

Senate Bill 146

By: Senators Gooch of the 51st, Cowser of the 46th, Walker III of the 20th, Lucas of the 26th, Anavitarte of the 31st and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 2 of Title 46, Chapter 1 of Title 10, and Article 1 of Chapter  
2 9 of Title 48 of the Official Code of Georgia Annotated, relating to jurisdiction of and  
3 powers and duties of the Georgia Public Service Commission generally, selling and other  
4 trade practices, and motor fuel tax, respectively, so as to provide for the regulation and  
5 taxation of the provision of certain electricity used as a motor fuel in electric vehicles; to  
6 provide for definitions; to exclude the provision of electricity to propel motor vehicles  
7 through an electric vehicle charging station from the regulative authority of the Public  
8 Service Commission; to provide regulative authority to the Department of Agriculture over  
9 electric vehicle charging stations; to provide for operating and advertising standards,  
10 licensing, and inspections of electric vehicle charging stations; to provide for penalties; to  
11 provide for condemnation and seizure of noncompliant electric vehicle charging stations; to  
12 provide for collection of a motor fuel excise tax upon the sale and use of certain electricity;  
13 to provide for procedures, conditions, limitations, and exceptions upon collection of such  
14 excise tax; to provide for related matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 146

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**PART I**  
**SECTION 1-1.**

18 Article 2 of Chapter 2 of Title 46 of the Official Code of Georgia Annotated, relating to  
19 jurisdiction of and powers and duties of the Georgia Public Service Commission generally,  
20 is amended by adding a new Code section to read as follows:

21 "46-2-20.1.

22 (a) As used in this Code section, the term:

23 (1) 'Electric vehicle' means a vehicle that is propelled by one or more electric motors  
24 using energy stored in the form of a rechargeable battery.

25 (2) 'Electric vehicle charging equipment' means any publicly available charging station  
26 that delivers electricity from a source outside an electric vehicle into one or more electric  
27 vehicles.

28 (3) 'Electric vehicle charging provider' means the owner of electric vehicle charging  
29 equipment.

30 (4) 'Electric vehicle charging services' means the charging of electric vehicles from  
31 electric vehicle charging equipment.

32 (5) 'Premises' shall have the same meaning as provided in Code Section 46-3-3.

33 (b) Notwithstanding any other provision of law, the provision of electric vehicle charging  
34 services by a person not otherwise subject to the jurisdiction of the commission shall not  
35 be considered a service of a public utility subject to the authority and jurisdiction of the  
36 commission. The supply of electricity by electric suppliers subject to Part 1 of Article 1  
37 of Chapter 3 of this title, the 'Georgia Territorial Electric Service Act,' to premises that  
38 provide electric vehicle charging services shall constitute the furnishing of service under  
39 Part 1 of Article 1 of Chapter 3 of this title, the 'Georgia Territorial Electric Service Act,'  
40 and shall be deemed to be a sale at retail within the meaning of Code Section 48-8-2. The  
41 provision of electric vehicle charging services solely on an electric vehicle charging

42 provider's single premises solely to electric vehicles located on such premises does not  
43 violate Part 1 of Article 1 of Chapter 3 of this title, the 'Georgia Territorial Electric Service  
44 Act.'

45 **PART II**  
46 **SECTION 2-1.**

47 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other  
48 trade practices, is amended in Code Section 10-1-164, relating to requirements for signs  
49 advertising retail motor fuel, advertising free gifts or services, enforcement, and penalty, by  
50 adding a new subsection to read as follows:

51 "(a.1) For purposes of this Code section, the term 'motor fuel' means automotive gasoline  
52 and blended fuel, as such terms are defined in Code Section 10-1-232."

53 **SECTION 2-2.**

54 Said chapter is further amended by adding a new article to read as follows:

55 "Article 8A

56 10-1-220.

57 As used in this article, the term:

58 (1) 'Commissioner' means the Commissioner of Agriculture.

59 (2) 'Department' means the Department of Agriculture.

60 (3) 'Electric vehicle' means a vehicle that is propelled by one or more electric motors  
61 fueled by energy stored in the form of a rechargeable battery.

62 (4) 'Electric vehicle charging provider' means the owner of an electric vehicle charging  
63 station.

64 (5) 'Electric vehicle charging services' means the charging of electric vehicles from  
65 electric vehicle charging stations.

66 (6) 'Electric vehicle charging station' means any device or group of devices that delivers  
67 electricity from a power source outside an electric vehicle into one or more electric  
68 vehicles and that is located somewhere other than a residence.

69 (7) 'Residence' means a single-family dwelling or a residential building that contains no  
70 more than two dwelling units.

71 10-1-221.

72 (a) The administration of this article shall be vested in the Commissioner of Agriculture.

73 (b) The Commissioner shall be authorized to employ, in accordance with Chapter 20 of  
74 Title 45, electric vehicle charging station inspectors to enforce this article. Such inspectors  
75 shall be allowed expenses to be approved by the Commissioner. There shall be allowed  
76 such further sums for the purchase of equipment, supplies, and clerical help and to pay any  
77 other expenses incident to and necessary for the enforcement of this article as may  
78 hereafter be appropriated.

79 (c) The Commissioner shall be authorized to require electric vehicle charging inspectors  
80 to be bonded for the faithful performance of their duties at the expense of the department  
81 if and to the extent such Commissioner deems it necessary for the proper protection of the  
82 state and the public.

83 (d) The Commissioner shall be authorized to appoint and employ investigators who shall  
84 have, in any case that there is reason to believe a violation of this article has occurred or  
85 is about to occur, the right and power to serve subpoenas and to swear out and execute  
86 search warrants and arrest warrants.

87 (e) The Commissioner may promulgate such rules and regulations, not inconsistent with  
88 the provisions of this article, necessary for the administration and enforcement of this

89 article. Such rules and regulations shall be promulgated in accordance with Chapter 13 of  
90 Title 50, the 'Georgia Administrative Procedure Act.'

91 10-1-222.

92 (a) All electric vehicle charging stations shall be capable of accurately measuring and  
93 prominently displaying the amount of electricity delivered to each electric vehicle on a per  
94 kilowatt-hour basis. Such stations shall be further equipped with meters to record the total  
95 kilowatt-hours dispensed.

96 (b) All electric vehicle charging stations shall be subject to inspection as provided for in  
97 this article. Prior to operation of any electric vehicle charging station and annually  
98 thereafter, an electric vehicle charging provider shall register with the Commissioner in the  
99 form and manner prescribed by such Commissioner. Such registration shall include the  
100 location of the electric vehicle charging station; the name, brand, or manufacturer of the  
101 type of electric vehicle charging station, together with the name and address thereof; and  
102 certification that the electric vehicle charging station is in conformity with the  
103 specifications established pursuant to this article by the Commissioner. Certificates of  
104 registration issued by the Commissioner pursuant to this Code section shall be posted in  
105 a prominent and accessible place upon the electric vehicle charging station.

106 10-1-223.

107 Whenever the Commissioner shall find any person willfully marketing restricted electric  
108 vehicle charging services in violation of the law in this state, of prescribed specifications  
109 of this article, or rules and regulations promulgated pursuant to this article, the  
110 Commissioner shall be authorized to apply to the superior court having jurisdiction over  
111 the offender for an injunction against the continuance of any such violations. The  
112 appropriate superior court shall have jurisdiction, upon hearing and for cause shown, to

113 grant such temporary or permanent injunction restraining further violations as the  
114 circumstances appear to require.

115 10-1-224.

116 (a) Electric vehicle charging station inspectors shall inspect all electric vehicle charging  
117 stations located in the territory assigned to them.

118 (b) All electric vehicle charging stations found to be giving accurate measure of the  
119 amount of electricity delivered within the tolerance established by regulations of the  
120 Commissioner shall have the electric vehicle charging station sealed with an official seal  
121 applied by an inspector duly authorized by the Commissioner.

122 (c) If any electric vehicle charging station shall be found to be giving inaccurate measure  
123 of the amount of electricity delivered in excess of the tolerance established by regulations  
124 of the Commissioner, the inspector shall then and there notify the electric vehicle charging  
125 provider, whether owner or lessee. Should the electric vehicle charging provider fail or  
126 refuse to then and there make such adjustments as shall be necessary to bring the measure  
127 within the allowed variation, the same shall be condemned and rendered inoperable  
128 immediately by the inspector examining the same; and such electric vehicle charging  
129 station shall not again be operated without the written consent of the Commissioner.  
130 Inspectors shall be required to report to the Commissioner immediately the name and  
131 number of any electric vehicle charging station condemned and rendered inoperable.

132 (d) When any electric vehicle charging station is condemned under this article by any  
133 inspector, it shall be the duty of the inspector immediately to make affidavit before the  
134 judge of the probate court of the county in which the electric vehicle charging station is  
135 located that such station is being operated contrary to law by the electric vehicle charging  
136 provider who shall be named in the affidavit. Thereupon the judge of the probate court  
137 shall issue an order to the electric vehicle charging provider named in the affidavit to show  
138 cause before him or her on the day named in the order, not more than ten days nor fewer

139 than three days from the issuance of the order, why the electric vehicle charging station  
140 should not be forfeited, confiscated to the state, and dismantled. On such day named in the  
141 order, it shall be the duty of the judge of the probate court to hear the respective parties and  
142 to determine whether or not the electric vehicle charging station has been operated contrary  
143 to the provisions of this article. If the judge of the probate court finds that the electric  
144 vehicle charging station has been so operated, he or she shall forthwith issue an order  
145 adjudging the electric vehicle charging station to be forfeited and confiscated to the state  
146 and directing the sheriff of the county to dismantle the electric vehicle charging station and  
147 take it into his or her possession, and, after ten days' notice by posting or publication, as  
148 the court may direct, to sell the electric vehicle charging station to the highest bidder for  
149 cash. The proceeds of sale, or as much thereof as may be necessary, shall be used by the  
150 sheriff, first, to pay the costs associated with sale, which shall be the same as in cases of  
151 attachment, and the sheriff shall thereupon pay over and deliver the residue, if any, to the  
152 person from whose possession the electric vehicle charging station has been taken.

153 (e) It shall be unlawful to install or operate any electric vehicle charging station which can  
154 be secretly manipulated in such manner as to give short measure. Such inaccurate electric  
155 vehicle charging station shall be condemned as provided in this Code section, and  
156 thereafter it shall be unlawful for any person to resell any electricity from such electric  
157 vehicle charging station until such station has been made or altered to comply with this  
158 article and has been inspected and approved for service by the inspector.

159 (f) It shall be unlawful for anyone to remove a seal applied by an inspector to an electric  
160 vehicle charging station without first securing consent of the Commissioner, whose consent  
161 may be given through one of the duly authorized inspectors.

162 (g) The department shall have the power to implement rules and regulations necessary to  
163 carry out the inspections of electric vehicle charging stations as provided for by this Code  
164 section.

165 10-1-225.

166 (a) Any sign or placard or other means used to advertise the price of electricity for sale at  
167 retail through an electric vehicle charging station may contain a separate listing of the price  
168 and a separate listing of each tax thereon, but must contain a total of such price and taxes  
169 which shall be at least as large as the listing of the price or any tax thereon. Numbers used  
170 to advertise the total price of such electricity shall be of uniform size; and, where fractions  
171 are used, the numerator and denominator thereof combined shall be of the same size as any  
172 whole numbers used. It shall not be necessary that a denominator be used to indicate  
173 fractions; but, if one is not used, the numerator must be at least half the size of the whole  
174 number used. When the price of electricity for sale at retail through an electric vehicle  
175 charging station is advertised on any sign, billboard, placard, or other advertising medium,  
176 it shall be unlawful to place a higher price on any electric vehicle charging station  
177 delivering such electricity or to charge a higher price for such electricity. Any electric  
178 vehicle charging provider shall not be precluded from giving a discount from the posted  
179 or advertised price if the purchaser of the electricity buys additional merchandise.

180 (b) It shall be unlawful for any electric vehicle charging provider to advertise upon the  
181 purchase of electricity either free:

182 (1) Gifts or other products unless such provider has sufficient number of gifts or products  
183 on hand to supply the reasonably expectable demand or the advertisement discloses a  
184 limitation of quantity; or

185 (2) Car washes or other services unless such provider is prepared, in the absence of  
186 causes beyond the reasonable control of the offerer, to perform such car washes or the  
187 services advertised at the time of the purchase at such provider's place of business or at  
188 a place of business affiliated by trademark or agreement with such provider. If the free  
189 car washes or other services advertised are to be performed at a place of business  
190 affiliated by trademark or agreement but in a separate location, such fact shall be so stated  
191 on the sign, billboard, placard, or other advertising medium used.

192 (c) Nothing in this Code section shall preclude posting on any electric vehicle charging  
193 station a separate statement of taxes included in the total purchase price for the purpose of  
194 complying with Chapter 8 of Title 48.

195 (d) Electric vehicle charging inspectors and any and all law enforcement officers in this  
196 state are charged with enforcement of this Code section.

197 (e) Any person, firm, association, or corporation violating this Code section shall be guilty  
198 of a misdemeanor.

199 10-1-226.

200 Any person violating any provision of:

201 (1) This article relating to the inspection of electric vehicle charging stations and the  
202 resale of electricity;

203 (2) Code Section 10-1-225 providing for the regulation of signs advertising the price for  
204 the resale of electricity by electric vehicle charging providers; or

205 (3) Any rule, regulation, or standard promulgated or adopted by the Commissioner or the  
206 department under the provisions of this article

207 shall be liable for a civil penalty not to exceed \$1,000.00 for each violation. The  
208 Commissioner, after a hearing, shall determine whether any person has violated this Code  
209 section and upon a proper finding may issue his or her order imposing a civil penalty as  
210 provided in this Code section. All hearings and proceedings under this Code section shall  
211 be held and taken under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

212 10-1-227.

213 Any electric vehicle charging station inspector who, while in office, shall be interested  
214 directly or indirectly in the manufacture or vending of any electric vehicle charging station  
215 shall be guilty of a misdemeanor.

216 10-1-228.

217 Any person or association of persons, firm, or corporation that violates any of the  
218 provisions of this article relating to inspection of electric vehicle charging stations and the  
219 resale of electricity or any rule or regulation promulgated by the Commissioner for the  
220 enforcement of this article shall be guilty of a misdemeanor."

221

### PART III

222

#### SECTION 3-1.

223 Article 1 of Chapter 9 of Title 48 of the Official Code of Georgia Annotated, relating to  
224 motor fuel tax, is amended in Code Section 48-9-2, relating to definitions relative to motor  
225 fuel tax, by revising paragraphs (5) and (5.2) and by adding a new paragraph to read as  
226 follows:

227 "(5) 'Distributor' means every person other than the United States or any of its agencies  
228 who:

229 (A) Produces, refines, prepares, distills, manufactures, blends, or compounds motor  
230 fuel of a type other than electricity in this state;

231 (B) Makes the first sale in this state of any motor fuel imported into this state after the  
232 motor fuel has been received in this state;

233 (C) Consumes or uses in this state any motor fuel imported into this state before the  
234 motor fuel has been received by any other person in this state;

235 (D) Purchases motor fuel for export from this state;

236 (E) Consumes or uses motor fuel of a type other than gasoline or electricity for both  
237 highway and nonhighway use and who elects to become licensed as a distributor to  
238 obtain the exemption allowed by this article;

239 (F) Sells motor fuel of a type other than gasoline or electricity to consumers who have  
 240 no highway use of such fuel and who elects to become licensed as a distributor to  
 241 obtain the exemptions allowed by this article; or

242 (G) Consumes, uses, or sells electricity as a motor fuel through an electric vehicle  
 243 charging station for both highway and nonhighway use; or

244 (H) Imports motor fuel into this state for production, refining, preparation, distilling,  
 245 manufacturing, blending, compounding, consumption, or use within this state."

246 "(5.2) 'Electric vehicle charging station' shall have the same meaning as set forth in  
 247 Code Section 10-1-220.

248 (5.3) 'Export and import' means:

249 (A) When motor fuels are sold for export and delivered across the boundaries of this  
 250 state by or for the seller, such action is presumed to be an export from the place of  
 251 origin and an import into the destination state or country by the seller; and

252 (B) When motor fuels are purchased for export and transported across the boundaries  
 253 of this state by or for the purchaser, such action is presumed to be an export from the  
 254 place of origin and an import into the destination state or country by the purchaser."

255

### SECTION 3-2.

256 Said article is further amended in Code Section 48-9-3, relating to levy of excise tax, rate,  
 257 taxation of motor fuels not commonly sold or measured by gallon, rate, prohibition of tax on  
 258 motor fuel by political subdivisions, exception, and exempted sales, by revising  
 259 subsection (a) and subdivision (b)(7)(B)(ii)(I) and by adding a new subsection to read as  
 260 follows:

261 "(a)(1) An excise tax is imposed at the rate of 26¢ per gallon on distributors who sell or  
 262 use motor fuel, other than diesel fuel, within this state. An excise tax is imposed at the  
 263 rate of 29¢ per gallon on distributors who sell or use diesel fuel within this state. It is the

264 intention of the General Assembly that the legal incidence of the tax be imposed upon the  
265 distributor.

266 (1.1)(A) Beginning on July 1, 2016, and annually thereafter, the amount of this excise  
267 tax per gallon on distributors shall be automatically adjusted on an annual basis in  
268 accordance with this paragraph.

269 (B) Using 2014 as a base year, the department shall determine the average miles per  
270 gallon of all new vehicles registered in this state pursuant to Code Section 48-5C-1  
271 using the average of combined miles per gallon published in the United States  
272 Department of Energy Fuel Economy Guide. Beginning on July 1, 2016, and each year  
273 thereafter, the department shall calculate the average miles per gallon of all new  
274 vehicles registered in this state in the previous year. The excise tax rate shall be  
275 multiplied by the percentage increase or decrease in fuel efficiency from the previous  
276 year, and the resulting increase or decrease shall be added to the excise tax rate to  
277 determine the preliminary excise tax rate.

278 (C) Once the preliminary excise tax rate is established, it shall be multiplied by the  
279 annual percentage of increase or decrease in the Consumer Price Index. The resulting  
280 calculation shall be added to the preliminary excise tax rate, and the result of such  
281 calculation shall be the new excise tax rate for motor fuels for the next calendar year.  
282 The Consumer Price Index shall no longer be used after July 1, 2025.

283 ~~(2) In the event any motor fuels which are not commonly sold or measured by the gallon  
284 are used in any motor vehicles on the public highways of this state, the commissioner  
285 may assess, levy, and collect a tax upon such fuels, under such regulations as the  
286 commissioner may promulgate, in accordance with and measured by the nearest power  
287 potential equivalent to that of one gallon of regular grade gasoline. Any determination  
288 by the commissioner of the power potential equivalent of such motor fuels shall be  
289 prima-facie correct. Upon each such quantity of such fuels used upon the public~~

290 ~~highways of this state, a tax at the same rate per gallon imposed on motor fuel under~~  
 291 ~~paragraph (1) of this subsection shall be assessed and collected.~~

292 ~~(3)(2)~~ No county, municipality, or other political subdivision of this state shall levy any  
 293 fee, license, or other excise tax on a gallonage or gallonage equivalent basis upon the  
 294 sale, purchase, storage, receipt, distribution, use, consumption, or other disposition of  
 295 motor fuel. Nothing contained in this article shall be construed to prevent a county,  
 296 municipality, or other political subdivision of this state from levying license fees or taxes  
 297 upon any business selling motor fuel.

298 ~~(4)(3)(A)~~ For purposes of this subsection, and notwithstanding ~~the provisions of~~  
 299 ~~paragraph (2) of this subsection~~ and any provision contained in the National Bureau of  
 300 Standards Handbook or any other national standard that may be adopted by law or  
 301 regulation, the gallon equivalent of:

302 (i) Compressed ~~compressed~~ natural gas shall be not less than 110,000 British thermal  
 303 units ~~and the gallon equivalent of liquefied;~~

304 (ii) Electricity shall be not less than 33.7 kilowatts; and

305 (iii) Liquefied natural gas shall not be less than 6.06 pounds.

306 (B) As used in this paragraph, the term:

307 (i) 'Compressed natural gas' means a mixture of hydrocarbon gases and vapors,  
 308 consisting principally of methane in gaseous form, that has been compressed for use  
 309 as a motor fuel.

310 (ii) 'Electricity' means electricity for use as a motor fuel.

311 (iii) 'Liquefied natural gas' means methane or natural gas in the form of a cryogenic  
 312 or refrigerated liquid for use as a motor fuel."

313 "(ii)(I) Any special fuel sold by a distributor to a purchaser who has a storage  
 314 receptacle which has a connection to a withdrawal outlet that may be used for  
 315 highway use, as defined in paragraph (8) of Code Section 48-9-2, and any special  
 316 fuel delivered from an electric vehicle charging station, is not exempt from the

317 motor fuel and road taxes imposed by this article unless: (1) the purchaser is at the  
318 time of sale a valid licensed distributor of that type of motor fuel, or (2) an  
319 exemption certificate has been obtained ~~from the purchaser~~ on forms furnished by  
320 the Department of Revenue showing that ~~the purchaser has~~ there is no highway use  
321 of such fuels and the person obtaining such fuel is not a reseller of such fuels. Each  
322 exemption certificate shall be valid for a period of not more than three years and  
323 shall be kept by the distributor as one of the records specified in Code  
324 Section 48-9-8. It shall be the responsibility of the purchaser to notify the  
325 distributor when the purchaser is no longer qualified for the nonhighway exemption.  
326 All applicable taxes must be charged the purchaser until the purchaser is granted a  
327 valid distributor's license for that type of motor fuel."  
328 "(c.1) No tax is imposed by this article upon or with respect to electricity sold for uses  
329 other than as a motor fuel."

330

**SECTION 3-3.**

331 Said article is further amended by revising Code Section 48-9-5, relating to licensing as  
332 distributors of fuel oils, compressed petroleum gas, or special fuel persons having both  
333 highway and nonhighway use of such fuel and resellers and purchases of such fuel by  
334 licensees exempt, as follows:

335 "48-9-5.

336 (a) Any person who has both highway and nonhighway use of compressed petroleum gas  
337 or special fuel of a type other than electricity may elect to become licensed as a distributor  
338 of that type of motor fuel. The distributor shall be qualified to purchase motor fuel of that  
339 type exempt from the taxes imposed by this article only after becoming licensed; provided,  
340 however, that no license shall be required from a person whose only nonhighway use is of  
341 dyed fuel oils. The distributor shall be subject to this article.

342 (b) Any person who resells fuel oils, compressed petroleum gas, or special fuel of a type  
343 other than electricity may elect to become licensed as a distributor of that type of motor  
344 fuel. The distributor shall be qualified to purchase motor fuel of that type exempt from the  
345 taxes imposed by this article. The distributor shall be subject to this article."

346 **SECTION 3-4.**

347 Said article is further amended in 48-9-8, relating to tax reports from distributors, quarterly  
348 or annual, contents, payment, time, business records of distributors, resellers, and retailers,  
349 inspection, and dyed fuel oil notices, by revising paragraph (3) of subsection (c) as follows:

350 "(3) Every person who sells motor fuel at retail shall make the sales through pumps or  
351 systems equipped with meters or totalizers. Every person making sales ~~must~~ shall  
352 maintain for a period of three years records of gallons or gallon equivalents received and  
353 sold to account for all motor fuel."

354 **SECTION 3-5.**

355 Said article is further amended in Code Section 48-9-9, relating to reports of motor fuel  
356 deliveries, persons required to report, procedure, restrictions on delivery, and reports of  
357 unlicensed purchasers, by revising subsections (a) and (c) as follows:

358 "(a)(1) A report of all deliveries of motor fuel other than special fuel of a type other than  
359 electricity shall be made to the commissioner by:

360 (A) Each of the following companies and carriers transporting motor fuel either in  
361 interstate or in intrastate commerce to points within this state:

- 362 (i) Every railroad company;  
363 (ii) Every street, suburban, or interurban railroad company;  
364 (iii) Every pipeline company;  
365 (iv) Every water transportation company;  
366 (v) Every common or contract carrier; and

- 367 (vi) Every operator of a terminal;
- 368 (B) Every person transporting motor fuel by whatever manner to a point in this state  
369 from any point outside this state; and
- 370 (C) Every person transporting motor fuel from a point in this state to a point outside  
371 this state.
- 372 (2) Each report required by this subsection shall be:
- 373 (A) Made under oath on forms prescribed by the commissioner; and
- 374 (B) Filed by the twentieth day of each calendar month to cover the preceding calendar  
375 month's activities."
- 376 "(c) No person shall transport motor fuel ~~in~~ over the public highways or navigable waters  
377 of this state except in a transport tank truck or vessel which is visibly marked on each side  
378 and on the rear with the words 'Motor Fuel,' 'Flammable,' or other indication of the type of  
379 product being transported suitable to the commissioner or other regulatory agencies,  
380 together with the name and address of the owner of the transport tank truck or vessel and  
381 the tank registration number. This subsection shall not apply to vehicles or vessels  
382 transporting motor fuel contained in their running tanks and used solely for their propulsion  
383 or to vehicles or vessels transporting not more than five gallons of motor fuel for  
384 emergency purposes."

385

**SECTION 3-6.**

386 Said article is further amended in Code Section 48-9-12, relating to powers of the  
387 commissioner, notice of cancellation of license, retention of bonds, public inspection of  
388 records, assessment based on commissioner's estimate, agreements for time extension, and  
389 list of licensed distributors, by revising subsection (e) as follows:

- 390 "(e) When any distributor neglects or refuses to file the required reports or fails to maintain  
391 auditable records that account for tax exemptions taken on motor fuel as required by this  
392 article or files an incorrect or fraudulent report, the commissioner or his authorized agents

393 shall determine from the best information available the number of gallons or gallon  
394 equivalents of motor fuel to be taxed. The commissioner shall impose the tax, penalty, and  
395 interest due. Estimates by the commissioner or his authorized agents shall be prima-facie  
396 evidence of the claim of the state and the burden of proof to establish the accountability of  
397 motor fuel shall be on the distributor to show that the assessment is incorrect and contrary  
398 to law."

399

**PART IV**

400

**SECTION 4-1.**

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