

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 454**

4 (By Senators Prezioso and Facemire)

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6 [Originating in the Committee on Transportation and
7 Infrastructure; reported March 26, 2013.]

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10
11 A BILL to amend and reenact §11-14C-2, §11-14C-5, §11-14C-9,
12 §11-14C-10, §11-14C-13 and §11-14C-19 of the Code of West
13 Virginia, 1931, as amended; to amend said code by adding
14 thereto a new section, designated §11-14C-6a; to amend and
15 reenact §11-15-18b of said code; and to amend and reenact
16 §11-15A-13a of said code, all relating to the taxation of
17 alternative fuel; defining terms; requiring the Tax
18 Commissioner to determine the gasoline gallon equivalent for
19 alternative fuels; imposing tax on motor fuel equivalent
20 gallons; specifying the point of imposition of tax on
21 alternative fuels not otherwise taxed at the point of
22 imposition; providing that propane used in a motor vehicle is
23 subject to the tax; requiring alternative-fuel bulk end users,
24 providers of alternative fuels and retailers of alternative

1 fuels to be licensed; establishing bonding requirements for
2 alternative-fuel bulk end users, providers of alternative
3 fuels and retailers of alternative fuels; establishing due
4 dates for returns and payments of tax on alternative fuels;
5 and specifying effective dates for amendments.

6 *Be it enacted by the Legislature of West Virginia:*

7 That §11-14C-2, §11-14C-5, §11-14C-9, §11-14C-10, §11-14C-13
8 and §11-14C-19 of the Code of West Virginia, 1931, as amended, be
9 amended and reenacted; that said code be amended by adding thereto
10 a new section, designated §11-14C-6a; that §11-15-18b of said code
11 be amended and reenacted; and that §11-15A-13a of said code be
12 amended and reenacted, all to read as follows:

13 **ARTICLE 14C. MOTOR FUEL EXCISE TAX.**

14 PART I. GENERAL PROVISIONS

15 **§11-14C-2. Definitions.**

16 As used in this article and unless the context requires
17 otherwise, the following terms have the meaning ascribed herein.

18 (1) "Agricultural purposes" means the activities of:

19 (A) Cultivating the soil, including the planting and
20 harvesting of crops, for the commercial production of food, fiber
21 and ornamental woodland products;

22 (B) Using land for breeding and management of farm livestock
23 including dairy, apiary, equine or poultry husbandry; and

24 (C) Using land for the practice of horticulture including the

1 growing of Christmas trees, orchards and nursery stock. ~~Provided,~~
2 ~~That~~ Agricultural purposes ~~shall~~ do not include commercial
3 forestry, growing of timber for commercial purposes or ~~any~~ other
4 activity that normally would not be included in subdivision (A),
5 (B) or (C) of this definition.

6 (2) "Aircraft" includes any airplane or helicopter.

7 (3) "Alcohol" means motor fuel grade ethanol or a mixture of
8 motor fuel-grade ethanol and methanol, excluding denaturant and
9 water that is a minimum of ninety-eight percent ethanol or methanol
10 by volume.

11 (4) "Alternative fuel" means a combustible gas or liquid that
12 is used or suitable for use as a motor fuel in an internal
13 combustion engine or motor to propel any form of vehicle, machine,
14 or mechanical contrivance and includes, but is not limited to,
15 products commonly known as butane, propane, compressed natural gas,
16 liquefied natural gas, liquefied petroleum gas, natural gas
17 hydrocarbons and derivatives, liquid hydrocarbons derived from
18 biomass, P-series fuels and hydrogen. "Alternative fuel" does not
19 include diesel fuel, gasoline, blended fuel, aviation fuel, or any
20 special fuel. For purposes of this article electricity is not an
21 alternative fuel.

22 (5) "Alternative fuel bulk end-user" means a person who
23 maintains storage facilities for alternative fuel and uses part or
24 all of the stored fuel to operate a motor vehicle.

1 (6) "Alternative fuel commercial refueling infrastructure"
2 means property owned by a commercial establishment and used for
3 storing alternative fuels and for dispensing such alternative fuels
4 into the fuel tanks of vehicles owned by the same person or entity
5 that owns the alternative fuel commercial refueling infrastructure
6 or into the fuel tanks of privately owned vehicles or commercial
7 vehicles other than those owned by the same person or entity that
8 owns the alternative fuel commercial refueling infrastructure, or
9 any combination thereof. "Alternative fuel vehicle commercial
10 refueling infrastructure" includes, but is not limited to,
11 compression equipment, storage tanks and dispensing units for
12 alternative fuel at the point where the fuel is delivered:
13 Provided, That the property is not located on a private residence
14 or private home. "Alternative fuel commercial refueling
15 infrastructure" does not include any building, infrastructure,
16 equipment, apparatus, terminal or connections for servicing,
17 charging or providing electricity to plug-in hybrid electric
18 vehicles or electric vehicles. "Alternative fuel vehicle
19 commercial refueling infrastructure" includes alternative fuel
20 vehicle commercial refueling infrastructure property as described
21 in this subdivision which is owned by a lessor or landlord and
22 leased to or rented to a lessee or tenant as part of a residence
23 for such lessee or tenant.

1 (7) "Alternative fuel home refueling infrastructure" means
2 property owned by a private individual for personal use that is
3 located at the individual's private residence or private home and
4 used for storing and dispensing alternative fuels into fuel tanks
5 of the property owner's motor vehicles. This includes, but is not
6 limited to, compression equipment, storage tanks and dispensing
7 units for alternative fuel at the point where the fuel is
8 delivered. For purposes of this article, "alternative fuel home
9 refueling infrastructure" does not include any building,
10 infrastructure, equipment, apparatus, terminal or connections for
11 servicing, charging or providing electricity to plug-in hybrid
12 electric vehicles or electric vehicles. "Alternative fuel home
13 refueling infrastructure" does not include alternative fuel vehicle
14 refueling infrastructure property owned by a lessor or landlord
15 which is leased to or rented to a lessee or tenant as part of a
16 residence for such lessee or tenant.

17 ~~(4)~~ (8) "Article" or "this article" means article fourteen-c,
18 chapter eleven of this code.

19 ~~(5)~~ (9) "Assessment" means a written determination by the
20 commissioner of the amount of taxes owed by a taxpayer.

21 ~~(6)~~ (10) "Aviation fuel" means aviation gasoline or aviation
22 jet fuel.

1 ~~(7)~~ (11) "Aviation gasoline" means motor fuel designed for use
2 in the operation of aircraft other than jet aircraft and sold or
3 used for that purpose.

4 ~~(8)~~ (12) "Aviation jet fuel" means motor fuel designed for use
5 in the operation of jet or turbo-prop aircraft and sold or used for
6 that purpose.

7 ~~(9)~~ (13) "Biodiesel fuel" means ~~any~~ motor fuel or mixture of
8 motor fuels that is derived, in whole or in part, from agricultural
9 products or animal fats, or the wastes of such products or fats,
10 and is advertised as, offered for sale as, suitable for use or used
11 as motor fuel in an internal combustion engine.

12 ~~(10)~~ (14) "Blended fuel" means a mixture composed of gasoline
13 or diesel fuel and another liquid including, but not limited to,
14 gasoline blend stocks, gasohol, ethanol, methanol, fuel grade
15 alcohol, diesel fuel enhancers and resulting blends, other than a
16 de minimus amount of a product such as carburetor detergent or
17 oxidation inhibitor, that can be used as a motor fuel in a highway
18 vehicle.

19 ~~(11)~~ (15) "Blender" means a person who produces blended motor
20 fuel outside the bulk transfer/terminal system.

21 ~~(12)~~ (16) "Blending" means the mixing of one or more petroleum
22 products, with or without another product, regardless of the
23 original character of the product blended, if the product obtained
24 by the blending is capable of use in the generation of power for

1 the propulsion of a motor vehicle, an airplane or a marine vessel.
2 Blending does not include mixing that occurs in the process of
3 refining by the original refiner of crude petroleum or the blending
4 of products known as lubricating oil in the production of
5 lubricating oils and greases.

6 ~~(13)~~ (17) "Bulk plant" means a motor fuel storage and
7 distribution facility that is not a terminal and from which motor
8 fuel may be removed at a rack.

9 ~~(14)~~ (18) "Bulk transfer" means any transfer of motor fuel
10 from one location to another by pipeline tender or marine delivery
11 within a bulk transfer/terminal system, including, but not limited
12 to, all of the following:

13 (A) ~~A marine vessel~~ Movement of motor fuel from a refinery or
14 terminal to a terminal by a marine vessel;

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

17 (C) Book transfer of motor fuel within a terminal between
18 licensed suppliers prior to completion of removal across the rack;
19 and

20 (D) Two-party exchange between licensed suppliers or between
21 licensed suppliers and permissive suppliers.

22 ~~(15)~~ (19) "Bulk user" means a person who maintains storage
23 facilities for motor fuel and uses part or all of the stored motor
24 fuel to operate a motor vehicle, watercraft or aircraft.

1 ~~(16)~~ (20) "Bulk transfer/terminal system" means the motor fuel
2 distribution system consisting of refineries, pipelines, marine
3 vessels and terminals. Motor fuel in a refinery, a pipeline, a
4 terminal or a marine vessel transporting motor fuel to a refinery
5 or terminal is in the bulk transfer/terminal system. Motor fuel in
6 a motor fuel storage facility including, but not limited to, a bulk
7 plant that is not part of a refinery or terminal, in the motor fuel
8 supply tank of ~~any~~ an engine or motor vehicle, in a marine vessel
9 transporting motor fuel to a motor fuel storage facility that is
10 not in the bulk transfer/terminal system, or in ~~any~~ a tank car,
11 rail car, trailer, truck or other equipment suitable for ground
12 transportation is not in the bulk transfer/terminal system.

13 ~~(17)~~ (21) "Carrier" means ~~any~~ an operator of a pipeline or
14 marine vessel engaged in the business of transporting motor fuel
15 above the terminal rack.

16 ~~(18)~~ (22) "Code" means the Code of West Virginia, 1931, as
17 amended.

18 ~~(19)~~ (23) "Commercial watercraft" means a watercraft employed
19 in the business of commercial fishing, transporting persons or
20 property for compensation or hire or ~~any~~ other trade or business.

21 ~~(20)~~ (24) "Commissioner" or "Tax Commissioner" means the West
22 Virginia State Tax Commissioner or his or her delegate.

23 ~~(21)~~ (25) "Compressed natural gas" means natural gas that has
24 been compressed and dispensed into motor fuel storage containers

1 and is advertised as, offered for sale as, suitable for use as or
2 used as an engine motor fuel.

3 ~~(22)~~ (26) "Corporate or partnership officer" means an officer
4 or director of a corporation, partner of a partnership or member of
5 a limited liability company who as an officer, director, partner or
6 member is under a duty to perform on behalf of the corporation,
7 partnership or limited liability company, the tax collection,
8 accounting or remitting obligations.

9 ~~(23)~~ (27) "Dead storage" is the amount of motor fuel that
10 cannot be pumped out of a motor fuel storage tank because the motor
11 fuel is below the mouth of the draw pipe. The amount of motor fuel
12 in dead storage is two hundred gallons for a tank with a capacity
13 of less than ten thousand gallons and four hundred gallons for a
14 tank with a capacity of ten thousand gallons or more.

15 ~~(24)~~ (28) "Denaturants" means and includes gasoline, natural
16 gasoline, gasoline components or toxic or noxious materials added
17 to motor fuel grade ethanol to make it unsuitable for beverage use
18 but not unsuitable for automotive use.

19 ~~(25)~~ (29) "Designated inspection site" means ~~any~~ a state
20 highway inspection station, weigh station, agricultural inspection
21 station, mobile station or other location designated by the
22 commissioner to be used as a motor fuel inspection site.

23 ~~(26)~~ (30) "Destination state" means the state, territory or
24 foreign country to which motor fuel is directed for delivery into

1 a storage facility, a receptacle, a container or a type of
2 transportation equipment for the purpose of resale or use. The
3 term ~~shall~~ does not include a tribal reservation of ~~any~~ a
4 recognized Native American tribe.

5 ~~(27)~~ (31) "Diesel fuel" means ~~any~~ a liquid that is advertised
6 as, offered for sale as, sold for use as, suitable for use as or
7 used as a motor fuel in a diesel-powered highway vehicle or
8 watercraft. The term includes #1 fuel oil, #2 fuel oil, undyed
9 diesel fuel and kerosene but ~~shall~~ does not include gasoline or
10 aviation fuel.

11 ~~(28)~~ (32) "Distributor" means a person who acquires motor fuel
12 from a licensed supplier, permissive supplier or from another
13 licensed distributor for subsequent sale or use.

14 ~~(29)~~ (33) "Diversion" means transporting motor fuel outside a
15 reasonably direct route from the source to the destination state.

16 ~~(30)~~ (34) "Division" or "State Tax Division" means the Tax
17 Division of the West Virginia Department of Revenue.

18 ~~(31)~~ (35) "Dyed diesel fuel" means diesel fuel that meets the
19 dyeing and marking requirements of section 4082, Title 26, United
20 States Code, regardless of how the diesel fuel was dyed.

21 ~~(32)~~ (36) "End seller" means the person who sells motor fuel
22 to the ultimate user of the motor fuel.

1 ~~(33)~~ (37) "Export" means to obtain motor fuel in West Virginia
2 for sale or other distribution in another state, territory or
3 foreign country.

4 ~~(34)~~ (38) "Exporter" means a person that exports motor fuel
5 from this state. The seller is the exporter of motor fuel
6 delivered out-of-state by or for the seller and the purchaser is
7 the exporter of motor fuel delivered out-of-state by or for the
8 purchaser.

9 ~~(35)~~ (39) "Fuel" means motor fuel.

10 ~~(36)~~ ~~"Fuel alcohol" means methanol or motor fuel grade~~
11 ~~ethanol.~~

12 ~~(37)~~ (40) "Fuel grade ethanol" means the ASTM standard in
13 effect on the effective date of this article as the D-4806
14 specification for denatured motor fuel grade ethanol for blending
15 with gasoline.

16 ~~(38)~~ (41) "Fuel supply tank" means ~~any~~ a receptacle on a motor
17 vehicle from which motor fuel is supplied for the propulsion of the
18 motor vehicle.

19 ~~(39)~~ (42) "Gallon" means a unit of liquid measure as
20 customarily used in the United States containing two hundred
21 thirty-one cubic inches by volume and expresses the volume at 60
22 degrees Fahrenheit.

23 ~~(40)~~ (43) "Gasohol" means a blended motor fuel composed of
24 gasoline and motor fuel alcohol.

1 ~~(41)~~ (44) "Gasoline" means ~~any~~ a product commonly or
2 commercially known as gasoline, regardless of classification, that
3 is advertised as, offered for sale as, sold for use as, suitable
4 for use as or used as motor fuel in an internal combustion engine,
5 including gasohol, but does not include special fuel as defined in
6 this section.

7 ~~(42)~~ (45) "Gasoline blend stocks" includes any petroleum
8 product component of gasoline, such as naphtha, reformate, or
9 toluene, listed in Treas. Reg. §48.4081-1(c) (3) that can be
10 blended for use in a motor fuel. ~~However,~~ The term does not
11 include any substance that will be ultimately used for consumer
12 nonmotor fuel use and is sold or removed in drum quantities of
13 fifty-five gallons or less at the time of the removal or sale.

14 (46) "Gallon equivalent" means the amount of an alternative
15 fuel that is considered to be the equivalent of a gallon of
16 gasoline according to the National Institute of Standards and
17 Technology Handbook 130 or pursuant to guidelines issued by the Tax
18 Commissioner.

19 ~~(43)~~ (47) "Gross gallons" means the total measured product,
20 exclusive of any temperature or pressure adjustments,
21 considerations or deductions, in U.S. gallons.

22 ~~(44)~~ (48) "Governmental entity" means this state or ~~any~~ a
23 political subdivision thereof or the United States or its
24 commissioners, agencies and instrumentalities.

1 ~~(45)~~ (49) "Heating oil" means any combustible liquid,
2 including, but not limited to, #1 fuel oil, #2 dyed fuel oil and
3 kerosene that is burned in a boiler, furnace or stove for heating
4 or ~~for~~ industrial processing purposes.

5 ~~(46)~~ (50) "Highway" means every way or place of whatever
6 nature open to the use of the public for purposes of vehicular
7 travel in this state including the streets and alleys in towns and
8 cities.

9 ~~(47)~~ (51) "Highway vehicle" means any self-propelled vehicle,
10 trailer or semitrailer that is designed or used for transporting
11 persons or property over the public highway and includes all
12 vehicles subject to registration under article three, chapter
13 seventeen-a of this code.

14 ~~(48)~~ (52) "Import" means to bring motor fuel into this state
15 by motor vehicle, marine vessel, pipeline or any other means.
16 ~~However,~~ Import does not include bringing motor fuel into this
17 state in the motor fuel supply tank of a motor vehicle if the motor
18 fuel is used to power that motor vehicle.

19 ~~(49)~~ (53) "Importer" means a person that imports motor fuel
20 into this state. The seller is the importer for motor fuel
21 delivered into this state from outside of this state by or for the
22 seller and the purchaser is the importer for motor fuel delivered
23 into this state from outside of this state by or for the purchaser.

1 ~~(50)~~ (54) "Import verification number" means the number
2 assigned by the commissioner ~~with respect~~ to a single transport
3 vehicle delivery into this state from another state upon request
4 for an assigned number by an importer or the transporter carrying
5 taxable motor fuel into this state for the account of an importer.

6 ~~(51)~~ (55) "In this state" means the area within the borders of
7 West Virginia including all territory within the borders of West
8 Virginia that is owned by the United States of America.

9 ~~(52)~~ (56) "Invoiced gallons" means the gallons actually billed
10 on an invoice for payment.

11 ~~(53)~~ (57) "Licensee" means ~~any~~ a person licensed by the
12 commissioner pursuant to section ten of this article.

13 ~~(54)~~ (58) "Liquid" means ~~any~~ a substance that is liquid above
14 its freezing point.

15 ~~(55)~~ (59) "Liquefied natural gas" means natural gas that has
16 been liquefied at -126.1 degrees centigrade and stored in insulated
17 cryogenic tanks for use as an engine motor fuel.

18 ~~(56)~~ (60) "Motor carrier" means ~~any~~ a vehicle used, designated
19 or maintained for the transportation of persons or property and
20 having two axles and a gross vehicle weight exceeding twenty-six
21 thousand pounds or having three or more axles regardless of weight
22 or ~~is~~ used in combination when the weight of the combination
23 exceeds twenty-six thousand pounds or registered gross vehicle
24 weight, and any aircraft, barge or other watercraft or railroad

1 locomotive transporting passengers or freight in or through this
2 state: *Provided*, That the gross vehicle weight rating of the
3 vehicles being towed is in excess of ten thousand pounds. The term
4 motor carrier does not include any type of recreational vehicle.

5 ~~(57)~~ (61) "Motor fuel" means gasoline, blended fuel, aviation
6 fuel, ~~and~~ any special fuel and alternative fuel.

7 ~~(58)~~ (62) "Motor fuel transporter" means a person who
8 transports motor fuel outside the bulk transfer/terminal system by
9 means of a transport vehicle, a railroad tank car or a marine
10 vessel.

11 ~~(59)~~ (63) "Motor vehicle" means automobiles, motor carriers,
12 motor trucks, motorcycles and all other vehicles or equipment,
13 engines or machines which are operated or propelled by combustion
14 of motor fuel.

15 ~~(60)~~ (64) "Net gallons" means the amount of motor fuel
16 measured in gallons when adjusted to a temperature of sixty degrees
17 Fahrenheit and a pressure of fourteen and seven-tenths pounds
18 pressure per square inch.

19 ~~(61)~~ (65) "Permissive supplier" is a person who may not be
20 subject to the taxing jurisdiction of this state but who meets both
21 of the following requirements: (A) Is registered under Section
22 4101 of the Internal Revenue Code for transactions in motor fuel in
23 the bulk transfer/terminal system; and (B) a position holder in
24 motor fuel only located in another state or a person who receives

1 motor fuel only in another state pursuant to a two-party exchange:
2 *Provided*, That a person is classified as a supplier if it has or
3 maintains, occupies or uses, within this state, directly or by a
4 subsidiary, an office, distribution house, sales house, warehouse,
5 or other place of business, or any agent or representative (by
6 whatever name called) operating within this state under the
7 authority of the supplier or its subsidiary.

8 ~~(62)~~ (66) "Person" means ~~any~~ an individual, firm, cooperative,
9 association, corporation, limited liability corporation, estate,
10 guardian, executor, administrator, trust, business trust,
11 syndicate, partnership, limited partnership, copartnership,
12 organization, limited liability partnership, joint venture,
13 receiver and trustee in bankruptcy. "Person" also means a club,
14 society or other group or combination acting as a unit, ~~or~~ a public
15 body including, but not limited to, this state and any other state
16 and ~~any~~ an agency, commissioner, institution, political subdivision
17 or instrumentality of this state or any other state and, also, ~~any~~
18 an officer, employee or member of any of the foregoing who, as an
19 officer, employee or member, is under a duty to perform or is
20 responsible for the performance of an act prescribed by the
21 provisions of this article.

22 ~~(63)~~ (67) "Position holder" means the person who holds the
23 inventory position in motor fuel in a terminal as reflected on the
24 records of the terminal operator. A person holds the inventory

1 position in motor fuel when that person has a contract with the
2 terminal operator for the use of storage facilities and terminaling
3 services for motor fuel at the terminal. The term includes a
4 terminal operator who owns motor fuel in the terminal.

5 ~~(64)~~ (68) "Principal" means:

6 (A) If a partnership, all its partners;

7 (B) If a corporation, all its officers, directors, and
8 controlling direct or indirect owners;

9 (C) If a limited liability company, all its members; or

10 (D) An individual.

11 (69) "Producer/manufacturer" means a person who produces,
12 refines, blends, distills, manufactures or compounds motor fuel.

13 (70) "Provider of alternative fuel" means a person who does
14 one or more of the following:

15 (A) Acquires alternative fuel for sale or delivery to an
16 alternative fuel bulk end-user or an alternative fuel retailer;

17 (B) Maintains storage facilities for alternative fuel
18 including alternative fuel home refueling infrastructures and
19 alternative fuel commercial refueling infrastructures, part or all
20 of which the person uses or sells to someone other than an
21 alternative fuel bulk end-user or an alternative fuel retailer to
22 operate a highway vehicle;

23 (C) Sells alternative fuel and uses part of the fuel acquired
24 for sale to operate a highway vehicle by means of a fuel supply

1 line from the cargo tank of the vehicles to the engine of the
2 vehicle;

3 (D) Imports alternative fuel into this state by a means other
4 than the usual tank or receptacle connected with the engine of a
5 highway vehicle for use by that person to operate a highway
6 vehicle.

7 ~~(65)~~ (71) "Rack" means a mechanism for delivering motor fuel
8 from a refinery, terminal, marine vessel or bulk plant into a
9 transport vehicle, railroad tank car or other means of transfer
10 that is outside the bulk transfer/terminal system.

11 ~~(66)~~ (72) "Railroad locomotive" means ~~any~~ diesel-powered
12 equipment or machinery that rides on railroad rails and includes a
13 switching engine.

14 ~~(67)~~ (73) "Receive" means ~~any~~ acquisition of ownership or
15 possession of motor fuel.

16 ~~(68)~~ (74) "Refiner" means ~~any~~ a person who owns, operates or
17 otherwise controls a refinery.

18 ~~(69)~~ (75) "Refinery" means a facility for the manufacture or
19 reprocessing of finished or unfinished petroleum products usable as
20 motor fuel and from which motor fuel may be removed by pipeline or
21 marine vessel or at a rack.

22 ~~(70)~~ (76) "Removal" means a physical transfer other than by
23 evaporation, loss or destruction. A physical transfer to a
24 transport vehicle or other means of conveyance outside the bulk

1 transfer/terminal system is complete upon delivery into the means
2 of conveyance.

3 ~~(71)~~ (77) "Retailer" means a person who sells motor fuel at
4 retail or dispenses motor fuel at a retail location.

5

6 (78) "Retailer of alternative fuel" means a person who
7 maintains storage facilities, including alternative fuel vehicle
8 commercial refueling infrastructure, for alternative fuel and who
9 sells the fuel at retail or dispenses the fuel at a retail location
10 to operate a motor vehicle.

11 ~~(72)~~ (79) "Special fuel" means ~~any~~ a gas or liquid, other than
12 gasoline, used or suitable for use as motor fuel in an internal
13 combustion engine or motor to propel any form of vehicle, machine,
14 or mechanical contrivance and includes products commonly known as
15 natural or casing-head gasoline, diesel fuel, dyed diesel fuel,
16 biodiesel fuel, transmix, ~~and all forms of motor fuel commonly or~~
17 ~~commercially known or sold as butane, propane, liquefied natural~~
18 ~~gas, liquefied petroleum gas, compressed natural gas product or a~~
19 ~~combination of liquefied petroleum gas and a compressed natural gas~~
20 ~~product.~~ methanol, ethanol, methanol fuel, M100, ethanol fuel,
21 E100, ethanol fuel blend, E85 and any fuel mixture that contains
22 eighty-five percent or more alcohol by volume when combined with
23 gasoline or other fuels and liquid fuel derived from coal through
24 the Fischer-Tropsch process. "Special fuel" does not include

1 alternative fuel or any petroleum product or chemical compound such
2 as alcohol, industrial solvent, heavy furnace oil or lubricant,
3 unless blended in or sold for use as motor fuel in an internal
4 combustion engine.

5 ~~(73)~~ (80) "State" or "this state" means the State of West
6 Virginia.

7 ~~(74)~~ (81) "Supplier" means a person that is:

8 (A) Subject to the general taxing jurisdiction of this state;

9 (B) Registered under Section 4101 of the Internal Revenue Code
10 for transactions in motor fuel in the bulk transfer/terminal
11 distribution system; and

12 (C) One of the following:

13 (i) A position holder in motor fuel in a terminal or refinery
14 in this state and may concurrently ~~also~~ be a position holder in
15 motor fuel in another state; or

16 (ii) A person who receives motor fuel in this state pursuant
17 to a two-party exchange.

18 A terminal operator ~~shall not be considered~~ is not a supplier
19 based solely on the fact that the terminal operator handles motor
20 fuel consigned to it within a terminal.

21 ~~(75)~~ (82) "Tax" or "this tax" is the motor fuel excise tax
22 imposed by this article and includes within its meaning interest
23 and additions to tax and penalties unless the context requires a
24 more limited meaning.

1 ~~(76)~~ (83) "Taxpayer" means ~~any~~ a person required to file a
2 return for the tax imposed by this article or ~~any~~ a person liable
3 for payment of the tax imposed by this article.

4 ~~(77)~~ (84) "Terminal" means a motor fuel storage and
5 distribution facility to which a terminal control number has been
6 assigned by the Internal Revenue Service, to which motor fuel is
7 supplied by pipeline or marine vessel and from which motor fuel may
8 be removed at a rack.

9 ~~(78)~~ (85) "Terminal operator" means a person who owns,
10 operates or otherwise controls a terminal.

11 ~~(79)~~ (86) "Transmix" means: (A) The buffer or interface
12 between two different products in a pipeline shipment; or (B) a mix
13 of two different products within a refinery or terminal that
14 results in an off-grade mixture.

15 ~~(80)~~ (87) "Transport vehicle" means a vehicle designed or used
16 to carry motor fuel over the highway and includes a straight truck,
17 a straight truck/trailer combination and a semitrailer combination
18 rig.

19 ~~(81)~~ (88) "Trustee" means a person who is licensed as a
20 supplier or a permissive supplier and receives tax payments from
21 and on behalf of another pursuant to section twenty-four of this
22 article.

23 ~~(82)~~ (89) "Two-party exchange" means a transaction in which
24 motor fuel is transferred from one licensed supplier or permissive

1 supplier to another licensed supplier or permissive supplier
2 pursuant to an exchange agreement; and

3 (A) Includes a transfer from the person who holds the
4 inventory position in taxable motor fuel in the terminal as
5 reflected on the records of the terminal operator;

6 (B) Is completed prior to removal of the product from the
7 terminal by the receiving exchange partner; and

8 (C) Is recorded on the terminal operator's books and records
9 with the receiving exchange partner as the supplier that removes
10 the motor fuel across the terminal rack for purposes of reporting
11 the transaction to this state.

12 ~~(83)~~ (90) "Use" means the actual consumption or receipt of
13 motor fuel by ~~any~~ a person into a motor vehicle, aircraft or
14 watercraft.

15 ~~(84)~~ (91) "Watercraft" means any vehicle used on waterways.

16 **§11-14C-5. Taxes levied; rate.**

17 (a) There is hereby levied on all motor fuel an excise tax
18 composed of a flat rate equal to \$.205 per invoiced gallon and, on
19 alternative fuel, on each gallon equivalent, plus a variable
20 component comprised of:

21 (1) On motor fuel other than alternative fuel, either the tax
22 imposed by section eighteen-b, article fifteen of this chapter or
23 the tax imposed under section thirteen-a, article fifteen-a of this
24 chapter, as applicable: *Provided,* That the motor fuel excise tax

1 shall take effect January 1, 2004: *Provided, however,* That the
2 variable component shall be equal to five percent of the average
3 wholesale price of the motor fuel: *Provided further,* That the
4 average wholesale price shall be no less than \$.97 per invoiced
5 gallon and is computed as hereinafter prescribed in this section:
6 *And provided further,* That on and after January 1, 2010, the
7 average wholesale price shall be no less than \$2.34 per invoiced
8 gallon and is computed as hereinafter prescribed in this section;
9 and

10 (2) On alternative fuel, either the tax imposed by section
11 eighteen-b, article fifteen of this chapter or the tax imposed
12 under section thirteen-a, article fifteen-a of this chapter, as
13 applicable. The tax on alternative fuel takes effect on January 1,
14 2014, with a variable component equal to five percent of the
15 average wholesale price of the alternative fuel.

16 (b) *Determination of average wholesale price.* --

17 (1) To simplify determining the average wholesale price of all
18 motor fuel, the Tax Commissioner shall, effective with the period
19 beginning the first day of the month of the effective date of the
20 tax and each January 1 thereafter, determine the average wholesale
21 price of motor fuel for each annual period on the basis of sales
22 data gathered for the preceding period of July 1 through October
23 31. Notification of the average wholesale price of motor fuel
24 shall be given by the Tax Commissioner at least thirty days in

1 advance of each January 1 by filing notice of the average wholesale
2 price in the State Register and by ~~any~~ other means as the Tax
3 Commissioner considers reasonable.

4 (2) The "average wholesale price" means the single, statewide
5 average per gallon wholesale price, rounded to the third decimal
6 (thousandth of a cent), exclusive of state and federal excise taxes
7 on each gallon of motor fuel or on each gallon equivalent of
8 alternative fuel as determined by the Tax Commissioner from
9 information furnished by suppliers, importers and distributors of
10 motor fuel and alternative fuel providers, alternative bulk
11 end-users and retailers of alternative fuel in this state, or other
12 information regarding wholesale selling prices as the Tax
13 Commissioner may gather or a combination of information. ~~Provided,~~
14 ~~That~~ In no event shall the average wholesale price be determined to
15 be less than \$.97 per gallon of motor fuel. ~~Provided, however,~~
16 ~~That~~ For calendar year 2009, the average wholesale price of motor
17 fuel shall not exceed the average wholesale price of motor fuel for
18 calendar year 2008 as determined pursuant to the notice filed by
19 the Tax Commissioner with the Secretary of State on November 21,
20 2007, and published in the State Register on November 30, 2007.
21 ~~Provided further, That~~ On and after January 1, 2010, in no event
22 shall the average wholesale price be determined to be less than
23 \$2.34 per gallon of motor fuel. ~~And provided further, That~~ On and
24 after January 1, 2011, the average wholesale price shall not vary

1 by more than ten percent from the average wholesale price of motor
2 fuel as determined by the Tax Commissioner for the previous
3 calendar year. Any limitation on the average wholesale price of
4 motor fuel contained in this subsection shall not be applicable to
5 alternative fuel.

6 (3) All actions of the Tax Commissioner in acquiring data
7 necessary to establish and determine the average wholesale price of
8 motor fuel, in providing notification of his or her determination
9 prior to the effective date of ~~any~~ a change in rate, and in
10 establishing and determining the average wholesale price of motor
11 fuel may be made by the Tax Commissioner without compliance with
12 the provisions of article three, chapter twenty-nine-a of this
13 code.

14 (4) In ~~any~~ an administrative or court proceeding brought to
15 challenge the average wholesale price of motor fuel as determined
16 by the Tax Commissioner, his or her determination is presumed to be
17 correct and shall not be set aside unless it is clearly erroneous.

18 (c) There is hereby levied a floorstocks tax on motor fuel
19 held in storage outside the bulk transfer/terminal system as of the
20 close of the business day preceding January 1, 2004, and upon which
21 the tax levied by this section has not been paid. For the purposes
22 of this section, "close of the business day" means the time at
23 which the last transaction has occurred for that day. The
24 floorstocks tax is payable by the person in possession of the motor

1 fuel on January 1, 2004. The amount of the floorstocks tax on
2 motor fuel is equal to the sum of the tax rate specified in
3 subsection (a) of this section multiplied by the gallons in storage
4 as of the close of the business day preceding January 1, 2004.

5 (1) Persons in possession of taxable motor fuel in storage
6 outside the bulk transfer/terminal system as of the close of the
7 business day preceding January 1, 2004, shall:

8 (A) Take an inventory at the close of the business day
9 preceding January 1, 2004, to determine the gallons in storage for
10 purposes of determining the floorstocks tax;

11 (B) Report no later than January 31, 2004, the gallons on
12 forms provided by the commissioner; and

13 (C) Remit the tax levied under this section no later than June
14 1, 2004.

15 (2) In the event the tax due is paid to the commissioner on or
16 before January 31, 2004, the person remitting the tax may deduct
17 from their remittance five percent of the tax liability due.

18 (3) In the event the tax due is paid to the commissioner after
19 June 1, 2004, the person remitting the tax shall pay, in addition
20 to the tax, a penalty in the amount of five percent of the tax
21 liability due.

22 (4) In determining the amount of floorstocks tax due under
23 this section, the amount of motor fuel in dead storage may be

1 excluded. There are two methods for calculating the amount of
2 motor fuel in dead storage:

3 (A) If the tank has a capacity of less than ten thousand
4 gallons, the amount of motor fuel in dead storage is two hundred
5 gallons and if the tank has a capacity of ten thousand gallons or
6 more, the amount of motor fuel in dead storage is four hundred
7 gallons; or

8 (B) Use the manufacturer's conversion table for the tank after
9 measuring the number of inches between the bottom of the tank and
10 the bottom of the mouth of the drainpipe: *Provided*, That the
11 distance between the bottom of the tank and the bottom of the mouth
12 of the draw pipe is presumed to be six inches.

13 (d) Every licensee who, on the effective date of any rate
14 change, has in inventory any motor fuel upon which the tax or any
15 portion thereof has been previously paid shall take a physical
16 inventory and file a report thereof with the commissioner, in the
17 format as required by the commissioner, within thirty days after
18 the effective date of the rate change, and shall pay to the
19 commissioner at the time of filing the report any additional tax
20 due under the increased rate.

21 (e) The Tax Commissioner shall determine by January 1, 2014,
22 the gasoline gallon equivalent for each alternative fuel by filing
23 a notice of the gasoline gallon equivalent in the State Register
24 and by other means that the Tax Commissioner considers reasonable.

1 The Tax Commissioner may redetermine the gasoline gallon equivalent
2 for each alternative fuel by filing a notice of the gasoline gallon
3 equivalent in the State Register at least thirty days in advance of
4 January 1 for the next succeeding tax year. For purposes of this
5 notice, the Tax Commissioner may adopt or incorporate by reference
6 provisions of the National Institute of Standards and Technology,
7 United States Department of Commerce, the Internal Revenue Code,
8 United States Treasury Regulations, the Internal Revenue Service
9 publications or guidelines or other publications or guidelines
10 which may be useful in determining, setting or describing the
11 gasoline gallon equivalent for each alternative fuel used as motor
12 fuel.

13 **§11-14C-6a. Point of imposition of motor fuels tax on alternative**
14 **fuel.**

15 (a) The tax levied pursuant to section five of this article is
16 imposed on alternative fuel without regard to whether it is sold,
17 transported or distributed within the bulk transfer/terminal system
18 or outside of the bulk transfer/terminal system.

19 (b) The tax levied pursuant to section five of this article is
20 imposed on alternative fuel that is not otherwise taxed at the
21 point of imposition prescribed under section six of this article at
22 the following points of imposition in the following order:

1 (1) At the time alternative fuel is withdrawn from the storage
2 facility including alternative fuel home refueling infrastructures
3 and alternative fuel commercial refueling infrastructures;

4 (2) If not taxed at the point of imposition described in
5 subdivision (1) of this subsection, then at the time alternative
6 fuel is sold for use in a highway vehicle;

7 (3) If not taxed at the point of imposition described in
8 subdivision (1) or at the point of imposition described in
9 subdivision (2) of this subsection, then at the time alternative
10 fuel is used in a highway vehicle.

11 **§11-14C-9. Exemptions from tax; claiming refunds of tax.**

12 (a) *Per se exemptions from flat rate component of tax.* --
13 Sales of motor fuel to the following, or as otherwise stated in
14 this subsection, are exempt per se from the flat rate of the tax
15 levied by section five of this article and the flat rate may not be
16 paid at the rack:

17 (1) All motor fuel exported from this state to any other state
18 or nation: *Provided*, That the supplier collects and remits to the
19 destination state or nation the appropriate amount of tax due on
20 the motor fuel transported to that state or nation. ~~*Provided*,~~
21 ~~*however, That*~~ This exemption does not apply to ~~any~~ motor fuel
22 which is transported and delivered outside this state in the motor
23 fuel supply tank of a highway vehicle;

24 (2) Sales of aviation fuel;

1 (3) Sales of dyed special fuel; and

2 (4) Sales of propane unless sold for use in a motor vehicle.

3 (b) *Per se exemptions from variable component of tax.* -- Sales
4 of motor fuel to the following are exempt per se from the variable
5 component of the tax levied by section five of this article and the
6 variable component may not be paid at the rack:

7 All motor fuel exported from this state to any other state or
8 nation: *Provided,* That the supplier collects and remits to the
9 destination state or nation the appropriate amount of tax due on
10 the motor fuel transported to that state or nation. ~~*Provided,*~~
11 ~~*however, That*~~ This exemption does not apply to ~~any~~ motor fuel
12 which is transported and delivered outside this state in the motor
13 fuel supply tank of a highway vehicle.

14 (c) *Refundable exemptions from flat rate component of tax.* --
15 ~~Any~~ A person having a right or claim to any of the following
16 exemptions from the flat rate component of the tax levied by
17 section five of this article shall first pay the tax levied by this
18 article and then apply to the Tax Commissioner for a refund:

19 (1) The United States or ~~any~~ agency thereof: *Provided,* That
20 if the United States government, or ~~any~~ agency or instrumentality
21 thereof, does not pay the seller the tax imposed by section five of
22 this article on ~~any~~ a purchase of motor fuel, the person selling
23 tax previously paid motor fuel to the United States government, or
24 its agencies or instrumentalities, may ~~then~~ claim a refund of the

1 flat rate component of tax imposed by ~~said~~ section five of this
2 article on those sales;

3 (2) ~~Any~~ A county government or unit or agency thereof;

4 (3) ~~Any~~ A municipal government or any agency thereof;

5 (4) ~~Any county boards~~ A county board of education;

6 (5) ~~Any~~ An urban mass transportation authority created
7 pursuant to the provisions of article twenty-seven, chapter eight
8 of this code;

9 (6) ~~Any~~ A municipal, county, state or federal civil defense or
10 emergency service program pursuant to a government contract for use
11 in conjunction therewith or to ~~any person on whom is imposed a~~
12 ~~requirement~~ a person who is required to maintain an inventory of
13 motor fuel for the purpose of the program: *Provided,* That motor
14 fueling facilities used for these purposes are not capable of
15 fueling motor vehicles and the person in charge of the program has
16 in his or her possession a letter of authority from the Tax
17 Commissioner certifying his or her right to the exemption.
18 ~~Provided, however, That~~ In order for this exemption to apply,
19 motor fuel sold under this subdivision and subdivisions (1) through
20 (5), inclusive, of this subsection shall be used in vehicles or
21 equipment owned and operated by the respective government entity or
22 government agency or authority;

23 (7) All invoiced gallons of motor fuel purchased by a licensed
24 exporter and subsequently exported from this state to any other

1 state or nation: *Provided*, That the exporter has paid the
2 applicable motor fuel tax to the destination state or nation prior
3 to claiming this refund or the exporter has reported to the
4 destination state or nation that the motor fuel was sold in a
5 transaction not subject to tax in that state or nation. ~~*Provided*,~~
6 ~~however, That~~ A refund may not be granted on ~~any~~ motor fuel which
7 is transported and delivered outside this state in the motor fuel
8 supply tank of a highway vehicle;

9 (8) All gallons of motor fuel used and consumed in stationary
10 off-highway turbine engines;

11 (9) All gallons of ~~special~~ fuel used for heating any public or
12 private dwelling, building or other premises;

13 (10) All gallons of ~~special~~ fuel used for boilers;

14 (11) All gallons of motor fuel used as a dry cleaning solvent
15 or commercial or industrial solvent;

16 (12) All gallons of motor fuel used as lubricants, ingredients
17 or components of ~~any~~ a manufactured product or compound;

18 (13) All gallons of motor fuel sold for use or used as a motor
19 fuel for commercial watercraft;

20 (14) All gallons of ~~special~~ motor fuel sold for use or
21 consumed in railroad diesel locomotives;

22 (15) All gallons of motor fuel purchased in quantities of
23 twenty-five gallons or more for use as a motor fuel for internal
24 combustion engines not operated upon highways of this state;

1 (16) All gallons of motor fuel purchased in quantities of
2 twenty-five gallons or more and used to power a power take-off unit
3 on a motor vehicle. When a motor vehicle with auxiliary equipment
4 uses motor fuel and there is no auxiliary motor for the equipment
5 or separate tank for a motor, the person claiming the refund may
6 present to the Tax Commissioner a statement of his or her claim and
7 is allowed a refund for motor fuel used in operating a power
8 take-off unit on a cement mixer truck or garbage truck equal to
9 twenty-five percent of the tax levied by this article paid on all
10 motor fuel used in such a truck;

11 (17) Motor fuel used by ~~any~~ a person regularly operating ~~any~~
12 a vehicle under a certificate of public convenience and necessity
13 or under a contract carrier permit for transportation of persons
14 when purchased in an amount of twenty-five gallons or more:
15 *Provided*, That the amount refunded is equal to \$0.6 per gallon:
16 *Provided, however*, That the gallons of motor fuel have been
17 consumed in the operation of urban and suburban bus lines and the
18 majority of passengers use the bus for traveling a distance not
19 exceeding forty miles, measured one way, on the same day between
20 their places of abode and their places of work, shopping areas or
21 schools; and

22 (18) All gallons of motor fuel that are not otherwise exempt
23 under subdivisions (1) through (6), inclusive, of this subsection
24 and that are purchased and used by any bona fide volunteer fire

1 department, nonprofit ambulance service or emergency rescue service
2 that has been certified by the municipality or county wherein the
3 bona fide volunteer fire department, nonprofit ambulance service or
4 emergency rescue service is located.

5 (d) *Refundable exemptions from variable rate component of tax.*

6 -- Any of the following persons may claim an exemption from the
7 variable rate component of the tax levied by section five of this
8 article on the purchase and use of motor fuel by first paying the
9 tax levied by this article and then applying to the Tax
10 Commissioner for a refund.

11 (1) The United States or ~~any~~ agency thereof: *Provided, That*
12 if the United States government, or ~~any~~ agency or instrumentality
13 thereof, does not pay the seller the tax imposed by section five of
14 this article on any purchase of motor fuel, the person selling tax
15 previously paid motor fuel to the United States government, or its
16 agencies or instrumentalities, may ~~then~~ claim a refund of the
17 variable rate of tax imposed by ~~said~~ section five of this article
18 on those sales.

19 (2) This state and its institutions;

20 (3) ~~Any~~ A county government or unit or agency thereof;

21 (4) ~~Any~~ A municipal government or ~~any~~ agency thereof;

22 (5) ~~Any county boards~~ A county board of education;

1 (6) ~~Any~~ An urban mass transportation authority created
2 pursuant to the provisions of article twenty-seven, chapter eight
3 of this code;

4 (7) ~~Any~~ A municipal, county, state or federal civil defense or
5 emergency service program pursuant to a government contract for use
6 in conjunction therewith, or to ~~any person on whom is imposed a~~
7 ~~requirement~~ a person who is required to maintain an inventory of
8 motor fuel for the purpose of the program: *Provided*, That fueling
9 facilities used for these purposes are not capable of fueling motor
10 vehicles and the person in charge of the program has in his or her
11 possession a letter of authority from the Tax Commissioner
12 certifying his or her right to the exemption;

13 (8) ~~Any~~ A bona fide volunteer fire department, nonprofit
14 ambulance service or emergency rescue service that has been
15 certified by the municipality or county ~~wherein~~ where the bona fide
16 volunteer fire department, nonprofit ambulance service or emergency
17 rescue service is located; or

18 (9) All invoiced gallons of motor fuel purchased by a licensed
19 exporter and subsequently exported from this state to any other
20 state or nation: *Provided*, That the exporter has paid the
21 applicable motor fuel tax to the destination state or nation prior
22 to claiming this refund. ~~*Provided, however, That*~~ A refund may not
23 be granted on ~~any~~ motor fuel which is transported and delivered

1 outside this state in the motor fuel supply tank of a highway
2 vehicle.

3 (e) The provision in subdivision (9), subsection (a), section
4 nine, article fifteen of this chapter that exempts as a sale for
5 resale those sales of gasoline and special fuel by a distributor or
6 importer to another distributor does not apply to sales of motor
7 fuel under this article.

8 PART 3. MOTOR FUEL LICENSING.

9 **§11-14C-10. Persons required to be licensed.**

10 (a) A person shall obtain the appropriate license or licenses
11 issued by the commissioner before conducting the activities of:

12 (1) A supplier which includes a refiner;

13 (2) A permissive supplier;

14 (3) An importer;

15 (4) An exporter;

16 (5) A terminal operator;

17 (6) A blender;

18 (7) A motor fuel transporter; ~~or~~

19 (8) A distributor;

20 (9) A producer/manufacturer;

21 (10) An alternative fuel bulk end-user;

22 (11) A provider of alternative fuel; or

23 (12) A retailer of alternative fuel.

1 (b) A person who is engaged in more than one activity for
2 which a license is required shall have a separate license for each
3 activity, except as otherwise determined by the commissioner.

4 **§11-14C-13. Bond requirements.**

5 (a) ~~There shall be filed with~~ Along with an application for a
6 license required by section eleven of this article, either a cash
7 bond or a continuous surety bond in the amount or amounts specified
8 in this section shall be filed. ~~Provided, That~~ If a person has
9 filed applications for licenses for more than one activity, the
10 commissioner may combine the amount of the cash bond or continuous
11 surety bond required for each licensed activity into one amount
12 that shall be no less than the largest amount required for any of
13 those activities for which the license applications are filed.
14 ~~Provided, however, That~~ If a continuous surety bond is filed, an
15 annual notice of renewal shall be filed thereafter. ~~Provided~~
16 ~~further, That~~ If the continuous surety bond includes the
17 requirements that the commissioner is to be notified of
18 cancellation at least sixty days prior to the continuous surety
19 bond being canceled, an annual notice of renewal is not required.
20 The bond, whether a cash bond or a continuous surety bond, ~~shall be~~
21 is conditioned upon compliance with the requirements of this
22 article, ~~be~~ payable to this state and ~~be~~ in the form required by
23 the commissioner. The amount of the bond is as follows:

1 (1) For a supplier license, the amount shall be a minimum of
2 \$100,000 or an amount equal to three months' tax liability,
3 whichever is greater, ~~Provided, That the amount~~ but shall not
4 exceed \$2 million: ~~Provided, however, That~~ When required by the
5 commissioner to file a cash bond or a continuous surety bond in an
6 additional amount, the licensee shall comply with the
7 commissioner's notification within thirty days after receiving that
8 notification;

9 (2) For a permissive supplier license, the amount shall be a
10 minimum of \$100,000 or an amount equal to three months' tax
11 liability, whichever is greater, ~~Provided, That the amount~~ but
12 shall not exceed \$2 million. ~~Provided, however, That~~ When required
13 by the commissioner to file a cash bond or a continuous surety bond
14 in an additional amount, the licensee shall comply with the
15 commissioner's notification within thirty days after receiving that
16 notification;

17 (3) For a terminal operator license, the amount shall be a
18 minimum of \$100,000 or an amount equal to three months' tax
19 liability, whichever is greater, ~~Provided, That the amount~~ but
20 shall not exceed \$2 million. ~~Provided, however, That~~ When required
21 by the commissioner to file a cash bond or a continuous surety bond
22 in an additional amount, the licensee shall comply with the
23 commissioner's notification within thirty days after receiving that
24 notification;

1 (4) For an importer license for a person, other than a
2 supplier, that imports by transport vehicle or another means of
3 transfer outside the bulk transfer/terminal system motor fuel
4 removed from a terminal located in another state in which: (A) The
5 state from which the motor fuel is imported does not require the
6 seller of the motor fuel to collect a motor fuel excise tax on the
7 removal either at that state's rate or the rate of the destination
8 state; and (B) the seller of the motor fuel is not a permissive
9 supplier, the amount shall be a minimum of \$100,000 or an amount
10 equal to three months' tax liability, whichever is greater,
11 ~~Provided, That the amount~~ but shall not exceed \$2 million.
12 ~~Provided, however, That~~ When required by the commissioner to file
13 a cash bond or a continuous surety bond in an additional amount,
14 the licensee shall comply with the commissioner's notification
15 within thirty days after receiving that notification;

16 (5) For an importer license for a person that imports by
17 transport vehicle or another means outside the bulk
18 transfer/terminal system motor fuel removed from a terminal located
19 in another state in which: (A) The state from which the motor fuel
20 is imported requires the seller of the motor fuel to collect a
21 motor fuel excise tax on the removal either at that state's rate or
22 the rate of the destination state; or (B) the seller of the motor
23 fuel is a permissive supplier, the amount shall be a minimum of
24 \$2,000 or an amount equal to three months' tax liability, whichever

1 is greater, ~~Provided, That the amount~~ but shall not exceed
2 \$300,000. ~~Provided, however, That~~ When required by the
3 commissioner to file a cash bond or a continuous surety bond in an
4 additional amount, the licensee shall comply with the
5 commissioner's notification within thirty days after receiving that
6 notification;

7 (6) For a license as both a distributor and an importer as
8 described in subdivision (4) of this subsection, the amount shall
9 be a minimum of \$100,000 or an amount equal to three months' tax
10 liability, whichever is greater, ~~Provided, That the amount~~ but
11 shall not exceed \$2 million. ~~Provided, however, That~~ When required
12 by the commissioner to file a cash bond or a continuous surety bond
13 in an additional amount, the licensee shall comply with the
14 commissioner's notification within thirty days after receiving that
15 notification;

16 (7) For a license as both a distributor and an importer as
17 described in subdivision (5) of this subsection, the amount shall
18 be a minimum of \$2,000 or an amount equal to three months' tax
19 liability, whichever is greater, ~~Provided, That the amount~~ but
20 shall not exceed \$300,000. ~~Provided, however, That~~ When required
21 by the commissioner to file a cash bond or a continuous surety bond
22 in an additional amount, the licensee shall comply with the
23 commissioner's notification within thirty days after receiving that
24 notification;

1 (8) For an exporter license, the amount shall be a minimum of
2 \$2,000 or an amount equal to three months' tax liability, whichever
3 is greater, ~~Provided, That the amount~~ but shall not exceed
4 \$300,000. ~~Provided, however, That~~ When required by the
5 commissioner to file a cash bond or a continuous surety bond in an
6 additional amount, the licensee shall comply with the
7 commissioner's notification within thirty days after receiving that
8 notification;

9 (9) For a blender license, the amount shall be a minimum of
10 \$2,000 or an amount equal to three months' tax liability, whichever
11 is greater, ~~Provided, That the amount~~ but shall not exceed
12 \$300,000. ~~Provided, however, That~~ When required by the
13 commissioner to file a cash bond or a continuous surety bond in an
14 additional amount, the licensee shall comply with the
15 commissioner's notification within thirty days after receiving that
16 notification;

17 (10) For a distributor license, the amount shall be a minimum
18 of \$2,000 or an amount equal to three months' tax liability,
19 whichever is greater, ~~Provided, That the amount~~ but shall not
20 exceed \$300,000. ~~Provided, however, That~~ When required by the
21 commissioner to file a cash bond or a continuous surety bond in an
22 additional amount, the licensee shall comply with the
23 commissioner's notification within thirty days after receiving that
24 notification;

1 (11) For a motor fuel transporter license, there ~~shall be~~ is
2 no bond; ~~and~~

3 (12) For a producer/manufacturer license, there is no bond. If
4 the taxpayer fails to file a return or remit tax due under this
5 article, the commissioner may require a cash bond or a continuous
6 surety bond in an amount to be determined by the commissioner. When
7 required by the commissioner to file a cash bond or a continuous
8 surety bond, the licensee shall comply with the commissioner's
9 notification within thirty days after receiving that notification;

10 (13) For an alternative fuel bulk end-user, a provider of
11 alternative fuel and a retailer of alternative fuel, there is no
12 bond. If the taxpayer fails to file a return or remit tax due under
13 this article, the commissioner may require a cash bond or a
14 continuous surety bond in an amount to be determined by the
15 commissioner. When required by the commissioner to file a cash
16 bond or a continuous surety bond, the licensee shall comply with
17 the commissioner's notification within thirty days after receiving
18 that notification; and

19 ~~(12)~~ (14) An applicant for a licensed activity listed under
20 subdivisions (1) through (10), inclusive, of this subsection may,
21 in lieu of posting either the cash bond or continuous surety bond
22 required by this subsection, provide proof of financial
23 responsibility acceptable to the commissioner. ~~Provided, That~~ The
24 proof of financial responsibility ~~shall~~ must demonstrate the

1 absence of circumstances indicating risk with the collection of
2 taxes from the applicant. ~~Provided, however, That the following~~
3 ~~shall constitute~~ The following constitutes proof of financial
4 responsibility:

5 (A) Proof of \$5 million net worth ~~shall constitute~~ constitutes
6 evidence of financial responsibility in lieu of posting the
7 required bond;

8 (B) Proof of \$2,500,000 net worth constitutes financial
9 responsibility in lieu of posting fifty percent of the required
10 bond; and

11 (C) Proof of \$1,250,000 net worth constitutes financial
12 responsibility in lieu of posting twenty-five percent of the
13 required bond. Net worth is calculated on a business, not
14 individual basis.

15 ~~(13)~~ (15) In lieu of providing either cash bond, a continuance
16 surety bond or proof of financial responsibility acceptable to the
17 commissioner, an applicant for a licensed activity listed under
18 this subsection that has established with the state tax division a
19 good filing record that is accurate, complete and timely for the
20 preceding eighteen months shall be granted a waiver of the
21 requirement to file either a cash bond or continuance surety bond.
22 ~~Provided, That~~ When a licensee that has been granted a waiver of
23 the requirement to file a bond violates a provision of this

1 article, the licensee shall file the applicable bond as stated in
2 this subsection.

3 ~~(14)~~ (16) ~~Any~~ A licensee who disagrees with the commissioner's
4 decision requiring new or additional security may seek a hearing by
5 filing a petition with the Office of Tax Appeals in accordance with
6 the provisions of section nine, article ten-a of this chapter.
7 ~~Provided, That~~ The hearing shall be provided within thirty days
8 after receipt by the office of tax appeals of the petition. ~~for the~~
9 ~~hearing.~~

10 (b) The surety must be authorized under article nineteen,
11 chapter thirty-three of this code to engage in business of
12 transacting surety insurance within this state. The cash bond and
13 the continuous surety bond are conditioned upon faithful compliance
14 with the provisions of this article, including the filing of the
15 returns and payment of all tax prescribed by this article. The
16 cash bond and the continuous surety bond shall be approved by the
17 commissioner as to sufficiency and form and shall indemnify the
18 state against ~~any~~ loss arising from the failure of the taxpayer to
19 pay, for any cause whatever, the motor fuel excise tax levied by
20 this article.

21 (c) ~~Any~~ Surety on a continuous surety bond furnished hereunder
22 ~~shall be~~ is relieved, released and discharged from all liability
23 accruing on the bond after the expiration of sixty days from the
24 date the surety shall have lodged, by certified mail, with the

1 commissioner, a written request to be discharged. Discharge from
2 the continuous surety bond ~~shall~~ does not relieve, release or
3 discharge the surety from liability already accrued or which ~~shall~~
4 will accrue before the expiration of the sixty-day period.
5 Whenever ~~any~~ a surety seeks discharge as herein provided, it is the
6 duty of the principal of the bond to supply the commissioner with
7 another continuous surety bond or a cash bond prior to the
8 expiration of the original bond. Failure to provide a new
9 continuous surety bond or a cash bond shall result in the
10 commissioner canceling each license and registration previously
11 issued to the person.

12 (d) ~~Any~~ A taxpayer that has furnished a cash bond hereunder
13 ~~shall be~~ is relieved, released and discharged from all liability
14 accruing on the cash bond after the expiration of sixty days from
15 the date the taxpayer shall have lodged, by certified mail, with
16 the commissioner, a written request to be discharged and the amount
17 of the cash bond refunded. ~~Provided, That~~ The commissioner may
18 retain all or part of the cash bond until ~~such time as the~~
19 ~~commissioner may perform~~ the commissioner performs an audit of the
20 taxpayer's business or three years, whichever first occurs.
21 Discharge from the cash bond shall not relieve, release or
22 discharge the taxpayer from liability already accrued or which
23 ~~shall~~ will accrue before the expiration of the sixty-day period.
24 Whenever ~~any~~ a taxpayer seeks discharge as herein provided, it is

1 the duty of the taxpayer to provide the commissioner with another
2 cash bond or a continuous surety bond prior to the expiration of
3 the original cash bond. Failure to provide either a new cash bond
4 or a continuous surety bond shall result in the commissioner
5 canceling each license and registration previously issued to the
6 taxpayer.

7 PART 4. PAYMENT AND REPORTING OF TAX ON MOTOR FUEL.

8 **§11-14C-19. When tax return and payment are due.**

9 (a) The tax levied by this article shall be paid by each
10 taxpayer on or before the last day of the calendar month by check,
11 bank draft or money order payable to the commissioner for the
12 amount of tax due, if any, for the preceding month. ~~Provided, That~~
13 The commissioner may require all or certain taxpayers to file tax
14 returns and payments electronically. The return required by the
15 commissioner shall accompany the payment of tax. ~~Provided,~~
16 ~~however, That~~ If no tax is due, the return required by the
17 commissioner shall be completed and filed before the last day of
18 the calendar month for the preceding month.

19 (b) The following shall file a monthly return as required by
20 this section:

- 21 (1) A terminal operator;
- 22 (2) A supplier;
- 23 (3) An importer;
- 24 (4) A blender;

1 (5) A person incurring liability under section eight of this
2 article for the backup tax on motor fuel;

3 (6) A permissive supplier;

4 (7) A motor fuel transporter; ~~and~~

5 (8) An exporter; and

6 (9) A producer/manufacturer.

7 (c)(1) For the calendar years beginning January 1, 2014, the
8 tax levied by this article on alternative fuel that is subject to
9 tax at the point of imposition prescribed in section 6a of this
10 article, shall be paid by the alternative fuel bulk end-user,
11 provider of alternative fuel or retailer of alternative fuel on or
12 before January 31 of every year, unless determined by the
13 commissioner that payment must be made more frequently, by check,
14 bank draft, or money order payable to the commissioner for the
15 amount of tax due. The commissioner may require all or certain
16 taxpayers to file tax returns and payments electronically. The
17 return required by the commissioner shall accompany the payment of
18 tax. If no tax is due, the return required by the commissioner
19 shall be completed and filed before January 31.

20 **ARTICLE 15. CONSUMER SALES AND SERVICE TAX.**

21 **§11-15-18b. Tax on motor fuel effective January 1, 2004.**

22 (a) *General.* -- Effective January 1, 2004, all sales of motor
23 fuel and alternative fuel subject to the flat rate of the tax
24 imposed by section five, article fourteen-c of this chapter, are

1 subject to the tax imposed by this article ~~which shall comprise~~ and
2 comprises the variable component of the tax imposed by ~~said~~ section
3 five, article fourteen-c of this chapter and ~~be~~ is collected and
4 remitted at the time the tax imposed by said section is remitted.
5 Sales of motor fuel and alternative fuel upon which the tax imposed
6 by this article has been paid ~~shall not thereafter be~~ is not again
7 taxed under the provisions of this article. This section ~~is~~
8 ~~construed so~~ means that all gallons of motor fuel and equivalent
9 gallons of alternative fuel sold and delivered or delivered in this
10 state are taxed one time.

11 (b) *Measure of tax.* -- The measure of tax imposed by this
12 article is as follows:

13 On sales of motor fuel, ~~is~~ the average wholesale price as
14 defined and determined in section five, article fourteen-c of this
15 chapter. For purposes of maintaining revenue for highways, and
16 recognizing that the tax imposed by this article is generally
17 imposed on gross proceeds from sales to ultimate consumers, whereas
18 the tax on motor fuel herein is imposed on the average wholesale
19 price of the motor fuel; in no case, for the purposes of taxation
20 under this article, ~~shall~~ may the average wholesale price be
21 determined to be less than \$.97 per gallon of motor fuel for all
22 gallons of motor fuel sold during the reporting period,
23 notwithstanding any provision of this article to the contrary.
24 ~~Provided, That~~ On and after January 1, 2010, for the purpose of

1 taxation under this article, in no case ~~shall~~ may the average
2 wholesale price be determined to be less than \$2.34 per gallon of
3 motor fuel for all gallons of motor fuel sold during the reporting
4 period notwithstanding any provision of this article to the
5 contrary. Any limitation on the average wholesale price of motor
6 fuel contained in this subsection shall not be applicable to
7 alternative fuel.

8 (2) On sales of alternative fuel, the average wholesale price
9 as defined and determined in section five, article fourteen-c of
10 this chapter.

11 (c) *Definitions.* -- For purposes of this article, the terms
12 "gasoline" and "special fuel" and "alternative fuel" are defined as
13 provided in section two, article fourteen-c of this chapter. Other
14 terms used in this section have the same meaning as when used in a
15 similar context in said article.

16 (d) *Tax return and tax due.*

17 (1) The tax imposed by this article on sales of motor fuel
18 shall be paid by each taxpayer on or before the last day of the
19 calendar month by check, bank draft, certified check or money order
20 payable to the Tax Commissioner for the amount of tax due for the
21 preceding month notwithstanding any provision of this article to
22 the contrary. ~~Provided, That~~ The commissioner may require all or
23 certain taxpayers to file tax returns and payments electronically.
24 The return required by the commissioner shall accompany the payment

1 of tax. ~~Provided, however, That~~ If no tax is due, the return
2 required by the commissioner shall be completed and filed on or
3 before the last day of the month.

4

5 (2) (A) For the calendar years beginning January 1, 2014,
6 through and including the calendar year ending December 31, 2020,
7 the tax imposed by this article on sales of alternative fuel
8 subject to tax at the point of imposition prescribed in section
9 six-a, article fourteen-c, of this chapter, shall be paid by each
10 taxpayer annually on or before the thirty-first day of January by
11 check, bank draft, certified check or money order payable to the
12 Tax Commissioner for the amount of tax due for the preceding
13 calendar year notwithstanding any provision of this article to the
14 contrary. The commissioner may require all or certain taxpayers to
15 file tax returns and payments electronically. The return required
16 by the commissioner shall accompany the payment of tax. If no tax
17 is due, the return required by the commissioner shall be completed
18 and filed on or before January 31.

19 (B) For the calendar year beginning January 1, 2021, and
20 thereafter, the tax imposed by this article on sales of alternative
21 fuel subject to tax at the point of imposition prescribed in
22 section six-a, article fourteen-c, of this chapter, shall be paid
23 by each taxpayer on or before the last day of the calendar month by
24 check, bank draft, or money order payable to the commissioner for

1 the amount of tax due, if any, for the preceding month. The
2 commissioner may require all or certain taxpayers to file tax
3 returns and payments electronically. The return required by the
4 commissioner shall accompany the payment of tax. ~~Provided,~~
5 ~~however,~~ That If no tax is due, the return required by the
6 commissioner shall be completed and filed before the last day of
7 the calendar month for the preceding month.

8 (e) *Compliance.* -- To facilitate ease of administration and
9 compliance by taxpayers, the Tax Commissioner shall require persons
10 liable for the tax imposed by this article on sales of motor fuel
11 to file a combined return and make a combined payment of the tax
12 due under this article on sales of motor fuel and the tax due under
13 article fourteen-c of this chapter on motor fuel. In order to
14 encourage use of a combined return each month and the making of a
15 single payment each month for both taxes, the due date of the
16 return and tax due under ~~said~~ article fourteen-c of this chapter is
17 the last day of each month notwithstanding any provision in said
18 article to the contrary. The Tax Commissioner may prescribe
19 reporting and payment requirements for tax due under this article
20 on alternative fuel which accommodate the due dates and
21 requirements prescribed in this article and article fourteen-c of
22 this chapter, either under a separate return and payment or a
23 combined return and payment, within the discretion of the Tax
24 Commissioner.

1 (f) *Dedication of tax.* -- All tax collected under the
2 provisions of this section, after deducting the amount of ~~any~~
3 refunds lawfully paid, shall be deposited in the road fund in the
4 State Treasurer's office and used only for the purpose of
5 construction, reconstruction, maintenance and repair of highways
6 and payment of principal and interest on state bonds issued for
7 highway purposes. ~~Provided, That~~ Notwithstanding any provision to
8 the contrary, ~~any~~ tax collected on the sale of aviation fuel after
9 deducting the amount of ~~any~~ refunds lawfully paid shall be
10 deposited in the State Treasurer's office and transferred to the
11 State Aeronautical Commission to be used for the purpose of
12 matching federal funds available for the reconstruction,
13 maintenance and repair of public airports and airport runways.

14 (g) *Construction.* -- This section ~~is not construed as taxing~~
15 ~~any~~ does not tax a sale of motor fuel which this state is
16 prohibited from taxing under the constitution of this state or the
17 constitution or laws of the United States.

18 (h) *Effective date.* -- The provisions of this section take
19 effect on January 1, 2004. The provisions of this section enacted
20 during the 2007 legislative session take effect on January 1, 2008.
21 The provisions of this section enacted during the 2013 regular
22 legislative session take effect on January 1, 2014.

23 **ARTICLE 15A. USE TAX.**

24 **§11-15A-13a. Tax on motor fuel effective January 1, 2004.**

1 (a) *Imposition of tax.* --

2 (1) *On deliveries in this state.* -- Effective January 1, 2004,
3 ~~all~~ motor fuel furnished or delivered within this state which is
4 subject to the flat rate of the tax imposed by section five,
5 article fourteen-c of this chapter is subject to the tax imposed by
6 this article which ~~shall comprise~~ comprises the variable component
7 of the tax imposed by ~~the said~~ section five, article fourteen-c,
8 and shall be collected and remitted at the time the tax imposed by
9 ~~the said~~ section five, article fourteen-c is remitted. ~~Provided,~~
10 ~~That~~ The amount of tax due under this article shall ~~in no event~~ not
11 be less than five percent of the average wholesale price of motor
12 fuel as determined in accordance with said section five, article
13 fourteen-c.

14 (2) *On purchases out-of-state subject to motor fuel tax.* --
15 Effective January 1, 2004, an excise tax is ~~hereby~~ imposed on the
16 importation into this state of motor fuel purchased outside this
17 state when the purchase is subject to the flat rate of the tax
18 imposed by section five, article fourteen-c of this chapter.
19 ~~Provided, That~~ The rate of the tax due under this article shall ~~in~~
20 ~~no event~~ not be less than five percent of the average wholesale
21 price of the motor fuel, as determined in accordance with said
22 section five, article fourteen-c. ~~Provided, however, That~~ The
23 motor fuel subject to the tax imposed by this article ~~shall~~
24 ~~comprise~~ comprises the variable component of the tax imposed by ~~the~~

1 ~~said~~ section five, article fourteen-c, and shall be collected and
2 remitted by the seller at the time the seller remits the tax
3 imposed by the said section five, article fourteen-c.

4 (3) *On other purchases out-of-state.* -- An excise tax is
5 ~~hereby~~ imposed on the use or consumption in this state of motor
6 fuel purchased outside this state at the rate of five percent of
7 the average wholesale price of the motor fuel, as determined in
8 accordance with section five, article fourteen-c of this chapter.
9 ~~Provided, That~~ Motor fuel contained in the fuel supply tank of a
10 motor vehicle that is not a motor carrier ~~shall not be~~ is not
11 taxable except that motor fuel imported in the fuel supply tank or
12 auxiliary tank of construction equipment, mining equipment, track
13 maintenance equipment or other similar equipment, ~~shall be~~ is taxed
14 in the same manner as that in the fuel supply tank of a motor
15 carrier.

16 (4) *On use of alternative fuel* - Effective January 1, 2014,
17 an excise tax is imposed on alternative fuel used within this state
18 which is subject to the flat rate of the tax imposed by section
19 five, article fourteen-c of this chapter. Alternative fuel is
20 subject to the tax imposed by this article and comprises the
21 variable component of the tax imposed by the section five, article
22 fourteen-c of this chapter and shall be collected and remitted at
23 the time the tax imposed by section five, article fourteen-c of
24 this chapter is remitted. ~~Provided, That~~ The amount of tax due

1 under this article shall not be less than five percent of the
2 average wholesale price of alternative fuel as determined in
3 accordance with section five, article fourteen-c of this chapter.

4 (b) *Definitions.* -- For purposes of this article, the terms
5 "gasoline" and "special fuel" are defined as provided in section
6 two, article fourteen-c of this chapter. Other terms used in this
7 section have the same meaning as when used in a similar context in
8 article fourteen-c of this chapter.

9 (c) *Computation of tax due from motor carriers.* -- Every
10 person who operates or causes to be operated a motor carrier in
11 this state shall pay the tax imposed by this section on the average
12 wholesale price of all gallons or equivalent gallons of motor fuel
13 used in the operation of ~~any~~ a motor carrier within this state,
14 under the following rules:

15 (1) The total amount of motor fuel used in the operation of
16 the motor carrier within this state is that proportion of the total
17 amount of motor fuel used in ~~any~~ a motor carrier's operations
18 within and without this state, that the total number of miles
19 traveled within this state bears to the total number of miles
20 traveled within and without this state.

21 (2) A motor carrier shall first determine the gross amount of
22 tax due under this section on the average wholesale value,
23 determined under section five, article fourteen-c of this chapter,
24 of ~~all~~ motor fuel used in the operation of the motor carrier within

1 this state during the preceding quarter, as if all gasoline and
2 special fuel had been purchased outside this state.

3 (3) Next, the taxpayer shall determine the total tax paid
4 under article fifteen of this chapter on all motor fuel purchased
5 in this state for use in the operation of the motor carrier.

6 (4) The difference between (2) and (3) is the amount of tax
7 due under this article when (2) is greater than (3), or the amount
8 to be refunded or credited to the motor carrier when (3) is greater
9 than (2), which refund or credit is allowed in the same manner and
10 under the same conditions as a refund or credit is allowed for the
11 tax imposed by article fourteen-a of this chapter.

12 (d) *Return and payment of tax.* -- Tax due under this article
13 on the uses or consumption in this state of motor fuel shall be
14 paid by each taxpayer on or before January 25 , April 25, July 25
15 and October 25 of each year, notwithstanding any provision of this
16 article to the contrary, by check, bank draft, certified check or
17 money order, payable to the Tax Commissioner, for the amount of tax
18 due for the preceding quarter. ~~Provided, That~~ The tax due under
19 this article ~~that comprises~~ comprising the variable component of
20 the tax due under article fourteen-c of this chapter is due on the
21 last day of the month. Every taxpayer shall make and file with his
22 or her remittance, a return showing the information the Tax
23 Commissioner requires. The tax due under this article comprising
24 the variable component of the tax due under article fourteen-c of

1 this chapter on alternative fuel, is due and shall be collected and
2 remitted at the time the tax imposed by section five, article
3 fourteen-c of this chapter is due, collected and remitted.

4 (e) *Compliance.* -- To facilitate ease of administration and
5 compliance by taxpayers, the Tax Commissioner shall require motor
6 carriers liable for the taxes imposed by this article on the use of
7 motor fuel in the operation of motor carriers within this state,
8 and the tax imposed by article fourteen-a of this chapter on such
9 gallons of motor fuel, to file a combined return and make a
10 combined payment of the tax due under this article and article
11 fourteen-a of this chapter on the fuel. In order to encourage use
12 of a combined return and the making of a single payment each
13 quarter for both taxes, the due date of the return and tax due
14 under article fourteen-a of this chapter is the last day of
15 January, April, July and October of each calendar year: Provided,
16 That the Tax Commissioner may prescribe reporting and payment
17 requirements for tax due under this article on alternative fuel
18 which accommodate the due dates and requirements prescribed in this
19 article and article fourteen-c of this chapter, either under a
20 separate return and payment or a combined return and payment,
21 within the discretion of the Tax Commissioner.

22 (f) *Dedication of tax to highways.* -- ~~All~~ Tax collected under
23 the provisions of this section, after deducting the amount of ~~any~~
24 refunds lawfully paid, shall be deposited in the "road fund" in the

1 State Treasurer's office and used only for the purpose of
2 construction, reconstruction, maintenance and repair of highways
3 and payment of principal and interest on state bonds issued for
4 highway purposes.

5 (g) *Construction.* -- The tax imposed by this article on the
6 use of motor fuel in this state ~~is not construed as taxing any~~ does
7 not tax motor fuel which the state is prohibited from taxing under
8 the Constitution of this state or the Constitution or laws of the
9 United States.

10 (h) *Effective date.* -- The provisions of this section take
11 effect January 1, 2004. The provisions of this section enacted
12 during the 2013 legislative session take effect on January 1, 2014.

NOTE: The purpose of this bill is to provide a framework for computation, payment and reporting of the Motor Fuel Excise Tax on alternative fuels.

§11-14C-6a is new; therefore, strike-throughs and underscoring have been omitted.

Strike throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.