 taxes specified in paragraph (3) of this subsection; and

28 (3) With respect to each certificate of registration number on such return, a deduction  
 29 of 3 percent of the combined total amount due of all sales and use taxes on motor fuel as  
 30 defined under paragraph ~~(9)~~ (49) of Code Section 48-9-2, which are imposed under any  
 31 provision of this title, including, but not limited to, sales and use taxes on motor fuel  
 32 imposed under any of the provisions described in subsection (f) of this Code section ~~but~~  
 33 ~~not including Code Section 48-9-14; and~~

34 ~~(4) A deduction with respect to Code Section 48-9-14, as defined in paragraph (5.1) of~~  
 35 ~~Code Section 48-8-2, shall be at the rate of one-half of 1 percent of the total amount due~~

1 of the prepaid state tax reported due on such return, so long as the return and payment are  
 2 timely, regardless of the classification of tax return upon which the remittance is made."

### 3 SECTION 5.

4 Said title is further amended by revising Article 1 of Chapter 9, the "Motor Fuel Tax Law,"  
 5 in its entirety as follows:

#### 6 "ARTICLE 1

7 48-9-1.

8 This article shall be known and may be cited as the 'Gas Unification and Tax Simplification  
 9 Act of 2007.'

10 48-9-2.

11 As used in this article, the term:

12 (1) 'Agricultural field use' means the use of motor fuel of a type other than gasoline by  
 13 vehicles licensed under paragraph (.1) of Code Section 40-2-150. Such term shall include  
 14 the incidental movement over a highway as well as all off-road operations.

15 (2) 'Agricultural purposes' means clearing, terracing, or otherwise preparing the ground  
 16 on a farm; preparing soil for planting and fertilizer; cultivating, raising, and harvesting  
 17 crops; raising and feeding livestock and poultry; building fences; pumping water for any  
 18 and all uses on the farm, including irrigation; building roads upon any farm by the owner  
 19 or person farming same; operating milking machines; sawing wood for use on a farm;  
 20 producing electricity for use on a farm; and movement of tractors, farm implements, and  
 21 nonlicensed equipment from one field to another.

22 (3) 'Aircraft' means any airplane or helicopter.

23 (4) 'Alcohol' means motor fuel grade ethanol or a mixture of motor fuel grade ethanol  
 24 and methanol, excluding denaturant and water, that is a minimum of 98 percent ethanol  
 25 or methanol by volume.

26 (5) 'Alternate fuel' means electricity, liquefied petroleum gas, compressed natural gas  
 27 product, or a combination of liquefied petroleum gas and a compressed natural gas or  
 28 electricity product used in an internal combustion engine or motor to propel any form of  
 29 vehicle, machine, or mechanical conveyance. It includes all forms of fuel commonly or  
 30 commercially known or sold as butane, propane, or compressed natural gas.

31 (6) 'Aviation fuel' means aviation gasoline or aviation jet fuel.

32 (7) 'Aviation gasoline' means motor fuel designed for use in the operation of aircraft  
 33 other than jet aircraft and sold or used for that purpose.

1 (8) 'Aviation jet fuel' means motor fuel designed for use in the operation of jet or  
2 turboprop aircraft and sold or used for that purpose.

3 (9) 'Biodiesel fuel' means any motor fuel or mixture of motor fuels that is derived, in  
4 whole or in part, from agricultural products or animal fats, or the wastes of such products  
5 or fats, and is advertised as, offered for sale as, suitable for use as, or used as motor fuel  
6 in an internal combustion engine.

7 (10) 'Blend stock' means any petroleum product component of motor fuel, such as  
8 naphtha, reformat, toluene, or kerosene, that can be blended for use in motor fuel without  
9 further processing. The term includes those petroleum products defined by the Internal  
10 Revenue Service in regulations promulgated pursuant to 26 U.S.C. Sections 4081 and  
11 4082; provided, however, the term does not include any substance that:

12 (A) Will be ultimately used for consumer nonmotor fuel use; and

13 (B) Is sold or removed in drum quantities of 55 gallons or less at the time of the  
14 removal or sale.

15 (11) 'Blended fuel' means a mixture composed of gasoline or diesel fuel and another  
16 liquid, including, but not limited to, gasoline blend stocks, gasohol, ethanol, methanol,  
17 fuel grade alcohol, diesel fuel enhancers, and resulting blends, other than a de minimus  
18 amount of product such as carburetor detergent or oxidation inhibitor, that can be used  
19 as a motor fuel in a highway vehicle.

20 (12) 'Blender' means any person that produces blended motor fuel outside the bulk  
21 transfer or terminal system.

22 (13) 'Blending' means the mixing of one or more petroleum products, with or without  
23 another product, regardless of the original character of the product blended if the product  
24 obtained by the blending is capable of use or otherwise sold for use in the generation of  
25 power for the propulsion of a motor vehicle, an aircraft, or a marine vessel. The term  
26 does not include the blending that occurs in the process of refining by the original refiner  
27 of crude petroleum or the blending or products known as lubricating oil in the production  
28 of lubricating oils and greases.

29 (14) 'Bulk plant' means a bulk motor fuel storage and distribution facility that is not a  
30 terminal within the bulk transfer system and from which motor fuel may be removed at  
31 a rack.

32 (15) 'Bulk transfer' means any transfer of motor fuel from one location to another by  
33 pipeline tender or marine delivery within the bulk transfer or terminal system including,  
34 but not limited to, all of the following:

35 (A) A marine vessel movement of motor fuel from a refinery or terminal to a terminal;

36 (B) Pipeline movements of motor fuel from a refinery or terminal to a terminal;

1 (C) Book transfers of motor fuel within a terminal between licensed suppliers prior to  
2 completion of removal across the rack; and

3 (D) Two-party exchanges between licensed suppliers or between licensed suppliers and  
4 permissive suppliers.

5 (16) 'Bulk transfer or terminal system' means the motor fuel distribution system  
6 consisting of refineries, pipelines, marine vessels, and terminals. Motor fuel in a refinery,  
7 a pipeline, a terminal, or a marine vessel transporting motor fuel to a refinery or terminal  
8 is in the bulk transfer or terminal system. Motor fuel in a motor fuel storage facility  
9 including, but not limited to, a bulk plant that is not part of a refinery or terminal, in the  
10 motor fuel supply tank of any engine or motor vehicle, in a marine vessel transporting  
11 motor fuel to a motor fuel storage facility that is not in the bulk transfer or terminal  
12 system, or in any tank car, rail car, truck, or other equipment suitable for ground  
13 transportation is not in the bulk transfer or terminal system.

14 (17) 'Bulk user' means a person who maintains storage facilities for motor fuel and uses  
15 part or all of the stored motor fuel to operate a motor vehicle, marine vessel, or aircraft.

16 (18) 'Carrier' means any operator of a pipeline or marine vessel engaged in the business  
17 of transporting motor fuel above the terminal rack.

18 (19) 'Consumer' means the end user of motor fuel.

19 (20) 'Delivery' means the placing of motor fuel or any blended fuel into a bulk storage  
20 facility or the fuel tank of a motor vehicle which is licensed, or required to be licensed,  
21 to operate on the public highways.

22 (21) 'Denaturants' includes gasoline, natural gasoline, gasoline components, or toxic or  
23 noxious materials added to motor fuel grade ethanol to make it unsuitable for beverage  
24 use but not unsuitable for automotive use.

25 (22) 'Designated inspection site' means any state highway inspection station, weigh  
26 station, agricultural inspection station, mobile station, or other location designated by the  
27 commissioner or the commissioner's designee to be used as a motor fuel inspection site.

28 (23) 'Destination state' means the state, territory, or foreign country to which motor fuel  
29 is directed for delivery into a storage facility, a receptacle, a container, or a type of  
30 transportation equipment for the purpose of resale or use.

31 (24) 'Diesel fuel' means any liquid that is advertised as, offered for sale as, sold for use  
32 as, suitable for use as, or used as a motor fuel in a diesel powered engine. The term  
33 includes #1 and #2 fuel oils, kerosene, and dyed diesel fuel but shall not include gasoline  
34 or aviation fuel.

35 (25) 'Diesel powered highway vehicle' means a motor vehicle operated on a highway that  
36 is propelled by a diesel powered engine and is licensed or required to be licensed to  
37 operate on the public highways of this state.

1 (26) 'Distributor' means a person who acquires motor fuel from a licensed supplier,  
2 permissive supplier, or from another licensed distributor for subsequent sale or use.

3 (27) 'Diversion' means the transporting of motor fuel outside a reasonable direct route  
4 from the source to the destination state. A diversion number is required from the  
5 National Diversion Registry, or similar registry, when the bill of lading indicates a  
6 different destination state than where the motor fuel is actually delivered.

7 (28) 'Dyed diesel fuel' means diesel fuel that meets the dyeing and marking requirements  
8 of 25 U.S.C. Section 4082, regardless of how the diesel fuel was dyed.

9 (29) 'Export' means to obtain motor fuel in this state for sale or other distribution in  
10 another state, territory, or foreign country. Motor fuel delivered out of state by or for the  
11 seller constitutes an export by the seller, and motor fuel delivered out of state by or for  
12 the purchaser constitutes an export by the purchaser.

13 (30) 'Exporter' means any person who purchases motor fuel in this state for the purpose  
14 of transporting or delivering the motor fuel outside of this state.

15 (31) 'Farm tractor' means all tractor type, motorized farm implements including, but not  
16 limited to, agricultural field use vehicles and equipment but shall not include motor  
17 vehicles of the truck type, pickup truck type, automobiles, and other motor vehicles  
18 required to be registered and licensed each year pursuant to the provisions of Chapter 2  
19 of Title 40.

20 (32) 'Fuel' or 'gasoline' means all products commonly or commercially known as  
21 gasoline, regardless of classification, that is advertised as, offered for sale as, sold for use  
22 as, suitable for use as, or used as a motor fuel in an internal combustion engine, including  
23 gasohol and aviation gasoline but not including special fuel or racing gasoline as defined  
24 in this Code section that is suitable for use as a motor fuel on the public highways.

25 (33) 'Fuel grade alcohol' means methanol or motor fuel grade ethanol.

26 (34) 'Fuel grade ethanol' means denatured motor fuel grade ethanol for blending with  
27 gasoline.

28 (35) 'Fuel supply tank' means any receptacle on a motor vehicle from which motor fuel  
29 is supplied for propulsion of the motor vehicle.

30 (36) 'Fuel transportation vehicle' means any vehicle designed for highway use which is  
31 also designed or used to transport motor fuels and includes transport trucks and tank  
32 wagons.

33 (37) 'Gasohol' means a blended motor fuel composed of gasoline and motor fuel grade  
34 alcohol.

35 (38) 'Gasoline blend stocks' means any petroleum product component of gasoline,  
36 including, but not limited to, naphtha, reformate, or toluene, that can be blended for use  
37 in a motor fuel; provided, however, the term does not include any substance that will be

1 ultimately used for consumer nonmotor fuel use and is sold or removed in drum  
2 quantities of 55 gallons or less at the time of removal or sale.

3 (39) 'Heating oil' means any combustible liquid, including, but not limited, to #1 fuel oil,  
4 #2 fuel, and kerosene that is burned in a boiler, furnace, or stove for heating or for  
5 industrial processing purposes.

6 (40) 'Highway' means every way or place of whatever nature open to the use of the  
7 public for purposes of vehicular travel in this state, including the streets and alleys in  
8 towns and cities.

9 (41) 'Highway vehicle' means any self-propelled vehicle, trailer, or semitrailer that is  
10 designed or used for transporting persons or property over the public highway and  
11 includes all motor vehicles required to be registered and licensed each year pursuant to  
12 Chapter 2 of Title 40.

13 (42) 'Import' means to bring motor fuel into this state for sale, use, or storage by any  
14 means of conveyance other than in the fuel supply tank of a motor vehicle. Motor fuel  
15 delivered into this state from out of state by or for the seller constitutes an import by the  
16 seller, and motor fuel delivered into this state from out of state by or for the purchaser  
17 constitutes an import by the purchaser.

18 (43) 'Import verification number' means the number assigned by the department to an  
19 individual delivery of motor fuel by a transport truck or by other means of transfer  
20 outside the terminal transfer system.

21 (44) 'Importer' means a person who imports motor fuel into this state. The seller is the  
22 importer for motor fuel delivered into this state from outside of this state by or for the  
23 seller, and the purchaser is the importer for the motor fuel delivered into this state from  
24 outside of this state by or for the purchaser.

25 (45) 'Invoiced gallons' means the gallons actually billed on an invoice for payment to a  
26 supplier which shall be either gross or net gallons on the original manifest or bill of  
27 lading.

28 (46) 'Jet fuel' means motor fuel designed for use in the operation of jet or turboprop  
29 aircraft and sold or used for that purpose.

30 (47) 'Licensee' means any person licensed by the department pursuant to Code Section  
31 48-9-9.

32 (48) 'Marine vessel' means a waterborne vessel.

33 (49) 'Motor fuel' means gasoline, blended fuel, aviation fuel, and any special fuel.

34 (50) 'Motor fuel transporter' means a person who transports motor fuel by pipeline or  
35 transports motor fuel outside the bulk transfer or terminal system by means of a transport  
36 vehicle, a railroad tank car, or a marine vessel.

1 (51) 'Motor vehicle' means any automobile, motor carrier, motor truck, motorcycle, and  
2 any other vehicle or equipment, engine, or machine which is operated or propelled by  
3 combustion of motor fuel.

4 (52) 'Net gallons' means the amount of motor fuel, measured in gallons, when adjusted  
5 to a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch  
6 absolute.

7 (53) 'Permissive supplier' means an out-of-state supplier that elects, but is not required,  
8 to have a supplier's license pursuant to this article.

9 (54) 'Position holder' means the person who holds the inventory position in motor fuel  
10 in a terminal, as reflected on the records of the terminal operator. A person holds the  
11 inventory position in motor fuel when that person has a contract with the terminal  
12 operator for the use of storage facilities and terminal services for motor fuel at the  
13 terminal. The term includes a terminal operator who owns motor fuel in the terminal.

14 (55) 'Qualified terminal' means a terminal which has been assigned a terminal control  
15 number by the Internal Revenue Service.

16 (56) 'Racing gasoline' means gasoline that contains lead, has an octane rating of 110 or  
17 higher, does not have detergent additives, and is not suitable for use as a motor fuel in a  
18 motor vehicle on a public highway.

19 (57) 'Rack' means a mechanism for delivering motor fuel from a refinery, terminal,  
20 marine vessel, or bulk plant into a transport vehicle, railroad tank car, or other means of  
21 bulk transfer outside of the bulk transfer or terminal system.

22 (58) 'Refiner' means any person that owns, operates, or otherwise controls a refinery.

23 (59) 'Refinery' means a facility used to produce motor fuel from crude oil, unfinished  
24 oils, natural gas liquids, or other hydrocarbons and from which taxable motor fuel may  
25 be removed by pipeline, by rail car, by marine vessel, or at a rack.

26 (60) 'Removal' means any physical transfer other than by evaporation, loss, or  
27 destruction. A physical transfer to a transport vehicle or other means of conveyance  
28 outside the bulk transfer or terminal system is complete upon delivery into the means of  
29 conveyance.

30 (61) 'Retailer' means a person other than a wholesale distributor that engages in the  
31 business of selling or distributing taxable motor fuel to the end user within this state.

32 (62) 'Shipping document' means any machine printed invoice, shipping paper, bill of  
33 lading, or drop ticket which discloses the destination state and any other information  
34 required by the department.

35 (63) 'Special fuel' means any gas or liquid, other than gasoline, used or suitable for use  
36 as motor fuel in an internal combustion engine or motor to propel any form of vehicle,  
37 machine, or mechanical contrivance and includes products commonly known as natural

1 or casing-head gasoline, diesel fuel, dyed diesel fuel, biodiesel fuel, and transmix.  
2 Special fuel does not include any petroleum product or chemical compound such as  
3 alcohol, industrial solvent, heavy furnace oil, or lubricant, unless blended in or sold for  
4 use as motor fuel in an internal combustion engine.

5 (64) 'Supplier' means a person:

6 (A) Who is:

7 (i) Subject to the general taxing jurisdiction of this state; and

8 (ii) Registered or required to be registered pursuant to 26 U.S.C. Section 4101, for  
9 transactions in motor fuels in the bulk transfer or terminal distribution system; and

10 (B) Does one or more of the following:

11 (i) Is the position holder in a terminal or refinery in this state and may concurrently  
12 also be a position holder in motor fuel in another state;

13 (ii) Imports motor fuel into this state from a foreign country;

14 (iii) Acquires motor fuel from a terminal or refinery in this state from a position  
15 holder pursuant to either a two-party exchange or a qualified buy-sell arrangement  
16 which is treated as an exchange and appears on the records of the terminal operator;  
17 or

18 (iv) Is the position holder in a terminal or refinery outside this state with respect to  
19 motor fuel which that person imports into this state. A terminal operator shall not be  
20 considered a supplier based solely on the fact that the terminal operator handles motor  
21 fuel consigned to it within a terminal.

22 'Supplier' also means a person that produces or sells fuel grade alcohol or alcohol  
23 derivative substances in this state, produces or sells fuel grade alcohol or alcohol  
24 derivative substances for import to this state into a terminal, or acquires upon import by  
25 truck, rail car, or marine vessel into a terminal fuel grade alcohol or alcohol derivative  
26 substances. 'Supplier' includes a permissive supplier unless specifically provided  
27 otherwise.

28 (65) 'Tank wagon' means a straight truck having multiple compartments designed or used  
29 to transport motor fuel.

30 (66) 'Taxable unaccounted for motor fuel losses' means the number of net gallons of  
31 unaccounted for motor fuel losses that exceed one-half of 1 percent of the number of net  
32 gallons removed from the terminal during the year by a bulk transfer or at the terminal  
33 rack.

34 (67) 'Taxpayer' means any person required to file a return for the taxes imposed by this  
35 article or any person liable for payment of the tax imposed by this article.

36 (68) 'Terminal' means a bulk motor fuel storage and distribution facility to which a  
37 terminal control number has been assigned by the Internal Revenue Service, to which

1 motor fuel is supplied by pipeline, rail car, or marine vessel, and from which motor fuel  
2 may be removed at a rack.

3 (69) 'Terminal operator' means any person that owns, operates, or otherwise controls a  
4 terminal. A terminal operator may own the motor fuel that is transferred through or  
5 stored in the terminal.

6 (70) 'Transmix' means the buffer or interface between two different products in a  
7 pipeline shipment or a mix of two different products within a refinery or terminal that  
8 results in an off-grade mixture.

9 (71) 'Transport vehicle' means a tank wagon designed or used to carry motor fuel over  
10 the highway and includes a straight truck, a straight tractor combination, and a semitrailer  
11 combination.

12 (72) 'Transporter' means any operator of a pipeline, marine vessel, rail car, or transport  
13 vehicle engaged in the business of transporting motor fuels.

14 (73) 'Trustee' means a person who is licensed as a supplier or a permissive supplier and  
15 receives tax payments from and on behalf of another pursuant to Code Section 48-9-20.

16 (74) 'Two-party exchange' means a transaction in which the motor fuel is transferred  
17 from one licensed supplier or permissive supplier to another licensed supplier or  
18 permissive supplier and:

19 (A) Which transaction includes a transfer from the person that holds the original  
20 inventory position in taxable motor fuel in the terminal as reflected on the records of  
21 the terminal operator;

22 (B) The exchange transaction is completed prior to the removal of the motor fuel from  
23 the terminal by the receiving exchange partner; and

24 (C) The transaction is recorded on the terminal operator's books and records with the  
25 receiving exchange partner as the supplier or permissive supplier that removes the  
26 motor fuel across the terminal for purposes of reporting the transaction to this state.

27 (75) 'Ultimate vendor' means a person that sells motor fuel to the consumer of the motor  
28 fuel.

29 (76) 'Unaccounted for motor fuel losses' means the difference between:

30 (A) The amount of motor fuel in inventory at the terminal at the beginning of the  
31 calendar year plus the amount of motor fuel received by the terminal during the year;  
32 and

33 (B) The amount of motor fuel in inventory at the terminal at the end of the calendar  
34 year plus the amount of motor fuel removed from the terminal during the year.

35 (77) 'Undyed diesel fuel' means diesel fuel that has not been dyed in accordance with  
36 Internal Revenue Service fuel dyeing provisions.

1 (78) 'Use' means the actual consumption or receipt of motor fuel by any person into the  
2 propulsion tanks of a motor vehicle, aircraft, or watercraft.

3 (79) 'Vehicle fuel tank' means any receptacle on a motor vehicle from which fuel is  
4 supplied for the propulsion of the motor vehicle.

5 48-9-3.

6 (a) Taxes levied pursuant to this article shall be rounded to the nearest dollar and the  
7 practice of fractional pricing is prohibited.

8 (b) Taxes levied pursuant to this article are imposed upon the ultimate consumer but are  
9 precollected in the manner specified in this article. The levies and assessments imposed  
10 on licensees as provided in this article are imposed on them as agents of this state for the  
11 precollection of the tax. The taxes levied under this article shall be collected and paid at  
12 those times, in the manner, and by those persons specified in this article.

13 (c) The department shall, upon request from the officials of any other state, forward to  
14 such officials any information which it may have in its possession relative to the  
15 manufacture, receipt, sale, use, transportation, or shipment by any person of motor fuel.

16 48-9-4.

17 (a) An excise tax is imposed on motor fuel at the following rates:

18 (1) Fifteen cents per gallon on gasoline;

19 (2) Fifteen cents per gallon on special fuels; and

20 (3) Zero cents per gallon on aviation gasoline and on aviation jet fuel.

21 (b) A tax is imposed on the removal of motor fuel from the terminal using the terminal  
22 rack, other than by bulk transfer. The supplier or permissive supplier shall collect the tax  
23 imposed by this article from the person who orders the withdrawal at the terminal rack.

24 (c) A tax is imposed at the time motor fuel is imported into this state, other than by a bulk  
25 transfer, for delivery to a destination in this state. The permissive supplier shall collect the  
26 tax imposed by this article from the person who imports the motor fuel into this state. If  
27 the seller is not a permissive supplier, then the person who imports the motor fuel into this  
28 state shall pay the tax.

29 (d) A tax is imposed on the sale or transfer of motor fuel in the bulk transfer or terminal  
30 system in this state by a supplier to a person who does not hold a supplier's license. The  
31 supplier shall collect the tax imposed by this article from the person who orders the sale or  
32 transfer in the bulk transfer terminal system.

33 (e) A tax is imposed on the blending of motor fuel at the point blended fuel is made in this  
34 state outside the bulk transfer or terminal system. The blender shall pay the tax. The  
35 number of gallons of blended motor fuel on which the tax is imposed is equal to the

1 difference between the number of gallons of blended fuel made and the number of gallons  
2 of previously taxed motor fuel used to make the blended fuel.

3 (f) In each subsequent sale of motor fuel on which the tax has been paid, the amount of the  
4 tax shall be added to the selling price so that the tax is paid ultimately by the person using  
5 or consuming the motor fuel. Motor fuel is considered to be used when it is delivered into  
6 a fuel supply tank of a licensed motor vehicle or a motor vehicle required to be licensed.

7 (g) A terminal operator in this state is considered a supplier for the purpose of the tax  
8 imposed under this article unless at the time of removal:

9 (1) The terminal operator has a terminal operator's license issued by the department for  
10 the facility from which the motor fuel is withdrawn;

11 (2) The terminal operator verifies that the person who removes the motor fuel has a  
12 supplier's license; and

13 (3) The terminal operator does not have a reason to believe that the supplier's license  
14 issued by the department is not valid.

15 (h) There is annually levied a tax on taxable unaccounted for motor fuel losses at a  
16 terminal in this state. Accounted for motor fuel losses which have been approved by the  
17 department or motor fuel losses constituting part of a transmix shall not constitute  
18 unaccounted for motor fuel losses.

19 (i) The terminal operator whose motor fuel is unaccounted for is liable for the tax levied  
20 by this Code section. Motor fuel received by a terminal operator and not shown on an  
21 informational return filed by the terminal operator with the department as having been  
22 removed from the terminal is presumed to be unaccounted for motor fuel losses. A terminal  
23 operator may rebut this presumption by establishing that motor fuel received at a terminal,  
24 but not shown on an informational return as having been removed from the terminal was  
25 an accounted for loss or constitutes part of a transmix.

26 (j) The collection, payment, and remittance of the tax imposed by this Code section shall  
27 be accomplished in the manner and at the time provided for in this article.

28 (k) The motor fuel subject to the excise tax levied by this Code section shall not be subject  
29 to any other excise tax levied by this state or county or municipal government.

30 48-9-5.

31 (a) The tax levied pursuant to Code Section 48-9-4 is levied on the following:

32 (1) Dyed diesel fuel that is used to operate a highway vehicle for a taxable use other than  
33 a use exempt under 26 U.S.C. Section 4082;

34 (2) Motor fuel that was allowed an exemption from the motor fuel tax under the  
35 provisions of this article as they existed immediately prior to July 1, 2008, and was then  
36 used or consumed on a highway;

1 (3) Motor fuel that is used to operate a highway vehicle after an application for a refund  
2 of tax paid on the motor fuel is made or allowed on the basis that the motor fuel was used  
3 for an off-highway purpose; and

4 (4) Aviation fuel on which is used other than for fuel in an aircraft.

5 (b) The operator of a highway vehicle that uses untaxed or refunded motor fuel that is  
6 taxable under this Code section is liable for the tax. If the highway vehicle that uses the  
7 motor fuel is owned by or leased to a motor carrier, the operator of the highway vehicle and  
8 the motor carrier are jointly and severally liable for the tax. If the ultimate vendor of motor  
9 fuel taxable under this Code section knew or had reason to know that the motor fuel would  
10 be used for a purpose that is taxable under this Code section, the operator of the highway  
11 vehicle and the ultimate vendor are jointly and severally liable for the tax.

12 (c) The tax liability levied by this Code section is in addition to any other penalty imposed  
13 pursuant to this article.

14 48-9-6.

15 (a) Except as otherwise provide in this subsection, sales of motor fuel to the following are  
16 exempt from the tax levied by subsection (a) of Code Section 48-9-4 and such tax shall not  
17 be paid at the rack:

18 (1) All motor fuel exported from this state for which proof of export is available in the  
19 form of a terminal issued destination state shipping document:

20 (A) Exported by a supplier who is licensed in the destination state; or

21 (B) Sold by a supplier to another person for immediate export to a state for which the  
22 destination state taxable motor fuel tax has been paid to the supplier who is licensed to  
23 remit the tax to the destination state. This exemption shall not apply to any motor fuel  
24 which is transported and delivered outside this state in the motor fuel supply tank of a  
25 highway vehicle;

26 (2) All sales of dyed special fuel;

27 (3) All aviation fuels; and

28 (4) All motor fuel sales for export to a foreign country or nation which must have written  
29 approval by the department prior to completion of the sales transaction.

30 (b) Having first paid the tax to the supplier, the ultimate vendor shall have the right to  
31 apply to the department for a refund on a quarterly basis for any tax-free sales of motor fuel  
32 sold to the United States for the exclusive use of the United States when the motor fuel is  
33 purchased and paid for by the United States.

34 (c) Consumers who first pay the tax levied by subsection (a) of Code Section 48-9-4 on  
35 all gallons of motor fuel used in designated off-road vehicles, other off-road equipment,  
36 or other off-road use may apply to the department for a refund on a quarterly basis. The

1 application shall be in the form and with supporting records as required by the department,  
2 sworn to by the applicant and made under penalty of perjury. The statute of limitations for  
3 filing refunds shall be three years from the date that the motor fuel was purchased. The  
4 commissioner may establish a minimum refund claim amount that can be claimed each  
5 calendar quarter. No motor fuel refunds shall be granted for the use of motor fuel in marine  
6 vessels within this state.

7 (d)(1) Businesses engaged in the sale and field application of fertilizers, crop protection  
8 chemicals, and poultry litter which operate vehicles licensed for agricultural purposes are  
9 entitled to a refund of 90 percent of the tax-paid clear diesel fuel purchases used  
10 exclusively for agricultural purposes vehicles which shall serve as the basis for the  
11 refund. No interest shall be paid on this refund type.

12 (2) Every person who purchases gasoline in quantities of 25 gallons or more, when the  
13 gasoline is used is used for operating farm tractors and other equipment used for the  
14 production of agricultural crops on land owned or leased by such person, shall be entitled  
15 to a refund of all the taxes imposed under subsection (a) of Code Section 48-9-4 except  
16 that no interest shall be paid.

17 (3) Every person who purchases special fuels, except dyed special fuels, in quantities of  
18 25 gallons or more, when the clear special fuels are used in operating equipment used for  
19 nonhighway purposes, shall be entitled to a refund of all excise taxes imposed on special  
20 fuels by subsection (a) of Code Section 48-9-4 except that no interest shall be paid.

21 (e) If the sale of motor fuel to those entities as provided in subsection (b) of this Code  
22 section is purchased using a fleet or government fueling credit card or oil company credit  
23 card issued to the purchasing entity, the issuer of the credit card may bill the purchasing  
24 entity without the tax and take a credit on the next supplier's tax return. The petition for  
25 refund shall be in the form and with supporting records as required by the department,  
26 sworn to by the applicant and made under penalty of perjury. The statute of limitations for  
27 filing refunds is within three years of the date that the motor fuel was purchased. The  
28 commissioner may establish a minimum refund claim amount that can be claimed each  
29 calendar quarter.

30 48-9-7.

31 (a) Any person seeking a refund pursuant to subsection (b) of Code Section 48-9-6 shall  
32 present to the department a petition accompanied by the original or duplicate original sales  
33 slip, invoice, or any other documentation approved by the department from the distributor,  
34 producer, or retail dealer, as the case may be, showing the amount of the gallons purchased.  
35 The petition shall be in the form and with supporting records as required by the department,

1 sworn to by the applicant and made under penalty of perjury. The statute of limitations for  
2 filing refunds is within three years of the date that the motor fuel was purchased.

3 (b) The right to receive any refund under this Code section is not assignable and any  
4 assignment thereof is void and of no effect. No payment of any refund may be made to any  
5 person other than the original person entitled.

6 (c) Any applicant for the refund of the taxes under this Code section who willfully files  
7 an inaccurate petition or false claim for a refund shall be subject to a penalty of 100 percent  
8 of the refund claimed including interest.

9 (d) The department may make any investigation or audit any records considered necessary  
10 before refunding to a person the excise tax levied by Code Section 48-9-4.

11 (e) All users filing refund petitions in accordance with subsection (b) of Code Section  
12 48-9-6 shall accurately maintain adequate records as required under rules and regulations  
13 promulgated by the department.

14 (f) Whenever it appears to the satisfaction of the department that any person is entitled to  
15 a refund for taxes paid pursuant to Code Section 48-9-4, the commissioner shall forthwith  
16 certify the amount of the refund.

17 48-9-8.

18 (a) There is imposed an excise tax on motor fuel held in inventory outside of the bulk  
19 transfer system on July 1, 2008, if:

20 (1) No tax was imposed on the motor fuel under Code Sections 48-9-3 and 48-9-12 as  
21 they existed on June 30, 2008; and

22 (2) Tax would have been imposed on the motor fuel by this article had it been in effect  
23 for the periods prior to its effective date, July 1, 2008.

24 (b) The rate of the tax imposed by this Code section shall be the amount of tax imposed  
25 under former Code Sections 48-9-3 and 48-9-12 on June 30, 2008.

26 (c) Any person owning motor fuel on July 1, 2008, to which the tax imposed by this Code  
27 section applies shall be liable for the tax. The tax imposed by this Code section shall be  
28 paid on or before September 30, 2009, and shall be paid in the manner prescribed by the  
29 department.

30 48-9-9.

31 (a) A person shall obtain the appropriate license or licenses issued by the department:

32 (1) Each supplier engaged in business in this state as a supplier shall first obtain a  
33 supplier's license. The fee for a supplier's license is \$2,000.00;

34 (2) A person who desires to collect the tax imposed by this article as a supplier and who  
35 meets the definition of a permissive supplier may obtain a permissive suppliers license.

1 The application for or possession of a permissive supplier's license does not in itself  
2 subject the applicant or licensee to the jurisdiction of this state for a purpose other than  
3 administration and enforcement of this article. The fee for a permissive supplier's license  
4 is \$100.00;

5 (3) Each terminal operator other than a supplier licensed under paragraph (1) of this  
6 Code section engaged in business in this state as a terminal operator first shall obtain a  
7 terminal operator's license for each terminal site. The fee for each terminal operator's  
8 license is \$300.00;

9 (4) The state shall require any exporter who exports product to another state or foreign  
10 country or nation to obtain an exporter's license first prior to any such exports. The fee  
11 for an exporter's license is \$100.00;

12 (5) Each person who is not licensed as a supplier shall obtain a transporter's license  
13 before transporting taxable motor fuel by whatever manner whether the person is engaged  
14 for hire in interstate commerce or for hire in intrastate commerce. The fee for a  
15 transporter's license is \$50.00;

16 (6) Each person who wishes to cause motor fuel to be delivered into this state on his or  
17 her behalf, for his or her own account, or for resale to a purchaser in this state from  
18 another state in a fuel transport truck or in a pipeline or marine vessel shipment into  
19 storage facilities other than a qualified terminal shall apply and obtain an importer's  
20 license. The fee for an importer's license is \$2,000.00;

21 (7) Each person who is required to pay the tax imposed by subsection (e) of Code  
22 Section 48-9-4 and is not licensed under this Code section shall obtain a blender's  
23 license. The fee for a blender's license is \$50.00;

24 (8)(A) Each person who purchases taxable motor fuel for resale within this state from  
25 a licensed terminal supplier shall first obtain a distributor's license which is operative  
26 for all locations controlled or operated by that licensee in this state or in any other state  
27 from which the person removes motor fuel for delivery and use in Georgia.

28 (B) In its discretion, the department may exempt from subparagraph (A) of this  
29 paragraph persons who possess a valid supplier, terminal operator, motor fuel  
30 transporter, or exporter license. The fee for a distributor's license is \$50.00; and

31 (9) A person who is engaged in more than one activity for which a license is required  
32 shall have a separate license for each activity, except as otherwise determined by the  
33 department.

34 (b) All license fees collected under this Code section, except those refunded, shall be  
35 deposited in the general fund of the state.

1 48-9-10.

2 (a) To obtain a license under this article, an applicant shall file an application with the  
3 department on a form provided by the department. The application shall include the  
4 applicant's name, address, federal employer identification number, and any other  
5 information required by the department.

6 (b) An applicant for a license as a supplier, permissive supplier, or terminal operator shall  
7 have a federal certificate of registry issued under 26 U.S.C. Section 4101 that authorizes  
8 the applicant to enter into federal tax-free transactions in taxable motor fuel in the terminal  
9 transfer system. An applicant that is required to have a federal certificate of registry shall  
10 include the registration number of the certificate on the application for a license under this  
11 Code section. An applicant for a license as an importer, an exporter, or a distributor who  
12 has a federal certificate of registry issued under 26 U.S.C. Section 4101 shall include the  
13 registration number of the certificate on the application for a license under this Code  
14 section.

15 (c) An applicant for a license as an importer or distributor shall list on the application each  
16 state from which the applicant intends to import motor fuel and, if required by a state listed,  
17 shall be licensed or registered for motor fuel tax purposes in that state. If a state listed  
18 requires the applicant to be licensed or registered, the applicant shall provide the  
19 applicant's license or registration number of that state. A licensee who intends to import  
20 motor fuel from a state not listed on its application for an importer's license or a  
21 distributor's license shall provide the department written notice of the action before  
22 importing motor fuel from that state. The notice shall include the information that is  
23 required on the license application.

24 (d) An applicant for a license as an exporter or distributor shall list on the application each  
25 state to which the applicant intends to export motor fuel received in Georgia by means of  
26 a transfer that is outside the terminal transfer system and, if required by a state listed, shall  
27 be licensed or registered for motor fuel tax purposes in that state. If a state listed requires  
28 the applicant to be licensed or registered, the applicant shall provide the applicant's license  
29 or registration number of that state. A licensee who intends to export motor fuel to a state  
30 not listed on its application for an exporter's license or a distributor's license shall provide  
31 the department written notice of the action before exporting motor fuel to that state. The  
32 notice shall include the information required on the license application. All exporters must  
33 hold a valid export license.

34 (e) An applicant for a license as a motor fuel transporter shall list on the application each  
35 state from which and to which the applicant intends to transport motor fuel and, if required  
36 by a state listed, shall be licensed or registered for motor fuel tax purposes in that state. If  
37 a state listed requires the applicant to be licensed or registered, the applicant shall provide

1 the applicant's license or registration number of that state. A licensee who intends to  
2 transport motor fuel from or to a state not listed on its application for a motor fuel  
3 transporter's license shall provide the department written notice of the action before  
4 transporting motor fuel from or to that state. The notice shall include the information that  
5 is required on the license application.

6 48-9-11.

7 (a) A person may elect to obtain a permissive supplier license to collect the tax levied by  
8 Code Section 48-9-4 for motor fuel that is removed at a terminal in another state and has  
9 Georgia as the destination state.

10 (b) A licensed permissive supplier shall comply with all of the following requirements  
11 with respect to motor fuel that is removed by that licensed permissive supplier at a terminal  
12 located in another state and has Georgia as the destination state:

13 (1) Collect the tax due this state on the motor fuel;

14 (2) Waive any defense that this state lacks jurisdiction to require the supplier to collect  
15 the tax due this state on the motor fuel under this article;

16 (3) Report and pay the tax due on the motor fuel in the same manner as if the removal  
17 had occurred at a terminal located in Georgia;

18 (4) Keep records of the removal of the motor fuel and submit to audits concerning the  
19 motor fuel as if the removal had occurred at a terminal located in Georgia; and

20 (5) Report sales by the supplier not engaged in business in this state to a person who is  
21 not licensed in the state where the removal occurred if the destination state is Georgia.

22 (c) A licensed permissive supplier acknowledges that this state imposes the requirements  
23 listed in subsection (b) of this Code section under its general police power and submits to  
24 the jurisdiction of this state only for purposes related to the administration of this article.

25 48-9-12.

26 (a) Upon approval of the application by the department, the applicant shall file with the  
27 department either a cash deposit or surety bond as follows:

28 (1) For a supplier license, permissive supplier license, or terminal operator license, the  
29 amount shall be not less than \$2 million. Only one cash deposit or surety bond will be  
30 required for a supplier which is also a terminal operator;

31 (2) For an importer license for a person, other than a supplier, that imports by transport  
32 vehicle or another means of transfer outside the bulk transfer or terminal system motor  
33 fuel removed from a terminal located in another state in which: (A) the state from which  
34 the motor fuel is imported does not require the seller of the motor fuel to collect a motor  
35 fuel excise tax on the removal either at that state's rate or the rate of the destination state;

1 and (B) the seller of the motor fuel is not a permissive supplier, the amount shall be no  
2 less than \$2,000.00;

3 (3) For an importer license for a person that imports by transport vehicle or another  
4 means outside the bulk transfer or terminal system motor fuel removed from a terminal  
5 located in another state in which: (A) the state from which the motor fuel is imported  
6 requires the seller of the motor fuel to collect a motor fuel excise tax on the removal  
7 either at that state's rate or the rate of the destination state; or (B) the seller of the motor  
8 fuel is a permissive supplier, the amount shall be a minimum of \$2,000.00 or an amount  
9 equal to three months tax liability, whichever is greater;

10 (4) For an exporter license, the amount shall be a minimum of \$2,000.00 or an amount  
11 equal to three months tax liability, whichever is greater;

12 (5) For a blender license, the amount shall be a minimum of \$2,000.00 or an amount  
13 equal to three months tax liability, whichever is greater;

14 (6) For a distributor license, the amount shall be a minimum of \$2,000.00 or, an amount  
15 equal to three months tax liability to their suppliers;

16 (7) For a motor fuel transporter license, there shall be no bond.

17 (b) The commissioner may require an additional bond amount from the licensee. The  
18 licensee must within 30 days from the date such notice is mailed by the department either  
19 file the additional bond amount or file a notice of appeal in accordance with Chapter 13 of  
20 Title 50, the 'Georgia Administrative Procedure Act.' The department may immediately  
21 revoke the licensee's license upon the expiration of the 30 day period if the licensee fails  
22 to either provide the additional bond amount required by the department or timely appeal  
23 under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

24 (c) The surety must be authorized to engage in business within this state. The cash deposit  
25 and the surety bond are conditioned upon faithful compliance with the provisions of this  
26 article, including the filing of the returns and payment of all tax prescribed by this article.  
27 The cash deposit and the surety bond shall be approved by the commissioner as to  
28 sufficiency and form and shall indemnify the state against any loss arising from the failure  
29 of the licensee to pay for any cause whatever the motor fuel excise tax levied by this  
30 article.

31 (d) Any surety on any existing bond furnished by a person required to be licensed pursuant  
32 to Code Section 48-9-9 may notify the department in writing of its intent to cancel the  
33 bond. The department shall immediately notify the licensee of the intent of the surety to  
34 cancel and the licensee shall have 30 days from the date such notice is mailed by the  
35 department to provide a sufficient replacement bond as required by the department. The  
36 department may immediately cancel the licensee's license upon expiration of the 30 day  
37 period set out above if the licensee fails to either provide a new replacement bond as

1 required by the department or appeal the proposed revocation, under the provisions  
2 provided for under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'  
3 within the 30 days. The surety requesting to be released shall remain liable for any liability  
4 already accrued or which shall accrue during the 30 day period set out above but shall not  
5 be responsible for any liability which accrues after said 30 day period.

6 (e) Every surety bond shall be continuous. Each year shall constitute a separate obligation  
7 in the amount of taxes, penalty, and interest imposed or levied by this state while the bond  
8 is in force.

9 (f) Any licensee that has furnished a cash deposit under this Code section shall be relieved,  
10 released, and discharged from all liability accruing on the cash deposit after the expiration  
11 of 30 days from the date the licensee shall have lodged, by certified mail, with the  
12 commissioner a written request to be discharged and the amount of the cash deposit  
13 refunded, provided that the commissioner shall retain the cash deposit until such time as  
14 the department may perform an audit of the licensee's business.

15 (g) Upon approval of the bond required, the department shall issue to the applicant the  
16 appropriate license or licenses. A license is not transferable and remains in effect until  
17 surrendered or canceled. A supplier's license shall include all other licenses except for the  
18 terminal operator license.

19 48-9-13.

20 (a) The department may refuse to issue a license under this article if the applicant or any  
21 principal of the applicant that is a business entity:

22 (1) Has had any license or registration canceled by the department for cause;

23 (2) Has had a motor fuel license or registration issued by another state canceled for  
24 cause;

25 (3) Has had a federal certificate of registry issued under Section 4101 of the Internal  
26 Revenue Code, or a similar federal authorization, revoked;

27 (4) Has been convicted of any offense involving fraud or misrepresentation;

28 (5) Has been convicted of any other offense that indicates that the applicant may not  
29 comply with this article if issued a license; or

30 (6) Is in arrears to the state for any taxes

31 or for other good cause shown.

32 (b) Any refusal by the department under this Code section to issue a license may be  
33 appealed under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

1 48-9-14.

2 (a) A licensee who discontinues the business for which was issued a license authorized by  
3 this article shall notify the department in writing at least ten days prior to the time the  
4 discontinuance, sale, or transfer takes effect and shall surrender the license to the  
5 department. The notice shall state the effective date of the discontinuance and, if the  
6 licensee has transferred the business or otherwise relinquished control to another person  
7 by sale or otherwise, the date of the sale or transfer and the name and address of the person  
8 to whom the business is transferred or relinquished. The notice shall also include any other  
9 information required by the department.

10 (b) All taxes for which the licensee is liable under this article but are not yet due are due  
11 on the date of the discontinuance. If the licensee has transferred the business to another  
12 person and does not give the notice required by this Code section, the person to whom the  
13 business was transferred is jointly and severally liable for the amount of any tax owed by  
14 the licensee to this state on the date the business was transferred. The liability of the  
15 person to whom the business was transferred shall not exceed the value of the property and  
16 business acquired from the licensee.

17 48-9-15.

18 (a) The department may cancel the license of any person licensed under this article, upon  
19 written notice sent to the licensee's last known address, appearing in the department's files,  
20 for any of the following reasons:

21 (1) Filing by the licensee of a false report of the data or information required by this  
22 article;

23 (2) Failure, refusal, or neglect of the licensee to file a report or information required by  
24 this article;

25 (3) Failure of the licensee to pay the full amount of all excise taxes due or to pay any  
26 penalties or interest due as required to be paid by such licensee;

27 (4) Failure of the licensee to keep accurate records of the quantities of motor fuel  
28 received, produced, refined, manufactured, compounded, sold, or used in Georgia;

29 (5) Failure to file a new or additional cash deposit or surety bond upon request of the  
30 department pursuant to Code Section 48-9-12;

31 (6) Conviction of the licensee or a principal of the licensee for any act prohibited under  
32 this article;

33 (7) Failure, refusal, or neglect of a licensee to comply with any other provision of this  
34 article or any rule or regulation promulgated pursuant to this article;

35 (8) Having a motor fuel license or registration issued by another state canceled for cause;  
36 or

- 1 (9) A change in the ownership or control of the business.
- 2 (b) Upon cancellation of any license for any cause listed in subsection (a) of this Code  
3 section, the tax levied under this article becomes due and payable on all untaxed motor fuel  
4 held in storage or otherwise in the possession of the licensee and all motor fuel sold,  
5 delivered, or used prior to the cancellation on which the tax has not been paid.
- 6 (c) The license can be canceled upon the written request of the licensee.

7 48-9-16.

8 The department shall maintain a record of:

- 9 (1) All persons to whom a license has been issued under this article;
- 10 (2) All persons holding a current license issued under this article, by license category;
- 11 (3) All cash and surety bonds received by the department from all motor fuel licensees  
12 required to post such cash or surety bonds as a condition of being licensed by the  
13 department; and
- 14 (4) All motor fuel tax returns, disbursement and receipt schedules, and any other  
15 documents required by the department for enforcement of this article.

16 48-9-17.

- 17 (a) The tax levied by this article shall be paid to the department by each taxpayer on or  
18 before the twentieth day of each calendar month for the preceding month, provided that the  
19 department shall require all licensees to file tax returns and payments electronically in  
20 accordance with formats and standards required by the department; provided, further, that  
21 if no tax is due, the return required by the department shall be completed and filed on or  
22 before the twentieth day each calendar month for the preceding month.
- 23 (b) Any terminal operator, supplier, importer, blender, permissive supplier, and exporter  
24 shall file a monthly return as required by this Code section.

25 48-9-18.

- 26 (a) Each licensed distributor and licensed importer shall remit to the supplier or permissive  
27 supplier, as applicable, the motor fuel the tax levied by Code Section 48-9-4 and due on  
28 motor fuel removed at a terminal rack, provided that at the election of a licensed distributor  
29 or licensed importer, the supplier or permissive supplier shall not require the licensed  
30 distributor or licensed importer to pay the tax levied by Code Section 48-9-4 until two days  
31 before the date the supplier or permissive supplier is required to pay the tax to this state;  
32 provided, further, that an election under this subsection is subject to the condition that  
33 remittances by the licensed distributor or licensed importer of all tax due to the supplier or  
34 permissive supplier shall be paid by electronic funds transfer two days before the date of

1 the remittance by the supplier or permissive supplier to the department. An election under  
2 this subsection may be terminated by the supplier or permissive supplier if the licensed  
3 distributor or licensed importer does not make timely payments to the supplier or  
4 permissive supplier as required by this subsection.

5 (b) A licensed exporter shall remit tax due on motor fuel removed at a terminal rack to the  
6 supplier of the motor fuel. The date by which an exporter shall remit tax is governed by  
7 the law of the destination state of the exported motor fuel, provided that, if the laws of the  
8 destination state prohibit the collection of the destination state's tax, the tax levied by Code  
9 Section 48-9-4 shall be collected.

10 (c) All tax payments received by a supplier or permissive supplier shall be held in trust by  
11 the supplier or permissive supplier until the supplier or permissive supplier remits the tax  
12 payment to this state or to another state, and the supplier or permissive supplier shall  
13 constitute the trustee for the tax payments.

14 (d) The license of a licensed distributor, exporter, or importer who fails to pay the full  
15 amount of tax required by this article is subject to cancellation.

16 (e) All gallons of taxable motor fuel sold in this state shall be billed at net gallons.

17 48-9-19.

18 The return of each supplier and permissive supplier shall list all of the following  
19 information and any other information the department deems necessary or appropriate to  
20 the proper administration of this article:

21 (1) The number of net gallons of tax-paid motor fuel received by the supplier or  
22 permissive supplier during the month, sorted by type of motor fuel, seller, point of origin,  
23 destination state, and carrier;

24 (2) The number of net gallons of motor fuel removed at a terminal rack during the month  
25 from the account of the supplier, sorted by type of motor fuel, person receiving the motor  
26 fuel, terminal code, and carrier;

27 (3) The number of net gallons of motor fuel removed during the month for export, sorted  
28 by type of motor fuel, person receiving the motor fuel, terminal code, destination state,  
29 and carrier; and

30 (4) The number of net gallons of motor fuel removed during the month from a terminal  
31 located in another state for conveyance to Georgia, as indicated on the shipping document  
32 for the motor fuel, sorted by type of motor fuel, person receiving the motor fuel, terminal  
33 code, and carrier.

1 48-9-20.

2 (a) The supplier or permissive supplier may deduct from the next monthly return those tax  
3 payments that were not remitted for the previous month to the supplier or permissive  
4 supplier by any licensed distributor or any licensed importer who removed motor fuel on  
5 which the tax is due from the supplier's or permissive supplier's terminal. The licensed  
6 supplier or permissive supplier is eligible to take this deduction if the licensed supplier or  
7 permissive supplier notifies the state within 30 business days after a return is due of any  
8 licensed distributor or importer who did not pay to the supplier or permissive supplier the  
9 tax due by the time the supplier or permissive supplier filed the monthly return, provided  
10 that when a licensed distributor or licensed importer fails to remit the tax to the licensed  
11 supplier or permissive supplier, the licensed supplier or permissive supplier is not eligible  
12 to take the deduction for any tax payments that accrue after the 30 business day period  
13 referenced above for delinquent distributors or importers. The notice shall be transmitted  
14 to the state in the form required by the department. If a licensee pays to a supplier or  
15 permissive supplier the tax owed, but the payment occurs after the supplier or permissive  
16 supplier has deducted the amount of the tax on a return, the supplier or permissive supplier  
17 shall remit the payment to the department with the next monthly return filed subsequent to  
18 receipt of the tax.

19 (b) A supplier or permissive supplier who timely files a return with the payment may  
20 deduct from the amount of tax payable with the return an administrative discount of  
21 one-half of 1 percent of the amount of tax payable to this state, not to exceed \$10,000.00  
22 per month.

23 48-9-21.

24 (a) All tax payments due to this state that are received by a supplier or permissive supplier  
25 shall be held by the supplier or permissive supplier as trustee in trust for this state, and the  
26 supplier or permissive supplier has a fiduciary duty to remit to the department the amount  
27 of tax received. A supplier or permissive supplier is liable for the taxes paid to it.

28 (b) A supplier or permissive supplier shall notify a licensed distributor, licensed exporter,  
29 or licensed importer who received motor fuel from the supplier or permissive supplier  
30 during a reporting period of the number of taxable gallons received. The supplier or  
31 permissive supplier shall give this notice after the end of each reporting period and before  
32 the licensee is required to remit the amount of tax due on the motor fuel.

33 (c) A supplier or permissive supplier of motor fuel at a terminal shall notify the department  
34 within the time period established by the department of any licensed distributors, licensed  
35 exporters, or licensed importers who did not pay the tax due when the supplier or

1 permissive supplier filed its return. The notice shall be transmitted in the form required by  
2 the department.

3 (d) A supplier or permissive supplier who receives a payment of tax shall not apply the  
4 payment of tax to a debt that the person making the payment owes for motor fuel purchased  
5 from the supplier or permissive supplier.

6 48-9-22.

7 A terminal operator shall file with the department a monthly information return showing  
8 the amount of motor fuel received and removed from the terminal during the month. The  
9 return shall contain the following information and any other information required by the  
10 department:

11 (1) The beginning and ending inventory which pertains to the applicable reporting  
12 month;

13 (2) The number of net gallons of motor fuel received in inventory at the terminal during  
14 the month and each position holder for the motor fuel;

15 (3) The number of net gallons of motor fuel removed from inventory at the terminal  
16 during the month and, for each removal, the position holder for the motor fuel and the  
17 destination state of the motor fuel; and

18 (4) The number of net gallons of motor fuel gained or lost at the terminal during the  
19 month.

20 48-9-23.

21 (a) A person licensed as a motor fuel transporter in this state shall file a monthly  
22 informational report with the department on forms prescribed and furnished by the  
23 department concerning the amount of motor fuel received or delivered for import or export  
24 by the motor fuel transporter during the month.

25 (b) The return required by this Code section is due by the last day of the month following  
26 the month covered by the return.

27 (c) If a motor fuel transporter fails to make reports required by this Code section, the  
28 person is subject to a civil penalty of \$1,000.00 for each violation, as reasonably  
29 determined by the department.

30 48-9-24.

31 (a) Any person who violates any of the provisions of this article may be enjoined by the  
32 Attorney General or appropriate district attorney from distributing, using, or withdrawing  
33 from storage any motor fuel, the sale or withdrawal of which is taxable under this article,  
34 until such person shall have complied with the provisions of this article.

1 (b) It shall be unlawful for any person to sell for use or to use motor fuel upon which the  
2 tax levied by this article has not been paid or the payment thereof assumed by a licensee  
3 of the department. Any person who willfully fails to comply with the provisions of this  
4 article shall for each failure be subject to a penalty imposed by the department of not less  
5 than \$100.00 nor more than \$10,000.00.

6 48-9-25.

7 (a) Each person operating a refinery or terminal in Georgia shall prepare and provide to  
8 the driver of every highway vehicle receiving motor fuel at the facility a shipping  
9 document setting out on its face the destination state as represented to the terminal operator  
10 by the shipper or the shipper's agent. Failure to comply with the provisions of this  
11 subsection may result in a department imposed penalty of not less than \$500.00 nor more  
12 than \$1,000.00. This penalty shall be multiplied by the sum of the current violation plus all  
13 prior violations of this subsection.

14 (b) Every person transporting motor fuel in Georgia in a highway vehicle other than in its  
15 supply tank shall carry on board a shipping document issued by the facility where the  
16 motor fuel was obtained. The shipping document shall set out on its face the state of  
17 destination of the motor fuel transported in the highway vehicle. Any person who violates  
18 this subsection shall, upon conviction thereof, be guilty of a felony. Failure to comply with  
19 the provisions of this subsection may result in a department imposed penalty of not less  
20 than \$500.00 nor more than \$1,000.00. This penalty shall be multiplied by the sum of the  
21 current violation plus any prior violations of this subsection.

22 (c) Every person transporting in Georgia motor fuel received from a terminal operator or  
23 refiner shall provide the original or a copy of the terminal issued shipping document  
24 accompanying the shipment to the operator of the retail outlet to which delivery of the  
25 shipment is made. A person who knowingly violates or knowingly aids and abets another  
26 person in violating this subsection shall, upon conviction thereof, be guilty of a felony.  
27 Failure to comply with the provisions of this subsection may result in a department  
28 imposed penalty of not less than \$500.00 nor more than \$1,000.00. This penalty shall be  
29 multiplied by the sum of the current violation plus any prior violations of this subsection.

30 (d) Each operator of a retail outlet shall receive, examine, and retain the shipping  
31 document received from the transporter for every shipment of motor fuel that is delivered  
32 to each location, with record retention of the shipping document at the location for 30 days.  
33 At the end of 30 days, the shipping document shall be maintained with the required books  
34 and records for a period of three years from the date of shipment. A person who knowingly  
35 violates or knowingly aids and abets another person in violating this subsection shall, upon  
36 conviction thereof, be guilty of a felony. Failure to comply with the provisions of this

1 subsection may result in a department imposed penalty of not less than \$500.00 nor more  
2 than \$1,000.00. This penalty shall be multiplied by the sum of the current violation plus  
3 any prior violations of this subsection.

4 (e) No bulk end user, retail dealer, or wholesale distributor shall knowingly accept delivery  
5 of motor fuel into storage facilities in Georgia if that delivery is not accompanied by a  
6 shipping document that sets out on its face Georgia as the state of destination of the motor  
7 fuel. A person who knowingly violates or knowingly aids and abets another person in  
8 violating this subsection shall, upon conviction thereof, be guilty of a felony. Failure to  
9 comply with the provisions of this subsection may result in a department imposed penalty  
10 of not less than \$500.00 nor more than \$1,000.00. This penalty shall be multiplied by the  
11 sum of the current violation plus any prior violations of this subsection.

12 (f) The department shall provide for relief in a case where a shipment of motor fuel is  
13 legitimately diverted from the represented destination state after the shipping document has  
14 been issued by the terminal operator or where the terminal operator failed to cause proper  
15 information to be printed on the shipping document. These relief provisions shall include  
16 a provision requiring the shipper or its agent provide notification as prescribed by the  
17 department before the diversion or correction is to occur.

18 (g) A terminal operator or bulk plant operator may rely on the representation made by the  
19 purchaser of the motor fuel or the purchaser's agent concerning the destination state of the  
20 motor fuel. A purchaser is liable for any tax due as a result of the purchaser's diversion of  
21 motor fuel from the represented destination state.

22 (h)(1) Every person hauling, transporting, or conveying motor fuel over any of the  
23 navigable waters of this state must, during the entire time so engaged, maintain  
24 possession of an invoice, bill of sale, or shipping document showing the legal name and  
25 physical address of the person from whom motor fuel was received and the legal name  
26 and physical address of every person or persons to whom deliveries of motor fuel will be  
27 made along with the number of gallons delivered; that is, any person hauling,  
28 transporting, or conveying the motor fuel must have in its possession record evidence of  
29 the legal name and physical address of the person from whom motor fuel will be  
30 delivered and the number of gallons to be delivered. The person hauling, transporting,  
31 or conveying the motor fuel shall, at the request of any person authorized by law to  
32 inquire into or investigate said matters, produce and offer for inspection the invoice, bill  
33 of sale, or shipping document. Failure to produce the invoice, bill of sale, or shipping  
34 document, or if, when produced, the required information is not clearly disclosed, shall  
35 be prima-facie evidence of a violation of this Code section.

36 (2) No person shall haul, transport, or convey motor fuel in marine vessels over any  
37 navigable waters of the state, except in marine vessels plainly visibly marked on both

1 sides and above the water line thereof the word 'gasoline' or other name of motor fuel  
 2 being transported, in letters at least four inches high and of correspondingly appropriate  
 3 width, together with the legal name and physical address of the owner of the boat or  
 4 barges in which the gasoline is contained.

5 (3) The provisions of this subsection shall not apply to marine vessels transporting  
 6 gasoline to be used solely for their own motive power.

7 (i) Every motor vehicle being operated by private and carriers for hire of property must be  
 8 marked as specified in this Code section if that vehicle is transporting hazardous materials.

9 (j) The marking must display the following information:

10 (1) The name or trade name of the private carrier for hire operating the vehicle;

11 (2) The city or community and state abbreviation in which the carrier maintains its  
 12 principal office or in which the vehicle is customarily based;

13 (3) If the name of a person other than the operating carrier appears on the vehicle, the  
 14 words 'operated by' immediately preceding the information required by this Code section;  
 15 and

16 (4) Other identifying information may be displayed on the vehicle if it is not inconsistent  
 17 with the information required by this Code section.

18 (k) The marking must meet the following requirements:

19 (1) Appear on both sides of the vehicle;

20 (2) Be in letters that contrast sharply in color with the background;

21 (3) Be readily legible during daylight hours from a distance of 50 feet while the vehicle  
 22 is stationary; and

23 (4) Be kept and maintained in a manner that retains the legibility required by this Code  
 24 section.

25 The marking may consist of a removable device if that device meets the identification and  
 26 legibility requirements of this Code section.

27 (1) Any person who willfully violates any of the provisions of subsection (h), (i), or (j) of  
 28 this Code section shall, upon conviction thereof, be guilty of a felony.

29 (m) The marking provisions of this Code section as to the word 'gasoline' shall not apply  
 30 to a vehicle transporting gasoline in the fuel tank thereof supplied by the manufacturer with  
 31 the vehicle, or carried in an auxiliary fuel tank, connected directly with the carburetor or  
 32 fuel injection system of the vehicle and used exclusively for propelling same nor to  
 33 vehicles transporting gasoline in quantities of not more than five gallons for delivery in  
 34 response to emergency calls nor to gasoline being transported by common carriers in rail  
 35 cars.

36 (n)(1) Officers or employees of the State of Georgia, or law enforcement officers of any  
 37 county or municipality in the State of Georgia, upon presenting appropriate credentials

1 and a written notice to the owner, operator, or agent in charge, are authorized to enter any  
2 place and to conduct inspections.

3 (2) Inspections will be performed in a reasonable manner and at times that are reasonable  
4 under the circumstances, taking into consideration the normal business hours of the place  
5 to be entered. Inspections may be at any place at which taxable fuel is or may be  
6 produced or stored or at any inspection site where evidence of activities may be  
7 discovered. These places may include, but are not limited to:

8 (A) Any terminal;

9 (B) Any fuel storage facility that is not a terminal;

10 (C) Any retail fuel facility; or

11 (D) Any designated inspection site. A designated inspection site is any state or local  
12 highway inspection station, weigh station, agricultural inspection station, mobile  
13 station, or other location designated by the commissioner or his or her designated agent  
14 to be used as a fuel inspection site. A designated inspection site will be identified as a  
15 fuel inspection site.

16 (3) Fuel inspections may also be conducted in the course of safety or other vehicle  
17 inspections authorized by law.

18 (4) Officers or employees of the State of Georgia, or law enforcement officers of any  
19 county or municipality in the State of Georgia, may physically inspect, examine, or  
20 otherwise search any tank, reservoir, or other container that can or may be used for the  
21 production, storage, or transportation of fuel, fuel dyes, or fuel markers. Inspection may  
22 also be made of any equipment used for or in connection with production, storage, or  
23 transportation of fuel, fuel dyes, or fuel markers. This includes any equipment used for  
24 the dyeing or marking of fuel and shall include the inspection of related shipping  
25 documents. Such officers or employees may detain any highway vehicle, train, or marine  
26 vessel for the purpose of inspecting its fuel tanks and storage tanks. Detainment may  
27 continue for any reasonable period of time, not to exceed one hour, necessary to  
28 determine the amount and composition of the fuel. Such officers or employees may take  
29 and remove samples of fuel in reasonable quantities necessary to determine its  
30 composition.

31 (5)(A)(i) Any person that refuses to allow an inspection may be penalized \$1,000.00  
32 for each refusal. This penalty is in addition to any other penalties or tax that may be  
33 imposed upon that person or any other person liable for fuel excise taxes. The  
34 authorized agent for the State of Georgia must furnish an IRS Form 916 or similar  
35 document prepared by the department stating the purpose of the inspection and  
36 penalties for refusal to allow an inspection so requested. The following acts are  
37 grounds for a civil penalty payable to the department:

1 (I) Transporting fuel in a railroad tank car or transport truck without a shipping  
2 document or with a false or an incomplete shipping document; and

3 (II) Delivering fuel to a destination state other than that shown on the shipping  
4 document.

5 (ii) The penalty imposed under this subparagraph is payable by the person in whose  
6 name the conveyance is registered, tagged, or titled or the lessee if the conveyance is  
7 a transport truck. It is payable by the person responsible for the movement of fuel in  
8 the conveyance if the conveyance is a railroad tank car. The amount of the penalty  
9 depends on the amount of fuel improperly transported or diverted and whether the  
10 person against whom the penalty is assessed has previously been assessed a penalty  
11 under this subparagraph. For a first assessment under this subparagraph, the penalty  
12 is twice the amount of excise tax payable on the improperly transported or diverted fuel.  
13 For a second or subsequent assessment under this subparagraph, the penalty is the  
14 greater of \$5,000.00 or five times the amount of excise tax payable on the improperly  
15 transported or diverted fuel. A penalty imposed under this subparagraph is in addition  
16 to any fuel excise tax assessed

17 (B) It is unlawful to use dyed fuel for highway use with the exception of a state,  
18 county, or municipal government vehicle and those permitted under 26 U.S.C. Section  
19 4082. The operation of a motor vehicle on a highway with a supply tank containing  
20 dyed fuel, the use of which is unlawful under this Code section, or the use of other fuel  
21 on which the tax imposed by the state has not been paid, shall result in a civil penalty  
22 payable to the department which is payable by the person in whose name the motor  
23 vehicle is registered and or the driver of the vehicle. The penalty is the greater of  
24 \$1,000.00 or \$10.00 per gallon of the fuel involved. In the case of repeated violations,  
25 the penalty shall be multiplied by the current violation plus any prior violations that  
26 have been imposed under this subparagraph. The penalty imposed under this  
27 subparagraph is in addition to any fuel tax assessed. A county or municipality shall be  
28 entitled to 25 percent of any penalty authorized by this subparagraph if law enforcement  
29 officers in its employment provide information that leads to the arrest and conviction  
30 of any person violating the provisions of this subparagraph or to the assessment and  
31 collection of the excise taxes from any person violating the provisions of this  
32 subparagraph.

33 48-9-26.

34 (a) Any person who engages in any business activity for which a license is required by this  
35 article without having first obtained and consequently retained such a valid license is  
36 subject to the following civil penalties:

- 1 (1) For the first violation the amount of \$10,000.00; and  
2 (2) For each subsequent violation the amount shall be multiplied by the sum of the  
3 current violation plus any prior violations.  
4 (b) Civil penalties prescribed under this Code section shall be assessed, collected, and paid  
5 in the same manner as the motor fuel tax.

6 48-9-27.

- 7 (a) Any person who commits any of the following violations is subject to the civil  
8 penalties specified in subsection (b) of this Code section:

- 9 (1) Sells or stores any dyed diesel fuel for use in a highway vehicle unless that use is  
10 allowed under the authority of 26 U.S.C. Section 4082;  
11 (2) Willfully alters or attempts to alter the strength or composition of any dye or marker  
12 in any dyed diesel fuel or any other motor fuel;  
13 (3) Acquires, sells, or stores any motor fuel for use in a marine vessel, aircraft, or  
14 highway vehicle that is licensed or required to be licensed unless the tax levied Code  
15 Section 48-9-4 has been paid; or  
16 (4) Uses any motor fuel in a marine vessel, aircraft, or highway vehicle unless the tax  
17 levied by Code Section 48-9-4 has been paid.

- 18 (b) The amount of the civil penalty for any violation as described in subsection (a) of this  
19 Code section, is \$10.00 per gallon of motor fuel based upon the maximum capacity of the  
20 motor fuel storage tank, container, or storage tank of the highway vehicle, watercraft, or  
21 aircraft in which the motor fuel is found or \$1,000.00, whichever is greater. Such amount  
22 shall be multiplied by the number of prior penalties imposed on such violator under this  
23 Code section and the resulting product shall be the penalty to be imposed.

- 24 (c) Each violation is subject to a separate civil penalty.

- 25 (d) Civil penalties prescribed under this Code section shall be assessed, collected, and paid  
26 in the same manner as the motor fuel tax.

27 48-9-28.

- 28 (a) Any person who willfully commits any of the following offenses shall, upon conviction  
29 thereof, be guilty of a felony and shall be fined not less than \$5,000.00 nor more than  
30 \$25,000.00, or imprisoned not more than one year, or both:

- 31 (1) Fails to obtain a license required by this article prior to performing an act for which  
32 the license is required;  
33 (2) Fails to pay to this state no more than 30 days after the date the tax is due the tax  
34 levied by this article;

- 1 (3) Makes a false statement in an application, return, ticket, invoice, statement, or any  
2 other document required under this article;
  - 3 (4) Fails to file no more than 30 days after it is due any return required by this article;
  - 4 (5) Fails to maintain any record required by this article;
  - 5 (6) Makes a false statement in an application for a refund;
  - 6 (7) Fails to make a required disclosure of the correct amount of fuel sold or used in this  
7 state;
  - 8 (8) Fails to file a replacement or additional cash deposit or surety bond as required under  
9 this article;
  - 10 (9) Refuses to allow a licensed distributor, licensed exporter, or licensed importer to  
11 defer payment of tax to the licensed supplier or permissive supplier, as required by Code  
12 Section 48-9-17;
  - 13 (10) Uses, delivers, or sells any aviation fuel for use or intended for use in highway  
14 vehicles or marine vessel;
  - 15 (11) Interferes with or refuses to permit seizures authorized under Code Section  
16 48-9-29.1;
  - 17 (12) Delivers motor fuel from a transport vehicle to the fuel supply tank of a highway  
18 vehicle except in emergency situations;
  - 19 (13) Dispenses into the supply tank of a highway vehicle, marine vessel, or aircraft any  
20 motor fuel on which tax levied by Code Section 48-9-4 has not been paid;
  - 21 (14) Allows to be dispensed into the supply tank of a highway vehicle, marine vessel, or  
22 aircraft any motor fuel on which tax levied by Code Section 48-9-4 has not been paid;
  - 23 (15) Purchases motor fuel from an unlicensed distributor, unlicensed importer, or  
24 unlicensed supplier; or
  - 25 (16) Fails to show or give a shipping document as required under this article.
- 26 (b) Any person who willfully commits any of the following offenses with the intent either  
27 to evade or circumvent the tax levied by Code Section 48-9-4 or to assist any other person  
28 in efforts to evade or circumvent the tax levied by Code Section 48-9-4 is guilty of a felony  
29 and, upon conviction thereof, shall be fined not less than \$25,000.00 nor more than  
30 \$50,000.00, or imprisoned in a state correctional facility not less than one nor more than  
31 five years, or both fined and imprisoned:
- 32 (1) Alters, manipulates, replaces, or in any other manner tampers, interferes with, or  
33 causes to be altered, manipulated, replaced, tampered, or interfered with a totalizer  
34 attached to motor fuel pumps to measure the dispensing of motor fuel;
  - 35 (2) Fails to pay motor fuels taxes and diverts the tax proceeds for other purposes;

1 (3) As a licensee or the agent or representative of a licensee, converts or attempts to  
 2 convert motor fuel tax proceeds for the use of the licensee or the licensee's agent or  
 3 representative, with the intent to defraud this state;

4 (4) Collects motor fuel taxes when not authorized or licensed by the department to do so;

5 (5) Imports motor fuel into this state in contravention of this article;

6 (6) Conspires with any other person or persons to engage in an act, plan, or scheme to  
 7 defraud this state of motor fuels tax proceeds;

8 (7) Alters or attempts to alter the strength or composition of any dye or marker in any  
 9 dyed diesel fuel or any other motor fuel intended to be used for a taxable purpose; or

10 (8) Fails to remit to the department any tax levied pursuant to this article, if the person  
 11 has added or represented that he or she has added the tax to the sales price for the motor  
 12 fuel and has collected the amount of the tax.

13 (c) Each violation of this Code section shall constitute a separate offense.

14 48-9-29.

15 (a) Upon the discovery of any motor fuel illegally imported into or illegally transported,  
 16 delivered, stored, or sold in this state, the commissioner shall order the tank or other  
 17 storage receptacle in which the motor fuel is located to be seized and locked or sealed until  
 18 the tax, interest, penalties, and additions levied under this article are assessed and paid.

19 (b) If the assessment for the tax is not paid within 30 days, the commissioner is authorized,  
 20 in addition to the other remedies authorized in this article, to sell the motor fuel and use the  
 21 proceeds of the sale to satisfy the assessment due, with any funds that exceed the  
 22 assessment and costs of the sale being returned to the owner of the motor fuel.

23 (c) All motor fuel and any property, tangible or intangible, which is found upon the person  
 24 or in any vehicle which the person is using, including the vehicle itself, to aid the person  
 25 in the transportation or sale of illegally transported, delivered, stored, sold, imported, or  
 26 acquired motor fuel and any property found in the immediate vicinity of any place where  
 27 the illegally transported, delivered, stored, sold, imported, or acquired motor fuel is located,  
 28 including motor vehicles, tanks, and other storage devices, used to aid in the illegal  
 29 transportation or sale of motor fuel is considered contraband and shall be forfeited to this  
 30 state.

31 48-9-29.1.

32 (a) Each person required to be licensed under Code Section 48-9-8 of this chapter and each  
 33 bulk user and retailer shall keep and maintain all records pertaining to motor fuel received,  
 34 produced, manufactured, refined, compounded, used, sold, or delivered, together with

1 delivery tickets, invoices, bills of lading, and other pertinent records and papers as required  
2 by the department for the reasonable administration of this article.

3 (b) The records required by this Code section to be retained shall be kept and maintained  
4 for a period to include the department's current fiscal year and the previous three years.

5 48-9-29.2.

6 (a) A person who refuses to permit an inspection or audit authorized by this article is  
7 subject to a civil penalty of \$5,000.00 in addition to any penalty imposed by other  
8 provisions of this article.

9 (b) A person who refuses, for the purpose of evading tax, to allow an inspection, in  
10 addition to being liable for other penalties imposed by this article, shall, upon conviction  
11 thereof, be guilty of a felony and fined not more than \$10,000.00 or imprisoned not more  
12 than three years, or both.

13 48-9-29.3.

14 A person who is a retailer of dyed diesel fuel or who stores dyed diesel fuel for use by that  
15 person or another person shall mark each visible storage tank and each dispensing device  
16 with the phrase 'Dyed Diesel Fuel, NonHighway Use Only, Penalty for Highway Use,' or  
17 a similar phrase that clearly indicates that the dyed diesel fuel is not to be used to operate  
18 a highway vehicle. All shipping documents, bills of lading, and invoices accompanying  
19 the sale or removal of the dyed diesel fuel must also contain the phrase 'Dyed Diesel Fuel,  
20 NonHighway Use Only, Penalty for Highway Use' or a similar phrase approved by the  
21 department.

22 48-9-29.4.

23 The commissioner may promulgate rules that are necessary to effectuate and enforce this  
24 article. The commissioner may also prescribe forms necessary to effectuate and enforce  
25 this article and provide other necessary guidelines on the administration of this article."

26 **SECTION 6.**

27 This Act shall become effective on July 1, 2008.

28 **SECTION 7.**

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