

1 HB394
2 175343-3
3 By Representative McCutcheon
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 15-MAR-16

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8 SYNOPSIS: This bill would provide for additional
9 gasoline and diesel fuel excise taxes and would
10 provide for an adjustment to the gasoline and
11 diesel fuel excise tax rates effective in 2019 and
12 again in 2023 and 2027, unless the Legislature
13 adopts a resolution that the adjustment not take
14 place, to bring the excise taxes in line with the
15 average gasoline taxes and fees levied in the four
16 states bordering Alabama. The revenue from the
17 additional taxes would be paid into the Alabama
18 Transportation Safety Fund established in SB180,
19 2016 Regular Session, and would be expended only as
20 authorized in that act.

21 This bill would also prohibit the passage of
22 a local law levying an excise tax on gasoline or
23 diesel fuel unless approved by a local referendum
24 and would allow a local governing body to hold a
25 local referendum on levying a local excise tax on
26 gasoline or diesel fuel at no more than 2 cents per
27 gallon if the Legislature adopts a resolution

1 rejecting an adjustment of the state levy under
2 procedures in the act, with any proceeds from an
3 approved local excise tax paid into a separate fund
4 and expended only as authorized in the Alabama
5 Transportation Safety Fund.

6 This bill would also provide additional fees
7 for private passenger alternative fuel vehicles and
8 commercial alternative fuel vehicles and would
9 require that the fees be paid into the Alabama
10 Transportation Safety Fund and expended only as
11 authorized in that act.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT

16
17 To amend Section 40-17-325, Code of Alabama 1975, as
18 last amended by Act 2015-54, 2015 Regular Session, relating to
19 gasoline and diesel fuel taxes, to provide for an additional
20 gasoline and diesel fuel taxes; to provide for an adjustment
21 of the additional gasoline and diesel fuel tax rate at certain
22 times if certain criteria are met; to provide for the
23 additional gasoline and diesel fuel taxes to be based upon the
24 difference between the Border States Average Gasoline Tax and
25 the Alabama Tax on Gasoline; to prohibit the enactment of
26 local taxes on gasoline or diesel fuel except under certain
27 conditions; and to provide additional fees for private

1 passenger alternative fuel vehicles and commercial alternative
2 fuel vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 40-17-325, Code of Alabama 1975,
5 as last amended by Act 2015-54, 2015 Regular Session, is
6 amended to read as follows:

7 "§40-17-325.

8 "(a) Subject to the exemptions provided for in this
9 article, the tax is imposed on net gallons of motor fuel
10 according to Section 40-17-326 at the following rates:

11 "(1) Eighteen cents (\$.18) per gallon on gasoline,
12 which is comprised of a seven cents (\$.07) excise tax, a
13 supplemental five cents (\$.05) excise tax, and an additional
14 six cent (\$.06) excise tax.

15 "(2) Nineteen cents (\$.19) per gallon on diesel
16 fuel, comprised of a thirteen cents (\$.13) excise tax and an
17 additional six cents (\$.06) excise tax.

18 "(3) Nine and one-half cents per gallon (\$.095) on
19 aviation gasoline and three and one-half cents per gallon
20 (\$.035) on aviation jet fuel when the aviation fuel is sold to
21 a licensed aviation fuel purchaser. Aviation gasoline is to be
22 taxed as gasoline and aviation jet fuel is to be taxed as
23 diesel fuel when not sold to a licensed aviation fuel
24 purchaser.

25 "(b) The motor fuel subject to the excise tax levied
26 by this section shall not be subject to any other excise tax
27 levied by this state.

1 "However, the payment of the motor fuel excise tax
2 levied by this section shall not exempt the seller or importer
3 of fuel from the license fees levied by Section 40-17-174.

4 "(c) For the purposes of this section, the following
5 terms shall have the following meanings:

6 "(1) ALABAMA TAX ON GASOLINE. The Total State Excise
7 Taxes/Fees on Gasoline most recently reported by the American
8 Petroleum Institute for Alabama.

9 "(2) BORDER STATES AVERAGE GASOLINE TAX. The average
10 of the Total State Excise Taxes/Fees on Gasoline most recently
11 reported by the American Petroleum Institute for Georgia,
12 Florida, Mississippi, and Tennessee.

13 "(d) (1) Effective October 1, 2016, there shall be
14 additional excise taxes imposed on gasoline and diesel fuel in
15 an amount equal to the difference between the Border States
16 Average Gasoline Tax and the Alabama Tax on Gasoline as
17 determined under the procedures set out in subsection (e).

18 "(2) The additional gasoline and diesel fuel excise
19 taxes imposed under the act adding this amendatory language
20 shall be collected as provided in Section 40-17-326 and paid
21 into the Alabama Transportation Safety Fund established in
22 SB180, 2016 Regular Session, and distributed and expended only
23 as provided in that act.

24 "(e) (1) No later than July 1, 2016, the department
25 shall calculate the Border States Average Gasoline Tax and the
26 difference between the Border States Average Gasoline Tax and
27 the Alabama Tax on Gasoline, rounded to the nearest penny.

1 "(2) No later than August 1, 2016, the department
2 shall notify the licensees responsible for collection and
3 payment of these excise taxes pursuant to Section 40-17-326 of
4 the rate of any additional gasoline and diesel fuel excise
5 taxes as established herein.

6 "(3) The licensees shall begin collecting and paying
7 the gasoline and diesel fuel excise taxes at the new rates on
8 October 1, 2016.

9 "(f) (1) No later than February 1 in 2019, 2023, and
10 2027, the department shall recalculate the Border States
11 Average Gasoline Tax and the difference between the Border
12 States Average Gasoline Tax and the Alabama Tax on Gasoline,
13 rounded to the nearest penny, and shall notify the Senate Pro
14 Tempore and Speaker of the House of the recalculated rates on
15 the first day of the next Regular Session.

16 "(2) In the event an upward or downward adjustment
17 of the gasoline and diesel fuel excise taxes imposed in
18 subsection (d) is warranted by the department's recalculation,
19 any change in rate of the gasoline and diesel fuel excise
20 taxes shall take effect on October 1, 2019, unless during the
21 2019 Regular Session of the Legislature, a joint resolution is
22 adopted by the Legislature to continue imposing the rate of
23 gasoline and diesel fuel excise taxes at the rate effective
24 October 1, 2016.

25 "(3) The process for recalculation by the department
26 set out in this subsection shall be repeated in 2023 and 2027,
27 and any upward or downward adjustment in gasoline and diesel

1 fuel excise taxes warranted by the department's recalculation
2 shall take effect on the following October 1, unless a joint
3 resolution is adopted by the Legislature during the Regular
4 Session of 2023 or 2027 to continue imposing the rate of
5 gasoline and diesel fuel excise taxes in effect at the time
6 the resolution is adopted. After October 1, 2027, no further
7 adjustments in the gasoline and diesel fuel excise taxes shall
8 take effect, except by separate act of the Legislature.

9 "(g) Any additional gasoline and diesel fuel excise
10 taxes imposed pursuant to the act adding this amendatory
11 language shall be collected as provided in Section 40-17-326
12 and paid into the Alabama Transportation Safety Fund
13 established in SB180, 2016 Regular Session and distributed and
14 expended only as provided in that act."

15 Section 2. (a) Except as otherwise provided in this
16 section, the Legislature shall not enact any local law
17 authorizing the levy of a local excise tax on gasoline or
18 diesel fuel on and after the effective date of this act,
19 unless the authority to levy is approved by a majority of
20 qualified electors in a referendum conducted in accordance
21 with the election laws of the state and held in conjunction
22 with a scheduled primary or general election or in conjunction
23 with a special election held for another purpose in the
24 jurisdiction.

25 (b) If the legislature adopts a joint resolution to
26 not adjust the gasoline or diesel fuel tax rate following the
27 recalculation of the Border States Average Gasoline Tax as

1 provided in Section 40-17-325(f), Code of Alabama 1975, the
2 local governing body may place the question of the authority
3 to levy a local gasoline or diesel fuel excise tax not to
4 exceed two cents (\$0.02) per gallon on the next general
5 election ballot for statewide offices.

6 (c) If the authority to levy a local gasoline or
7 diesel fuel excise tax is approved by such referendum, the
8 resulting revenue shall be deposited by the local government
9 into a separate fund and expended only for projects authorized
10 in Section 4 of SB180, 2016 Regular Session, and all
11 expenditures shall be subject to the requirements and
12 restrictions of Section 4 of that act.

13 Section 3. (a) Effective January 1, 2017, in
14 addition to any other license tax or registration fee levied
15 pursuant to Chapter 6, Title 32 or Chapter 12, Title 40, Code
16 of Alabama 1975, there shall be an additional annual fee of
17 one hundred dollars (\$100) for each private passenger
18 alternative fuel vehicle and an additional annual fee of one
19 hundred fifty dollars (\$150) for each commercial alternative
20 fuel vehicle. The additional fee levied herein shall be
21 collected pursuant to Chapter 12, Title 40, Code of Alabama
22 1975, and paid into the Alabama Transportation Safety Fund
23 established in SB180, 2016 Regular Session, and distributed
24 and expended only as provided in that act.

25 (b) For the purposes of this section, the following
26 terms shall have the following meanings:

1 (1) ALTERNATIVE FUEL VEHICLE. A vehicle that runs on
2 natural gas or any fuel other than gasoline or diesel fuel or
3 operates pursuant to any technology of powering an engine that
4 does not involve solely petroleum; which includes, but is not
5 limited to, an electric vehicle, hybrid electric vehicle, or
6 solar powered vehicle. The term does not include any vehicle
7 that is not registered for operation on public roads or
8 highways.

9 (2) COMMERCIAL ALTERNATIVE FUEL VEHICLE. A
10 commercial motor vehicle as defined in Section 32-6-49.3, Code
11 of Alabama 1975, that runs or operates on one of the methods
12 described in subdivision (1).

13 (3) PASSENGER ALTERNATIVE FUEL VEHICLE. A private
14 passenger automobile as defined in Section 40-12-240(18), Code
15 of Alabama 1975, that runs or operates on one of the methods
16 described in subdivision (1).

17 Section 4. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law, and shall only be
20 implemented upon the passage of SB180, 2016 Regular Session.