

House Bill 201

By: Representative Stephens of the 164<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-9-3 of the Official Code of Georgia Annotated, relating to an  
2 excise tax on motor fuels, so as to provide for an exemption from taxes on the sale of motor  
3 vehicle fuel for use by public mass transit vehicles, certain vehicles operated by public  
4 campus transportation systems, and certain public school buses; to repeal conflicting laws;  
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 48-9-3 of the Official Code of Georgia Annotated, relating to an excise tax on  
9 motor fuels, is amended by revising subsection (b) as follows:

10 "(b) No tax is imposed by this article upon or with respect to the following sales by duly  
11 licensed distributors:

- 12 (1) Bulk sales to a duly licensed distributor;
- 13 (2) Sales of motor fuel for export from this state when exempted by any provisions of  
14 the Constitutions of the United States or this state;
- 15 (3) Sales of motor fuel to a licensed distributor for export from this state;
- 16 (4) Sales of motor fuel to the United States for the exclusive use of the United States  
17 when the motor fuel is purchased and paid for by the United States;
- 18 (5) Sales of aviation gasoline to a duly licensed aviation gasoline dealer, except for 1¢  
19 per gallon of the tax imposed by paragraph (1) of subsection (a) of this Code section;
- 20 (6) Bulk sales of compressed petroleum gas or special fuel to a duly licensed consumer  
21 distributor;
- 22 (7)(A) Sales of compressed petroleum gas or special fuel to a consumer who has no  
23 highway use of the fuel at the time of the sale and does not resell the fuel. Consumers  
24 of compressed petroleum gas or special fuel who have both highway and nonhighway  
25 use of the fuel and resellers of such fuel must be licensed as distributors in order for

26 sales of the fuel to be tax exempt. Each type of motor fuel is to be considered  
27 separately under this exemption.

28 (B)(i) In instances where a sale of compressed petroleum gas has been made to an  
29 ultimate consumer who has both highway and nonhighway use of that type of motor  
30 fuel and no tax has been paid by the distributor on the sale, the consumer shall  
31 become licensed as a consumer distributor of that type of motor fuel. After the  
32 consumer is licensed as a consumer distributor and if it is demonstrated to the  
33 satisfaction of the commissioner that the motor fuel purchased prior to the licensee's  
34 becoming licensed as a consumer distributor was used for nonhighway purposes, such  
35 sales shall be exempt from the tax imposed by this article; provided, however, that,  
36 if at the time of demonstration the ultimate consumer does not have both highway and  
37 nonhighway use of such fuel but it can be demonstrated by the distributor to the  
38 satisfaction of the commissioner that the motor fuel was used for nonhighway  
39 purposes, the sales shall be exempt from the tax imposed by this article; and

40 (ii)(I) Any special fuel sold by a distributor to a purchaser who has a storage  
41 receptacle which has a connection to a withdrawal outlet that may be used for  
42 highway use, as defined in paragraph (8) of Code Section 48-9-2, is not exempt  
43 from the motor fuel and road taxes imposed by this article unless: (1) the purchaser  
44 is at the time of sale a valid licensed distributor of that type of motor fuel, or (2) an  
45 exemption certificate has been obtained from the purchaser on forms furnished by  
46 the Department of Revenue showing that the purchaser has no highway use of such  
47 fuels and is not a reseller of such fuels. Each exemption certificate shall be valid  
48 for a period of not more than three years and shall be kept by the distributor as one  
49 of the records specified in Code Section 48-9-8. It shall be the responsibility of the  
50 purchaser to notify the distributor when the purchaser is no longer qualified for the  
51 nonhighway exemption. All applicable taxes must be charged the purchaser until  
52 the purchaser is granted a valid distributor's license for that type of motor fuel.

53 (II) Any such purchaser granted an exemption under subdivision (I) of this division  
54 who falsely claims the exemption or fails to rescind the purchaser's exemption  
55 certificate to the distributor in writing when he or she is no longer eligible for the  
56 exemption shall be deemed a distributor for purposes of taxation and is subject to  
57 all provisions of this article relating to distributors. This division in no way shall  
58 restrict the option of the purchaser to become licensed as a distributor. If the  
59 distributor sells special fuel to a purchaser who has a storage receptacle which has  
60 a connection to a withdrawal outlet that may be used for highway use, as defined in  
61 paragraph (8) of Code Section 48-9-2, and the purchaser is not a valid licensed  
62 distributor and has not executed a valid signed exemption certificate, the taxes

63 imposed by this article are due from the distributor and not the purchaser on all sales  
64 of that type of fuel to that purchaser;

65 (8) Sales of fuel oils, compressed petroleum gas, or special fuel directly to an ultimate  
66 consumer to be used for heating purposes only. The delivery of fuel oils, compressed  
67 petroleum gas, or special fuel directly to an ultimate consumer to be used for heating  
68 purposes only shall be made directly into the storage receptacle of the heating unit of the  
69 consumer by the licensed distributor. To qualify for this exemption, sales must be  
70 delivered into storage receptacles that are not equipped with any secondary withdrawal  
71 outlets for the motor fuel;

72 (9) Sales of dyed fuel oils to a consumer for other than highway use as defined in  
73 paragraph (8) of Code Section 48-9-2;

74 (10)(A) ~~During the period of July 1, 2012, through June 30, 2015,~~ sales of motor  
75 fuel, as defined in paragraph (9) of Code Section 48-9-2, for public mass transit  
76 vehicles which are owned by public transportation systems which receive or are eligible  
77 to receive funds pursuant to 49 U.S.C. Sections 5307 and 5311 for which passenger  
78 fares are routinely charged and which vehicles are used exclusively for revenue  
79 generating purposes which motor fuel sales occur at bulk purchase facilities approved  
80 by the department.

81 (B) ~~During the period of July 1, 2012, through June 30, 2015,~~ sales of motor fuel,  
82 as defined in paragraph (9) of Code Section 48-9-2, for vehicles operated by a public  
83 campus transportation system, provided that such system has a policy which provides  
84 for free transfer of passengers from the public transportation system operated by the  
85 jurisdiction in which the campus is located; makes the general public aware of such free  
86 transfer policy; and receives no state or federal funding to assist in the operation of such  
87 public campus transportation system and which motor fuel sales occur at bulk purchase  
88 facilities approved by the department.

89 (C) For purposes of this paragraph, the term 'vehicle' or 'vehicles' means buses, vans,  
90 minibuses, or other vehicles which have the capacity to transport seven or more  
91 passengers; or

92 (11) ~~For the period of time beginning July 1, 2013, and ending June 30, 2015,~~ sales  
93 of motor fuel to public school systems in this state for the exclusive use of the school  
94 system in operating school buses when the motor fuel is purchased and paid for by the  
95 school system."

96 **SECTION 2.**

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