STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2208 By: Cotner, Ferguson and Maddux

AS INTRODUCED

An Act relating to motor fuels; providing short title; providing legislative intent and purpose; providing definitions; revising and incorporating tax on gasoline, diesel and certain other fuels; providing intent of tax levying section; providing for certain presumption and rebuttable presumption; providing for apportionment of gasoline tax; providing for apportionment of diesel fuel tax; specifying measurement of tax on importer gallons and supplier gallons; providing procedure for taxation of motor fuel held in inventory on date of increase in tax rate; providing exemptions from motor fuels tax; prescribing conditions and procedures for perfecting exemption for exports; providing for regulations for exempt use of kerosene; providing procedures for tax exempt sales of motor fuel to certain governmental entities; providing for government exempt bulk sales permit and establishing conditions for use of the permit; providing for refund to ultimate vendor for certain sales; establishing procedures for refund for certain exempt users; providing procedures for perfecting certain exemptions for suppliers, tank

wagon importers and importers; specifying procedures for certain exempt users for claiming a refund; permitting Oklahoma Tax Commission to make certain investigations before refunding motor fuel tax; permitting supplier to claim a credit in lieu of refund; providing for refund within certain time period; providing for interest on refunds not issued within certain time period; specifying procedures for payment of tax by licensed occasional importer and licensed bonded importer on certain imported motor fuel; providing for joint liability between supplier and importer under certain election; providing for remittance of motor fuel tax on behalf of importer; permitting licensed supplier or licensed permissive supplier to make certain election regarding fuel removals from out-of-state terminals; requiring certain notice of elections; providing for precollection of tax under certain election; providing for waiver of certain defenses by certain suppliers; requiring motor fuel tax to be precollected and remitted by the supplier; requiring certain list by supplier; requiring taxes to be paid by certain date; providing for late remittances; providing for joint and several liability of terminal operator and remittance of tax under certain conditions; requiring supplier and bonded importer to precollect and remit motor fuel tax from purchaser; permitting certain election by eligible purchaser to pay motor fuel tax on certain day; providing for payment of taxes based on certain percentage; providing for payment by electronic funds transfer

on or before certain day; establishing qualifications for eligible purchasers; permitting Oklahoma Tax Commission to require surety bond from certain purchasers; exempting certain purchasers from certain qualifications; permitting certain distributors to become eligible purchasers; authorizing Oklahoma Tax Commission to rescind certain eligibility and election status upon hearing; permitting supplier certain credit for uncollectible taxes; requiring certain notice; providing for adoption of certain rules; requiring certain information and procedures for claiming credit; providing for remittance of motor fuel tax by licensed tank wagon operator-importer; providing for remittance of certain percentage amount; requiring remittance of motor fuel taxes by electronic funds transfer; permitting suppliers and permissive suppliers certain retainage for administrative costs; providing for collection of motor fuel taxes from consumer under certain circumstances; providing for joint and several liability of ultimate vendor; establishing procedures for payment of motor fuel taxes and refund for certain fuel diverted by an exporter; providing for certain reports; providing for payment or refund when multi-state compact entered into; providing procedures for payment of motor fuel taxes by certain vendors ineligible for certain status; providing for certain deferred payments; requiring certain persons blending untaxed materials with taxed fuels to remit tax within certain time period; authorizing Oklahoma

Tax Commission to provide for payment of tax by certain persons importing motor fuel in tank wagons; providing for certain licenses; providing certain exemptions from certain licenses; specifying procedures for application for licenses; authorizing the Oklahoma Tax Commission to investigate applicants; prohibiting licenses under certain conditions; requiring certain applicants to submit fingerprints; requiring applicants to submit certain surety bond or cash deposit; requiring bond to meet certain qualifications; allowing Oklahoma Tax Commission to require certain financial statements and permitting certain inquiry; requiring new bond under certain circumstances; providing for release of existing bond and establishing procedure therefor; providing for issuance of licenses; providing for nontransferability of licenses; requiring display of license; providing for notice and surrender of license; providing for reports and specifying information to be filed by supplier; providing for statement of operations and information therein to be filed by licensed occasional importer and licensed bonded importer; requiring licensed tank wagon importer to file certain statement of operation; providing penalty for certain violation; requiring terminal operators to file certain statement of operations and providing information to be included in statement; requiring licensee to maintain certain inventory records; providing for certain report by terminal operator outside of state; providing for final report and payment of

tax by licensee upon termination of business or cancellation of license; providing for termination of certain licenses; granting certain former licensees opportunity to apply for eligible purchaser status; providing for monthly exporter reports and specifying information for the reports; providing for monthly licensed transporter reports; providing for penalty for failure to make report; establishing procedures for payment of tax by consumer; requiring refinery, terminal or bulk plant operator to prepare and provide certain shipping documents and establishing information for the shipping documents; providing for manual preparation of shipping documents under certain circumstances and providing procedure therefor; exempting certain bulk plant operator from shipping document requirements; requiring documentation for certain split loads; requiring certain terminal operator notice; providing penalty; requiring persons transporting fuel to carry and follow information contained in certain documents on board; requiring certain shipping documents to be provided to certain outlets where delivery made; requiring retention of shipping documents by certain operators for certain time period; prohibiting certain operators from accepting delivery of motor fuel without certain shipping paper; providing penalties; providing for promulgation of rules for certain diverted motor fuel; requiring rules to include certain provisions; permitting supplier and terminal operator to rely on certain representations by

transporter, shipper or agent of shipper; providing for joint liability; permitting terminal operator to rely on certain representation of supplier; prohibiting sale or delivery of motor fuel in this state without payment of taxes; providing exceptions; providing penalties; prohibiting operation of motor fuel transport truck without certain shipping paper; requiring certain notations on shipping paper; providing certain exemption for licensed importer; providing for certain advance notification; providing penalties; permitting Oklahoma Tax Commission to seize, confiscate and dispose of certain motor fuel; providing certain conditions for license importers prior to bringing certain fuel into state; providing penalties; permitting Oklahoma Tax Commission to seize, confiscate and dispose of certain motor fuel; prohibiting export of motor fuel without certain license or without taxes paid; providing exemption; providing penalties; prohibiting use of dyed fuel on public highways; providing exceptions; providing penalties; prohibiting certain business activity without license; providing penalty; prohibiting sale or use of motor fuel which does not meet certain standards; providing penalty; prohibiting certain statements from being printed on shipping papers; providing penalties; providing for joint liability; requiring certain notice to be provided and posted; requiring certain operators of motor fuel dispenser equipment to provide certain metering devises and to maintain records; prohibiting any tampering with metering equipment;

providing penalty; requiring shipping paper to meet certain tamper-resistant standards; providing limitation on certain regulations; prohibiting operation of tank wagon without certain registration; providing for exemption from tank wagon registration requirements; prohibiting sale or use of dyed diesel fuel under certain circumstances; prohibiting evasion of motor fuel tax or altering dyed diesel fuel; providing for joint and several liability of certain entities, officers and employees; providing for liability and penalty of uncollected tax; providing for penalty for failing or withholding motor fuel tax; providing for penalty for certain truck drivers; providing for penalty for filing false or fraudulent return; providing for civil penalty for transporting motor fuel without adequate shipping papers; providing for civil penalty for export sales without collecting certain tax; providing for civil penalty for terminal operators failing to meet shipping paper requirements; providing for civil penalty for sale or use of dyed diesel fuel; providing for civil penalty for importing certain fuel without certain licenses or verification number; providing for impoundment, seizure and sale of vehicle and cargo upon violation of certain shipping paper requirements; providing for presumption of certain evidence when certain shipping paper requirements not met; permitting the Oklahoma Tax Commission or appointees to conduct certain inspections; establishing parameters of inspections; permitting Department of Public Safety

and other motor carrier inspectors to conduct certain inspections; permitting inspectors to detain certain persons under certain circumstances; authorizing the Oklahoma Tax Commission to audit and examine certain books and records; providing penalty for refusing certain inspection; amending 68 O.S. 1991, Section 1363, which relates to classification of vendors; modifying group five vendors; amending 17 O.S. 1991, Sections 354, as last amended by Section 23, Chapter 285, O.S.L. 1995, and 355 (17 O.S. Supp. 1995, Section 354), which relate to the Oklahoma Petroleum Storage Tank Release Indemnity Program; modifying language regarding assessment of certain fee; deleting reference to sales between distributors; adding certain exemptions from assessment; updating statutory references; modifying persons to which certain notice to be given; deleting certain references to distributor and replacing with supplier, licensed importer or other appropriate person; modifying certain exempt entities for which a credit may be obtained; modifying collection procedures and persons required to collect certain assessment; modifying persons required to make and submit certain report and modifying certain information in report; modifying persons required to keep and preserve certain records; modifying persons subject to certain penalty; repealing 68 O.S. 1991, Sections 501, as amended by Section 32, Chapter 366, O.S.L. 1993, 502, 502.1, 502.2, 502.3, 502.4, as amended by Section 1, Chapter 114, O.S.L. 1995, 502.5, as amended by Section 2, Chapter 114,

O.S.L. 1995, 502.6, 502.7, 504, as last amended by Section 1, Chapter 241, O.S.L. 1994, 504.1, 505, as amended by Section 16, Chapter 146, O.S.L. 1993, 506, 507, 508, 509, as last amended by Section 7, Chapter 258, O.S.L. 1994, Section 18, Chapter 146, O.S.L. 1993, 510, as amended by Section 33, Chapter 366, O.S.L. 1993, 510.1, as amended by Section 1, Chapter 33, O.S.L. 1994, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 522.1, 523, 523.1, 524, 525, 526, 527, as amended by Section 1, Chapter 300, O.S.L. 1992, 530 and 531 (68 O.S. Supp. 1995, Sections 501, 502.4, 502.5, 504, 505, 509, 509.2, 510, 510.1 and 527), which relate to the Motor Fuel Tax Code; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 65 of this act shall be known and may be cited as the "Motor Fuel Tax Code".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. It is the intent of this act to amend, revise, incorporate and recodify established revenue raising procedures applied to motor fuels for the construction and maintenance of safe public highways and bridges in this state. It is the intent of the Legislature that the taxes imposed on motor fuel have always been and continue to be

declared and conclusively presumed to be a direct tax on the ultimate or retail consumer. When the taxes are paid by any person other than the ultimate or retail consumer, the payment shall be considered as precollected and as an advance payment for the purpose of convenience and facility to the consumer and shall thereafter be added to the price of the motor fuel and recovered from the ultimate or retail consumer, regardless of where or how the taxable fuel is ultimately consumed.

B. In order to promote and protect the public safety, health and welfare of this state, it is also the intent of this act to establish a modern, efficient and effective motor fuel tax collection and enforcement system adequate to substantially deter motor fuel tax evasion emanating from sources within and outside this state. In order to achieve the purpose and intent of this act, the Legislature finds it necessary to increase conformity with federal law concerning the imposition of tax on motor fuels and increased reliance on highway enforcement systems. This act is intended to conform the method in this state of imposing an excise tax on motor fuel with the method imposed in the Internal Revenue Code and the regulations issued pursuant thereto.

C. It is also the intent of the Legislature that the recodification of the tax levied by this act shall not be considered and construed to be a new tax or change in the motor fuel tax, but a clarification of the motor fuel tax as it existed prior to the effective date of this act. The purpose of this recodification is a result of the interpretation of the motor fuel tax code of this state by the federal courts, specifically the decision by the Supreme Court of the United States in "Oklahoma Tax Commission v. Chickasaw Nation", 115 S. Ct. 2214 (1995).

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.3 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Act" or "this act" means the Motor Fuel Tax Code;

2. "Agricultural purposes" means clearing, terracing or otherwise preparing the ground on a farm; preparing soil for planting and fertilizing, cultivating, raising and harvesting crops; raising and feeding livestock and poultry; building fences; pumping water for any and all uses on the farm, including irrigation; building roads upon any farm by the owner or person farming same; operating milking machines; sawing wood for use on a farm; producing electricity for use on a farm; movement of tractors, farm implements and equipment from one field to another and use of farm tractors to move farm products from farm to market;

3. "Blend stock" means any petroleum product component of gasoline, such as naphtha, reformate, or toluene, that can be blended for use in a motor fuel without further processing. However, the term does not include any substance that:

a. will be ultimately used for consumer nonmotor-fuel use, and

b. is sold or removed in drum quantities (55 gallons) or less at the time of the removal or sale;

4. "Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle. This term includes gasohol, ethanol and fuel grade ethanol;

5. "Blender" means any person that produces blended motor fuel outside the bulk transfer/terminal system;

6. "Blending" means the mixing of one or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use or otherwise sold for use in the generation of power for the propulsion of a motor vehicle, an

airplane, or a motorboat. The term does not include that blending that occurs in the process of refining by the original refiner of crude petroleum or the blending or products known as lubricating oil and greases;

7. "Bulk end user" means a person who receives into the person's own storage facilities in transport truck lots of motor fuel for the person's own consumption;

8. "Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack;

9. "Bulk transfer" means any transfer of motor fuel from one location to another by pipeline tender or marine delivery within the bulk transfer/terminal system;

10. "Bulk transfer/terminal system" means the motor fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Gasoline in a refinery, pipeline, vessel, or terminal is in the bulk transfer/terminal system. Motor fuel in the fuel supply tank of any engine, or in any tank car, rail car, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system;

11. "Tax Commission" or "Commission" means the Oklahoma Tax Commission;

12. "Consumer" means the user of the motor fuel on the public highways of this state;

13. "Dead storage" means the amount of motor fuel that will not be pumped out of a storage tank because the motor fuel is below the mouth of the draw pipe. For purposes of this act, a dealer may assume that the amount of motor fuel in dead storage is two hundred (200) gallons for a tank with a capacity of less than ten thousand (10,000) gallons and four hundred (400) gallons for a tank with a capacity of ten thousand (10,000) gallons or more;

14. "Delivery" means the placing of motor fuel or any liquid into the fuel tank of a motor vehicle;

15. "Destination state" means the state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose of resale or use;

16. "Diesel fuel" means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. Except as provided in subsection B of Section 4 of this act, "diesel fuel" does not include jet fuel sold to a buyer who is registered and certified to purchase jet fuel subject to the Internal Revenue Service;

17. "Diesel-powered highway vehicle" means a motor vehicle operated on a highway that is propelled by a diesel-powered engine;

18. "Distributor" means a person who acquires motor fuel from a supplier or from another distributor for subsequent sale or use;

19. "Dyed diesel fuel" means diesel fuel that is required to be dyed pursuant to United States Environmental Protection Agency rules or is dyed pursuant to Internal Revenue Service rules or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or Internal Revenue Service including any invisible marker requirements;

20. "Eligible purchaser" means a person who has been authorized by the Commission pursuant to Section 23 of this act to make the election pursuant to Section 22 of this act;

21. "Enterer" includes any person who is the importer of record, pursuant to federal customs law, with respect to motor fuel. If the importer of record is acting as an agent, the person for whom the agent is acting is the enterer. If there is no importer of

record of motor fuel entered into this state, the owner of the motor fuel at the time it is brought into this state is the enterer;

22. "Entry" means the importing of motor fuel into this state. Motor fuel brought into this state in the fuel tank of a motor vehicle shall not be deemed to be an "entry" if not removed from the fuel tank except as used for the propulsion of that motor vehicle, except to the extent that motor fuel was acquired tax free for export or a refund of tax was claimed as a result of exportation from the state from which that motor fuel was transported into this state;

23. "Export" means to obtain motor fuel in this state for sale or other distribution in another state. In applying this definition, motor fuel delivered out of state by or for the seller constitutes an export by the seller and motor fuel delivered out of state by or for the purchaser constitutes an export by the purchaser;

24. "Exporter" means any person, other than a supplier, who purchases motor fuel in this state for the purpose of transporting or delivering the fuel to another state or country;

25. "Farm tractor" means all tractor-type, motorized farm implements and equipment but shall not include motor vehicles of the truck-type, pickup truck-type, automobiles, and other motor vehicles required to be registered and licensed each year pursuant to the provisions of the motor vehicle license and registration laws of this state;

26. "Fuel transportation vehicle" means any vehicle designed for highway use which is also designed or used to transport motor fuels and includes transport trucks and tank wagons;

27. "Gasoline" means all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. Gasoline does not include products that have an American Society for Testing Materials ("A.S.T.M.") octane number of less than seventy-

five (75) as determined by the "motor method". Except as provided in subsection B of Section 4 of this act, "gasoline" does not include aviation gasoline provided that the buyer is registered to purchase aviation gasoline free of tax and the seller obtains certification of such fact satisfactory to the Commission prior to making the sale;

28. "Gasoline blend stocks" includes any petroleum product component of gasoline, such as naphtha, reformate, or toluene, that can be blended for use in a motor fuel. The term shall not include any substance that will be ultimately used for consumer nonmotor-fuel use and is sold or removed in drum quantities of 55 gallons or less at the time of the removal or sale;

29. "Gross gallons" means the total measured motor fuel, exclusive of any temperature or pressure adjustments, in U.S. gallons;

30. "Heating oil" means a motor fuel that is burned in a boiler, furnace, or stove for heating or industrial processing purposes;

31. "Highway vehicle" means a self-propelled vehicle that is designed for use on a highway;

32. "Import" means to bring motor fuel into this state by any means of conveyance other than in the fuel supply tank of a motor vehicle. In applying this definition, motor fuel delivered into this state from out of state by or for the seller constitutes an import by the seller, and motor fuel delivered into this state from out of state by or for the purchaser constitutes an import by the purchaser;

33. "Import verification number" means the number assigned by the Commission with respect to a single transport truck delivery into this state from another state upon request for an assigned number by an importer or the transporter carrying motor fuel into this state for the account of an importer;

34. "In this state" means the area within the border of this state, including all territories within the borders owned by the United States of America;

35. "Invoiced gallons" means the gallons actually billed on an invoice in payment to a supplier;

36. "K-1 kerosene" means a petroleum product having an A.P.I. gravity of not less than forty degrees (40°), at a temperature of sixty degrees (60°) Fahrenheit and a minimum flash point of one hundred degrees (100°) Fahrenheit;

37. "Liquid" means any substance that is liquid in excess of sixty degrees (60°) Fahrenheit and a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute;

38. "Motor fuel" means gasoline, diesel fuel and blended fuel;

39. "Motor fuel transporter" means a person who transports motor fuel outside the bulk terminal/transfer system by transport truck or railroad tank car;

40. "Motor vehicle" means every automobile, truck, truck-tractor or any motor bus or self-propelled vehicle not operated or driven upon fixed rails or tracks. The term does not include:

a. farm tractors or machinery including tractors and machinery designed for off-road use but capable of movement on roads at low speeds,

b. a vehicle operated on rails, or

c. machinery designed principally for off-road use;

41. "Net gallons" means the motor fuel, measured in U.S. gallons, when corrected to a temperature of sixty degrees (60°) Fahrenheit (13° Celsius) and a pressure of fourteen and seven-tenths (14.7) pounds per square inch (psi);

42. "Permissive supplier" means an out-of-state supplier that elects, but is not required, to have a supplier's license pursuant to this act;

43. "Person" means natural persons, individuals, partnerships, firms, associations, corporations, estates, trustees, business trusts, syndicates, this state, any county, city, municipality, school district or other political subdivision of the state, federally recognized Indian tribe, or any corporation or combination acting as a unit or any receiver appointed by any state or federal court;

44. "Position holder" means the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal;

45. "Public highway" means every road, toll road, highway, street, way or place generally open to the use of the public as a matter of right for the purposes of vehicular travel, including streets and alleys of any town or city notwithstanding that the same may be temporarily closed for construction, reconstruction, maintenance or repair;

46. "Qualified terminal" means a terminal designated as a qualified terminal pursuant to the Internal Revenue Code, regulation and practices and which has been assigned a terminal control number ("tcn") by the Internal Revenue Service;

47. "Rack" means a mechanism for delivering motor fuel from a refinery, a terminal, or a bulk plant into a railroad tank car, a transport truck or other means of bulk transfer outside of the bulk transfer/terminal system;

48. "Refiner" means any person that owns, operates, or otherwise controls a refinery within the United States;

49. "Refinery" means a facility used to produce motor fuel from crude oil, unfinished oils, natural gas liquids, or other

hydrocarbons and from which motor fuel may be removed by pipeline, by vessel, or at a rack;

50. "Removal" means any physical transfer other than by evaporation, loss, or destruction of motor fuel from a terminal, manufacturing plant, customs custody, pipeline, marine vessel such as a barge or tanker, refinery or any receptacle that stores motor fuel;

51. "Retailer" means a person that engages in the business of selling or distributing to the consumer within this state;

52. "Supplier" means a person that is:

a. subject to the general taxing jurisdiction of this state,

b. registered pursuant to Section 4101 of the Internal Revenue Code for transactions in motor fuels in the bulk transfer/terminal distribution system, and

c. one of the following:

(1) the position holder in a terminal or refinery in this state,

(2) imports motor fuel into this state from a foreign country,

(3) acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to a two-party exchange, or

(4) the position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state on the account of that person.

A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal. "Supplier" also means a person that produces alcohol or alcohol derivative substances in this state, produces alcohol or alcohol derivative substances for import to this

state into a terminal, or acquires upon import by truck, railcar or barge into a terminal or refinery, alcohol or alcohol derivative substances. "Supplier" includes a permissive supplier unless specifically provided otherwise;

53. "Tank wagon" means a straight truck having multiple compartments designed or used to carry motor fuel;

54. "Terminal" means a storage and distribution facility for motor fuel, supplied by pipeline or marine vessel which is registered as a qualified terminal by the Internal Revenue Service and from which motor fuel may be removed at a rack;

55. "Terminal bulk transfers" include but are not limited to the following:

a. a marine barge movement of fuel from a refinery or terminal to a terminal,

b. pipeline movements of fuel from a refinery or terminal to a terminal,

c. book transfers of product within a terminal between suppliers prior to completion of removal across the rack, and

d. two-party exchanges between licensed suppliers;

56. "Terminal operator" means any person that owns, operates, or otherwise controls a terminal, and does not use a substantial portion of the motor fuel that is transferred through or stored in the terminal for its own use or consumption or in the manufacture of products other than motor fuel. A terminal operator may own the motor fuel that is transferred through or stored in the terminal;

57. "Throughputter" means any person that:

a. receives transfer of motor fuel from refiners, importers, terminal operators, or other throughputters,

b. stores the motor fuel in a terminal, and

c. owns the motor fuel or holds the inventory position to the motor fuel, as reflected on the records of the terminal operator, at the time of removal or sale from a terminal;

58. "Transmix" means the buffer or interface between two different products in a pipeline shipment, or a mix of two different products within a refinery or terminal that results in an off-grade mixture;

59. "Transport truck" means a semitrailer combination rig designed or used for the purpose of transporting motor fuel over the highways;

60. "Transporter" means any operator of a pipeline, barge, railroad or transport truck engaged in the business of transporting motor fuels;

61. "Two-party exchange" means a transaction in which the motor fuel is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier and:

a. which transaction includes a transfer from the person that holds the original inventory position for motor fuel in the terminal as reflected on the records of the terminal operator, and

b. the exchange transaction is completed prior to removal from the terminal by the receiving exchange partner.

However, in any event, the terminal operator in the books and records of such terminal operator treats the receiving exchange party as the supplier which removes the product across a terminal rack for purposes of reporting such events to this state;

62. "Ultimate vendor" means a person that sells motor fuel to the consumer;

63. "Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental Projection Agency dyeing

requirements, or has not been dyed in accordance with Internal Revenue Service fuel dyeing provisions;

64. "Vehicle fuel tank" means any receptacle on a motor vehicle from which fuel is supplied for the propulsion of the motor vehicle; and

65. "Wholesaler" means a person that acquires motor fuel from a supplier or from another wholesaler for subsequent sale and distribution at wholesale.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.4 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. A tax is imposed on all gasoline and all diesel fuel used or consumed in this state as follows:

1. Gasoline, sixteen cents ($0.16) per gallon; and

2. Diesel fuel, thirteen cents ($0.13) per gallon.

B. A tax is imposed on all gasoline, diesel fuel and kerosene used or consumed in this state for use as fuel to generate power in aircraft engines or for training, testing or research on aircraft engines in the amount of eight one-hundredths of one cent ($0.0008) per gallon. All gasoline, diesel fuel and kerosene sold for use under this subsection shall not be subject to the excise tax levied in subsection A of this section.

C. It is the intent of this section to amend, revise, incorporate and recodify the tax imposed on motor fuel and that the tax shall be conclusively presumed to be a direct tax on the retail or ultimate consumer precollected for the purpose of convenience and facility to the consumer. The levy and assessment on other persons as specified in this act shall be as agents of the state for the precollection of the tax. The provisions of this section shall in no way affect the method of collecting the tax as provided in this act. The tax imposed by this section shall be collected and paid at

those times, in the manner, and by those persons specified in this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.5 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in paragraph 12 of Section 10 of this act, the Commission shall consider it a presumption that all motor fuel delivered in this state into a motor vehicle fuel supply tank is to be used or consumed on the highways in this state in producing or generating power for propelling motor vehicles.

B. The Commission shall consider it a rebuttable presumption, subject to proof of exemption under Section 10 of this act, that all motor fuel removed from a terminal in this state, or imported into this state other than by a bulk transfer within the bulk transfer/terminal system or delivered into a bulk end user's storage tank, is to be used or consumed on the highways in this state in producing or generating power for propelling motor vehicles.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.6 of Title 68, unless there is created a duplication in numbering, reads as follows:

The tax of sixteen cents ($0.16) per gallon of gasoline that is levied by Section 4 of this act, and penalties and interest thereon, collected by the Commission under the levy shall be apportioned and distributed monthly as follows:

1. One and sixty-three one-hundredths percent (1.63%) of the levy shall be remitted to the State Treasurer to the credit of the General Revenue Fund of the State Treasury;

2. Sixty-three and seventy-five one-hundredths percent (63.75%) of the levy shall be deposited in the State Treasury to the credit of the State Transportation Fund to be apportioned as follows:

a. the first Eight Hundred Fifty Thousand Dollars ($850,000.00) collected each fiscal year shall be

deposited into the Public Transit Revolving Fund, created in Section 4031 of Title 69 of the Oklahoma Statutes,

b. the second Eight Hundred Fifty Thousand Dollars ($850,000.00) collected each fiscal year shall be deposited into the Railroad Maintenance Revolving Fund and shall be used by the Department of Transportation to contract railroad passenger services, including but not limited to a route linking stations in Oklahoma and Tulsa Counties with other primary points in the national railroad passenger system and to provide necessary facility, signaling, and track improvements for those contracted services,

c. forty-one and two-tenths percent (41.2%) of the monies apportioned to the State Transportation Fund shall be used for any purpose provided for in Section 1502 of Title 69 of the Oklahoma Statutes,

d. nine and eight-tenths percent (9.8%) of the monies apportioned to the State Transportation Fund shall be used to provide funds for the construction and maintenance of farm-to-market roads on the state highway system, and other rural farm-to-market roads and bridges, and

e. any remaining amount of the apportionment shall be deposited into the State Transportation Fund;

3. Twenty-three and eighty-eight one-hundredths percent (23.88%) of the levy shall be transmitted by the Commission to the various counties of the state, to be apportioned and used as follows:

a. thirty-four and five-tenths percent (34.5%) of the monies apportioned under this paragraph shall be used on the following basis:

(1) forty percent (40%) of such sum shall be distributed to the various counties in the proportion which the county road mileage of each county bears to the entire state road mileage as certified by the State Transportation Commission, and

(2) the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census.

The funds so transmitted shall be sent to the respective county treasurers and deposited in the county highway fund of their respective counties to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. No part of the fund shall be used for any purpose other than the construction and maintenance of county or township highways and permanent bridges in the county receiving the fund. The funds received by any county shall not be diverted to any other county of the state, but the funds shall be expended only under the direction and control of the board of county commissioners in the county to which the funds are apportioned. If any part of the funds is diverted for any purpose other than is provided herein, the county commissioners shall be liable on their bond for double the amount of money so diverted. However, where any

state or county highway has been laid out over a road already constructed in any county by the use of money raised from county or township bond issues for the purpose either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided herein, an amount of money equal to the value of any part thereof, of the interest of such county or township, or both, in and to such highway or highways, bridge or bridges, so constituting a part of the state highway system, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest thereon of the county, or township, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

Each county shall use not less than fifty percent (50%) of the monies apportioned to it for the construction, improvement or repair of highways under the provisions of this article, or for the purpose of participating in or sponsoring federal projects for the building or maintenance of roads, bridges or culverts, and it shall be the mandatory duty of the county excise board to appropriate the funds for such purpose,

b. thirteen and one-tenth percent (13.1%) of the monies apportioned under this paragraph shall be distributed as follows:

Forty percent (40%) of such sum shall be distributed to the various counties in that proportion, which the county road mileage of each county bears to the entire

state road mileage as certified by the Transportation Commission, and the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state.

The population shall be shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census. The funds so transmitted shall be sent to the respective county treasurers and deposited in the county highway fund of the respective counties, to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. In all counties where the county excise board of any county may find it necessary, because of insufficient revenue to maintain city and county government of such county out of the general fund, after a levy of ten (10) mills has been made for any fiscal year, the county excise board may appropriate out of any such funds apportioned to the county an amount sufficient to pay the salaries of the county commissioners of the county for the fiscal year,

c. twenty-six and two-tenths percent (26.2%) of the monies apportioned under this paragraph shall be distributed to the counties in the following manner: One-third (1/3) on area; one-third (1/3) on rural population, defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal Decennial Census; and one-third (1/3) on county road

mileage, as last certified by the Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state. When federal funds are available for assistance in constructing county roads, the funds herein provided, when distributed and deposited in the county highway fund, are authorized to be used by the boards of county commissioners, by majority action thereof, in matching such federal funds on any county highway, and for the purpose of securing such federal assistance, the boards of county commissioners, by majority action thereof, are authorized to enter into agreements with the federal government through the Transportation Commission and deposit, from the proceeds of the tax levied by Section 4 of this act, cash with the Transportation Commission necessary to fulfill the agreement, for the extension of the present Federal Aid Farm-to-Market System, or for the creation of new federal systems, and to enter into such other contracts and agreements as may be necessary to secure federal assistance in the construction or improvement of any county road, and

d. twenty-six and two-tenths percent (26.2%) of the monies apportioned under this paragraph shall be distributed to the various counties in the following manner: thirty percent (30%) based upon area, thirty percent (30%) based upon population according to the latest Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census, and forty percent (40%) based upon county road mileage on the basis which the respective area, population and county road mileage of each county bear

to the total area, population and county road mileage of the state. The funds so transmitted shall be sent to the respective county treasurers and by them deposited in the county highway fund to be used by the board of county commissioners for the purpose of construction, repair and maintenance of county roads and highways;

4. Six and twenty-five one-hundredths percent (6.25%) of the levy shall be deposited in the County Road Improvement Revolving Fund of the State Treasury to be used for the purposes set forth in the County Road Improvement Act;

5. Two and sixty-three one-hundredths percent (2.63%) of the levy shall be deposited in the County Bridge Improvement Fund of the State Treasury to be used for the purposes set forth in the County Bridge Improvement Act; and

6. One and eighty-eight one-hundredths percent (1.88%) of the levy shall be transmitted by the Commission to the treasurers of the various incorporated cities and towns of the state in the percentage which the population, as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census, bears to the total population of all the incorporated cities and towns in this state. The funds shall be expended for the construction, repair and maintenance of the streets and alleys of the incorporated cities and towns of this state.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.7 of Title 68, unless there is created a duplication in numbering, reads as follows:

The tax of thirteen cents ($0.13) per gallon of diesel fuel that is levied by Section 4 of this act, and all penalties and interest thereon, collected by the Commission under the levy shall be apportioned and distributed monthly as follows:

1. One and thirty-nine one-hundredths percent (1.39%) of the levy shall be paid by the Commission to the State Treasurer to the credit of the General Revenue Fund of the State Treasury;

2. Sixty-four and thirty-four one-hundredths percent (64.34%) of the levy shall be deposited in the State Treasury to the credit of the State Transportation Fund;

3. Twenty-six and fifty-eight one-hundredths percent (26.58%) of the levy shall be transmitted by the Commission to various counties of the state and deposited by the county treasurers in the county highway fund to be used by the board of county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in the counties, to be apportioned as follows:

a. fifty-one and five-tenths percent (51.5%) of the monies apportioned under this paragraph shall be transmitted to the various counties in the percentage which the population and area of each county bears to the population and area of the entire state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census. The funds so transmitted shall be sent to the respective county treasurers and deposited in the county highway fund of their respective counties to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. No part of the fund shall be used for any purpose other than the construction and maintenance of county or township highways and permanent bridges in the county receiving the fund. The funds received by any county shall not thereafter be diverted to any other county of the state, but the

funds shall be expended only under the direction and control of the board of county commissioners in the county to which the funds are apportioned. If any part of the funds is diverted for any purpose other than is provided herein, the county commissioners shall be liable on their bond for double the amount of money so diverted. However, where any state or county highway has been laid out over a road already constructed in any county by the use of money raised from county or township bonds issued for the purpose either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided herein, an amount of money equal to the value of any part thereof, of the interest of such county or township or both, in and to such highway or highways, bridge or bridges so constituting a part of the state highway system, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest thereon of the county or township, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money,

b. sixteen percent (16%) of the monies apportioned under this paragraph shall be distributed as follows: Forty percent (40%) of such sum shall be distributed to the various counties in that proportion which the county road mileage of each county bears to the entire state road mileage as certified by the Transportation Commission, and the remaining sixty percent (60%) of such sum shall be distributed to the various counties

on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census. In all counties where the county excise board of any county may find it necessary, because of insufficient revenue to maintain city and county government of the county out of the general fund, after a levy of ten (10) mills has been made for any fiscal year, the county excise board may appropriate out of any funds apportioned to the county under this act, an amount sufficient to pay the salaries of the county commissioners of the county for the fiscal year. It shall be unlawful for the board of county commissioners to use the funds for any other purpose, and any commissioner violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed Five Hundred Dollars ($500.00) and imprisoned in the county jail not to exceed six (6) months, and the commissioner shall be liable on the official bond of the commissioner for any of the funds expended in violation of the provisions of this act;

c. thirty-two and five-tenths percent (32.5%) of the monies apportioned under this paragraph shall be distributed to the several counties in the following manner: one-third (1/3) on area, one-third (1/3) on rural population (defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal Decennial Census), and one-third (1/3) on county road

mileage, as last certified by the Oklahoma Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state. When federal funds are available for assistance in constructing county roads, the funds herein provided, when distributed and deposited in the county highway funds, are authorized to be used by the boards of county commissioners, by majority action thereof, in matching the federal funds on any county highway and, for the purpose of securing federal assistance, the boards of county commissioners, by majority action thereof, are authorized to enter into agreements with the federal government through the Oklahoma Department of Transportation necessary to fulfill the agreement for the extension of the present Federal Aid Farm-to-Market System, or for the creation of new federal systems, and to enter into such other contracts and agreements as may be necessary to secure federal assistance in the construction or improvement of any county road;

4. Three and eighty-five one-hundredths percent (3.85%) of the levy shall be deposited in the County Road Improvement Revolving Fund of the State Treasury to be used for the purposes set forth in the County Road Improvement Act; and

5. Three and eighty-four one-hundredths percent (3.84%) of the levy shall be deposited in the County Bridge Improvement Fund of the State Treasury to be used for the purposes set forth in the County Bridge Improvement Act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.8 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The tax imposed by this act on use of motor fuel which was imported into this state by a licensed importer, other than by a bulk transfer, shall arise at the time the product is entered into the state and shall be measured by invoiced gallons received outside this state at a refinery, terminal or at a bulk plant for delivery to a destination in this state.

B. Except as provided in subsection A of this section, the tax imposed by this act on use of motor fuel shall be measured by invoiced gallons of motor fuel removed, other than by a bulk transfer by a licensed supplier:

1. From the bulk transfer/terminal system or from a qualified terminal or refinery within this state;

2. From the bulk transfer/terminal system or from a qualified terminal or refinery outside this state for delivery to a location in this state as represented on the shipping papers, provided that the supplier imports the motor fuel for the account of the supplier, or the supplier has made a tax precollection election under Section 19 of this act; and

3. Upon sale in a qualified terminal or refinery in this state to an unlicensed supplier.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.9 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The tax imposed by Section 4 of this act on the date of an increase in the tax rate set out in Section 4 of this act shall be applicable to previously taxed motor fuel:

1. In excess of one thousand (1,000) gallons held in storage by a bulk end user or a consumer; and

2. Inventory held for sale by a fuel vendor.

B. The tax imposed by Section 4 of this act shall be applicable to all nonexempt inventory held by any person outside of the bulk transfer system in this state in quantities which, in the aggregate

with respect to such person, exceed one thousand (1,000) gallons, to the extent the inventory has not previously been subject to the tax imposed by this state under the predecessor motor fuel tax statute. However, no tax shall be payable with respect to motor fuel which is dyed diesel fuel or held by an exempt user.

C. Persons in possession of motor fuel subject to this section:

1. Shall take an inventory to determine the gallons in storage for purposes of determining the tax on inventory in determining the amount of motor fuel tax due under this section;

2. May deduct the amount of motor fuel in dead storage;

3. May deduct these gallons in which tax at the full rate has previously been paid;

4. May take a deduction for gallons of dyed diesel fuel; and

5. Report the gallons listed in paragraph 1 of this subsection on forms provided by the Commission.

D. The amount of the inventory tax is equal to the inventory tax rate times the gallons in storage as determined under subsection B of this section. The inventory tax rate is equal to the difference between of the increased tax rate minus the previous tax rate to which those gallons were previously subjected to tax.

E. The floorstocks tax report required by this section shall be accompanied by payment of the floorstocks tax calculated in accordance with this section, and payment made on or before the due date of the report. The floorstock tax imposed on inventory held outside of the bulk transfer system on the effective date of the act reportable under this section shall be payable in two equal annual installments beginning twelve (12) months after the effective date of the act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.10 of Title 68, unless there is created a duplication in numbering, reads as follows:

Subject to the procedural requirements and conditions set out in Sections 10 through 17 of this act, the following are exempt from the tax imposed by Section 4 of this act on motor fuel:

1. Motor fuel for which proof of export is available in the form of a terminal-issued destination state shipping paper:

a. exported by a supplier who is licensed in the destination state,

b. sold by a supplier to another person for immediate export to a state for which the destination state motor fuel tax has been paid to the supplier who is licensed to remit tax to such destination state, or

c. which is destined for use within the destination state for which an exemption has been made available by such destination state subject to procedural regulation promulgated by the Commission;

2. Motor fuel which was acquired by a licensed exporter and as to which the tax imposed by this act has previously been paid or accrued, which motor fuel was placed into storage in this state and was subsequently exported by transport truck by or on behalf of the licensed exporter;

3. Motor fuel which was acquired by an unlicensed exporter and as to which the tax imposed by this act has previously been paid or accrued and was subsequently exported by transport truck by or on behalf of the licensed exporter in a diversion across state boundaries properly reported in conformity with Section 46 of this act;

4. Motor fuel exported out of a bulk plant in this state in a tank wagon if the destination of that vehicle does not exceed twenty-five (25) miles from the border of this state and as to which the tax imposed by this act has previously been paid or accrued, subject to gallonage limits and other conditions established by the Commission;

5. K-1 kerosene sold at retail through dispensers which have been designed and constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more than twenty-one (21) gallons for use other than for highway purposes, under such rules as the Commission shall reasonably require;

6. Motor fuel sold to the United States or any agency or instrumentality thereof;

7. Motor fuel used solely and exclusively in district-owned public school vehicles or FFA and 4-H Club trucks for the purpose of legally transporting public school children, and motor fuel purchased by any school district for use exclusively in school buses leased or hired for the purpose of legally transporting public school children, or in the operation of vehicles used in driver training;

8. Motor fuel used solely and exclusively as fuel to propel motor vehicles on the public roads and highways of this state, when leased or owned and being operated for the sole benefit of a county, city, town, a volunteer fire department with a state certification and rating, rural electric cooperatives, rural water and sewer districts, rural ambulance service districts, or federally recognized Indian tribes;

9. Motor fuel used as fuel for farm tractors or stationary engines owned or leased and operated by any person and used exclusively for agricultural purposes;

10. Gasoline, diesel fuel and kerosene sold for use as fuel to generate power in aircraft engines, whether in aircraft or for training, testing or research purposes of aircraft engines, except as to eight one-hundredths of one cent ($0.0008) per gallon as provided in subsection B of Section 4 of this act;

11. Motor fuel sold within an Indian reservation or within Indian country by a federally recognized Indian tribe to a member of that tribe and used in motor vehicles owned by that member of the tribe. This exemption does not apply to sales within an Indian reservation or within Indian country by a federally recognized Indian tribe to non-Indian consumers or to Indian consumers who are not members of the tribe selling the motor fuel;

12. Subject to determination by the Commission, that portion of diesel fuel:

a. used to operate equipment attached to a motor vehicle, if the diesel fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel reservoir for travel on a highway and for the operation of equipment, or

b. consumed by the vehicle while the vehicle is parked off the highways of this state;

13. Motor fuel acquired by a consumer out of state and carried into this state, retained within and consumed from the same vehicle fuel supply tank within which it was imported;

14. Diesel fuel used as heating oil, or in railroad locomotives or any other motorized flanged-wheel rail equipment, or used for other nonhighway purposes other than as expressly exempted under another provision;

15. Motor fuel which was lost or destroyed as a direct result of a sudden and unexpected casualty;

16. Taxable diesel which had been accidentally contaminated by dye so as to be unsaleable as highway fuel as proved by proper documentation; and

17. Dyed diesel fuel.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.11 of Title 68, unless there is created a duplication in numbering, reads as follows:

The exemption for exports:

1. Under paragraph 1 of Section 10 of this act, shall be perfected by a deduction on the report of the supplier which is otherwise responsible for the tax on removal of the product from a terminal or refinery in this state;

2. Under paragraphs 2 and 4 of Section 10 of this act, may be perfected at the option of the exporter either:

a. by a refund claim if the claim in the aggregate month to date exceeds One Thousand Dollars ($1,000.00),

b. by a refund claimed on the licensed exporter report for activity in that month, or

c. under paragraph 3 of Section 10 of this act, if a diversion by an unlicensed exporter, upon a refund application made to the Commission within three (3) years.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.12 of Title 68, unless there is created a duplication in numbering, reads as follows:

Exempt use of K-1 kerosene shall be governed by regulations promulgated by the Commission which shall follow regulations governing the exemption promulgated by the federal government to the extent that impositions of the conforming regulations would be practical and not be a hardship on sellers and consumers in this state.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.13 of Title 68, unless there is created a duplication in numbering, reads as follows:

The exemption for sales of motor fuel for use by the United States or any agency or instrumentality thereof, as provided in paragraph 6 of Section 10 of this act, district-owned public school vehicles and buses or FFA and 4-H Club trucks used for the purpose of legally transporting public school children and in the operation

of vehicles used in driver training, as provided in paragraph 7 of Section 10 of this act, and for use by a county, city, town, volunteer fire department, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe, as provided in paragraph 8 of Section 10 of this act, shall be perfected as follows:

1. An ultimate vendor may apply for a Government Exempt Bulk Sales Permit which shall entitle that person to make purchases of fuel tax free for resale for exempt government use under the following conditions:

a. the vendor shall make application with the Commission for the permit on a form acceptable to the Commission. The application shall include:

(1) proof of financial responsibility or bond in an amount not to exceed the tax on the total gallons to be purchased tax-exempt in any year,

(2) an estimate of total tax-exempt gallons to be sold under the permit on an annual basis, which amount shall constitute the limit of tax-exempt purchases which the applicant is authorized to make, absent re-application pursuant to subparagraph f of this paragraph,

(3) the name of the suppliers from which the applicant shall make the tax-exempt purchases under this permit for the term covered by the permit, provided nothing herein shall be construed to mandate sales by any supplier to any other person,

(4) a list of government tax-exempt purchasers qualifying under subparagraph c of this paragraph, and estimated volumes therefor, and

(5) such other information as the Commission may reasonably require,

b. upon evaluation of the data provided by applicant and any independent investigation of that information as the Commission in its discretion shall make, the Commission shall issue the permit provided under this section to the applicant with a copy to each supplier named by applicant pursuant to subparagraph a of this paragraph,

c. in order for a government entity to qualify as a government tax-exempt purchaser eligible for tax-exempt sales under this section, the ultimate vendor shall obtain a properly completed Federal Form 1094, its state equivalent, or successor form(s) from the government entity and shall send to the Commission a copy of this form along with an estimate of the annual quantity of motor fuel to be supplied to that government entity purchaser. The Commission shall assign an approval number for that government entity and location and shall issue a permit to ultimate vendor authorizing the ultimate vendor to make tax-exempt sales of that estimated quantity of fuel to the agency,

d. the Commission shall not require that the identical gallons purchased by the ultimate vendor under the permit be delivered to the eligible government entity,

e. should the ultimate vendor fail to deliver any quantity of the tax-exempt purchases to eligible government entities, the ultimate vendor shall be liable for the tax on that quantity, and in the event the excess of tax-exempt gallons purchased exceeds gallons sold for tax-exempt use by ten percent (10%),

the Commission may in its discretion levy a penalty equal to ten percent (10%) of the tax due,

f. should the ultimate vendor need to purchase additional gallons above that estimated to fulfill any commitments, the ultimate vendor shall notify the Commission. If the Commission is satisfied with the reports submitted accounting for the tax-exempt fuel previously submitted, the Commission shall increase the quantity authorized on the permit and so notify the supplier; and

2. If the sale of motor fuel to the eligible government entities occurs at a fixed retail pump available to the general public, the ultimate vendor, having made the sale to the eligible government entity without the tax, may apply for a refund from the Commission by submitting the application and supporting documentation as the Commission shall reasonably prescribe by regulation. However, if the purchase is charged to a fleet or government fueling credit card, or to an oil company credit card issued to an eligible government entity, the issuer of the card may elect to be the ultimate vendor, bill the federal agency without the tax and seek a refund, or take a credit against its liabilities otherwise arising under this act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.14 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The exemption for use pursuant to paragraph 12 of Section 10 of this act shall be perfected by a refund claim filed by the consumer who shall provide evidence of an allocation of use satisfactory to the Commission.

B. The exemption for motor fuel pursuant to paragraphs 15 and 16 of Section 10 of this act which fuel was purchased tax paid for a taxable use and was, after the purchase, contaminated by the

presence of a dye or marker or subject to a sudden and unexpected casualty loss shall be refunded to the person responsible for the contamination or loss event upon application therefor and on proof shown acceptable to the Commission.

C. Motor fuel tax that has otherwise been erroneously paid by a person shall be refunded by the Commission upon proof shown satisfactory to the Commission. The authority of the Commission under this section shall be broadly construed to prevent unjust and unintended payment of taxes on exempt uses or by exempt users.

D. The consumer shall apply for a refund with respect to motor fuel purchased by the consumer for consumption in an exempt use described under paragraphs 9, 11 and 14 of Section 10 of this act as to which the tax imposed by this act had been previously paid and no refund previously issued.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.15 of Title 68, unless there is created a duplication in numbering, reads as follows:

All exemptions under Section 10 of this act, not expressly covered under Sections 11 through 14 of this act, shall be perfected as follows:

1. A supplier or tank wagon importer shall take a deduction against motor fuel shown on the monthly report for those gallons of diesel fuel removed from a terminal or refinery destined for delivery to a point in this state as shown on the shipping papers, as to which dye was added in a manner which conforms to federal requirements established by the Internal Revenue Code and regulations issued thereunder; or

2. An importer shall take a deduction against tax owed under Section 18 of this act for dyed diesel fuel if such diesel fuel would have met the requirements of paragraph 1 of this section.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.16 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. To claim a refund under Sections 10 through 14 of this act, a person shall present to the Commission a statement containing a written verification that the claim is made under penalties of perjury and lists the total amount of motor fuel purchased and used for exempt purposes. The claim shall not be transferred or assigned and shall be filed not more than three (3) years after the date the motor fuel was purchased. The statement shall show that payment for the purchase has been made and the amount of tax paid on the purchase has been remitted.

B. The Commission may make any investigations it considers necessary before refunding the motor fuel tax to a person and may investigate a refund after the refund has been issued and within the time frame for making adjustments to the tax under this act.

C. In any case where a refund would be payable to a supplier under this act, the supplier may claim a credit in lieu of such refund.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.17 of Title 68, unless there is created a duplication in numbering, reads as follows:

If a claim for refund is not issued within ninety (90) days of the filing required by this act, the Commission shall pay interest at the rate of six percent (6%) from the date of filing of the claim for refund until the date on which the refund is made.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.18 of Title 68, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided in this act, the tax imposed by Section 4 of this act on motor fuel measured by gallons imported from another state shall be paid by the:

1. Licensed occasional importer who has imported the nonexempt motor fuel within three (3) business days of the earlier of the time that the nonexempt motor fuel was entered into the state, or the time that a valid import verification number required by subsection F of Section 33 of this act was assigned by the Commission, under such rules and procedures as the Commission may provide; or

2. Licensed bonded importer who has imported the nonexempt motor fuel during a month on or before the twenty-fifth day of the following month unless such day falls upon a weekend or state or banking holiday, in which case the liability would be due the next succeeding business day, provided that the bonded importer shall have prior to the time of import obtained a valid import verification number as required by subsection F of Section 33 of this act, assigned by the Commission, under such rules and procedures as the Commission may provide.

However, if the supplier has made a blanket election to precollect tax under Section 19 of this act, then the supplier shall become jointly liable with the importer for the tax and shall remit the tax to the Commission on behalf of the importer under the same terms as a supplier payment under Section 20 of this act, and no import verification number shall be required.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.19 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Any licensed supplier or licensed permissive supplier may make a blanket election with the Commission to treat all removals from all of its out-of-state terminals with a destination in this state as shown on the terminal-issued shipping paper as if the removals were removed across the rack by the supplier from a terminal in this state for all purposes.

B. The election provided by this section shall be made by filing a "notice of election under Section 19" with the Commission.

C. The Commission shall release a list of electing suppliers under this section upon request by any person.

D. The absence of an election by a supplier under this section shall in no way relieve the supplier of responsibility for remitting the tax imposed by this act upon the removal from an out-of-state terminal for import into this state by the supplier.

E. Any supplier which makes the election provided by this section shall precollect the tax imposed by this act on all removals from a qualified terminal on its account as a position holder, or as a person receiving fuel from a position holder pursuant to a two-party exchange agreement without regard to the license status of the person acquiring the fuel from the supplier, the point or terms of sale, or the character of delivery.

F. Each supplier who elects to precollect tax under this act agrees to waive any defense that the state lacks jurisdiction to require collection on all out-of-state sales by such person as to which the person had knowledge that the shipments were destined for this state and that this state imposes the requirement pursuant to this subsection under its general police powers to regulate the movement of motor fuels.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.20 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The tax imposed by Section 4 of this act, measured by motor fuel removed by a licensed supplier from a terminal or refinery in this state other than a bulk transfer, shall be precollected and remitted on behalf of the retail consumers to the state by the supplier, as shown in the records of the terminal operator, who removes the taxable gallons.

B. The supplier, and each reseller, shall list the amount of tax as a separate line item on all invoices or billings.

C. All tax to be paid by a supplier with respect to gallons removed on the account of the supplier during a calendar month shall be due and payable on or before the twenty-seventh day of the following month unless such day falls upon a weekend or state or banking holiday in which case the liability would be due the next succeeding business day.

D. A supplier shall remit any late taxes remitted to the supplier by an eligible purchaser and shall timely notify the Commission of any late remittances if that supplier has previously given notice to the Commission of an uncollectible tax amount pursuant to subsection B of Section 24 of this act.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.21 of Title 68, unless there is created a duplication in numbering, reads as follows:

The terminal operator of a terminal in this state is jointly and severally liable for the tax imposed under Section 4 of this act and shall remit payment to this state upon discovery of either of the following conditions:

1. The supplier, with respect to the motor fuel, is a person other than the terminal operator and is not a licensed supplier. However, the terminal operator shall be relieved of liability if the terminal operator establishes all of the following:

a. the terminal operator has a valid terminal operator's license issued for the facility from which the motor fuel is withdrawn,

b. the terminal operator has an unexpired notification certificate from the supplier as required by the Commission or the Internal Revenue Service, and

c. the terminal operator has no reason to believe that any information on the certificate is false; or

2. In connection with the removal of diesel fuel that is not dyed and marked in accordance with Internal Revenue Service

requirements, the terminal operator provides any person with any bill of lading, shipping paper, or similar document indicating that the diesel fuel is dyed and marked in accordance with Internal Revenue Service requirements.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.22 of Title 68, unless there is created a duplication in numbering, reads as follows:

Each supplier and bonded importer who sells motor fuel shall precollect and remit on behalf of and from the purchaser the motor fuel tax imposed under Section 4 of this act. At the election of an eligible purchaser, which notice shall be evidenced by a written statement from the Commission as to the purchaser eligibility status as determined under Section 23 of this act, the seller shall not require a payment of motor fuel tax on transport truck loads from the purchaser sooner than two (2) business days prior to the date on which the tax is required to be remitted by the supplier or bonded importer under Section 20 of this act. This election shall be subject to a condition that the remittances by the eligible purchaser of all amounts of tax due the seller shall be paid on the basis of ninety-eight and four-tenths percent (98.4%) for gasoline and ninety-eight and one-tenth percent (98.1%) for diesel fuel and which shall be paid by electronic funds transfer on or before the second preceding day prior to the date of the remittance by the supplier to the Commission, and the election by the eligible purchaser under this section may be terminated by the seller if the eligible purchaser does not make timely payments to the seller as required by this section.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.23 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each purchaser that desires to make an election under Section 22 of this act shall present evidence to the Commission that:

1. The applicant was a licensee in good standing under the predecessor motor fuel statute as to which the applicant remitted tax to the Commission; or

2. The applicant meets the financial responsibility and bonding requirements imposed by this act which bond shall conform to the specific requirements of this section.

The Commission may require a purchaser which pays the tax to a supplier to file with the Commission a surety bond payable to the state, upon which the purchaser is the obligor or other financial security, in an amount satisfactory to the Commission. The Commission may require that the bond indemnify the Commission against uncollectible tax credits claimed by the supplier under Section 24 of this act.

B. Each purchaser desiring to make an election under Section 22 of this act may not be subject to the provisions of subsection A of this section if the purchaser holds a valid distributor's license and is bonded according to the law prior to the effective date of this act. Upon the effective date of this act, each purchaser holding a valid distributor's license issued prior to the effective date of this act shall become an eligible purchaser.

C. The Commission shall have the authority to rescind a purchaser's eligibility and election to defer motor fuel tax remittances after a hearing and upon a showing of good cause, including failure to make timely tax-deferred payment of tax to a supplier under Section 22 of this act, by sending written notice to all suppliers or publishing notice of the revocation pursuant to regulations. The Commission may require further assurance of the financial responsibility of the purchaser, or may increase the bond requirement for that purchaser, or any other action that the

Commission may require to ensure remittance of the motor fuel tax. The Commission shall follow the cancellation procedures as provided in Section 212 of Title 68 of the Oklahoma Statutes in rescinding eligible purchaser status.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.24 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In computing the amount of motor fuel tax due, the supplier shall be entitled to a credit against the tax payable the amount of tax paid by the supplier that has become uncollectible from an eligible purchaser.

B. The supplier shall provide notice to the Commission of a failure to collect tax within ten (10) days following the date on which the supplier was earliest entitled to collect the tax from the eligible purchaser under Section 22 of this act.

C. The Commission shall adopt rules establishing the evidence a supplier must provide to receive the credit.

D. The credit shall be claimed on the first return following the date of the failure of the eligible purchaser if the payment remains unpaid as of the filing date of that return or the deduction shall be disallowed.

E. The claim for credit shall identify the defaulting eligible purchaser and any tax liability that remains unpaid.

F. If an eligible purchaser fails to make a timely payment of the amount of tax due, the credit of the supplier shall be limited to the amount due from the purchaser, plus any tax that accrues from that purchaser for a period of ten (10) days following the date of failure to pay.

G. No additional credit shall be allowed to a supplier under this section until the Commission has authorized the purchaser to make a new election under Section 23 of this act.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.25 of Title 68, unless there is created a duplication in numbering, reads as follows:

Each licensed tank wagon operator-importer who is liable for the tax imposed by this act on nonexempt motor fuel imported by a tank wagon as to which tax has not previously been paid to a supplier, shall remit the motor fuel tax for the preceding month's import activities with the monthly report of activities. The remittance of all amounts of tax due shall be paid on the basis of ninety-eight and four-tenths percent (98.4%) for gasoline and ninety-eight and one-tenth percent (98.1%) for diesel fuel.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.26 of Title 68, unless there is created a duplication in numbering, reads as follows:

All suppliers and bonded importers required to remit the motor fuel tax shall remit the motor fuel taxes due by electronic fund transfer acceptable to the Commission. The transfer or payment shall be made on or before the date the tax is due.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.27 of Title 68, unless there is created a duplication in numbering, reads as follows:

Every supplier and permissive supplier which properly remits tax under this act shall be allowed to retain one-tenth of one percent (0.1%) of the tax imposed by this act and collected and remitted by that supplier in accordance with this act to cover the costs of administration imposed by this act including reporting, audit compliance, dye injection, and shipping paper preparation.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.28 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In the event the tax imposed by Section 4 of this act is not otherwise precollected, it shall be collected from the ultimate

consumer in accordance with regulations promulgated by the Commission, for the use of motor fuel on the highways by any consumer, unless such person is otherwise exempted pursuant to paragraphs 6, 7 and 8 of Section 10 of this act, upon the delivery into the fuel supply tank of a highway vehicle of, including, but not limited to:

1. Any diesel fuel that contains a dye; or

2. Any motor fuel on which a claim for refund has been made.

B. The ultimate vendor of motor fuel, other than a federally recognized Indian tribe, shall be jointly and severally liable for the backup tax precollected by subsection A of this section if the ultimate vendor knows or has reason to know that the motor fuel, as to which tax imposed by this act has not been paid, is or will be consumed in a nonexempt use.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.29 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In the event that an exporter diverts motor fuel removed from a terminal in this state from an intended destination outside this state as shown on the terminal-issued shipping papers to a destination within this state, the exporter, in addition to compliance with the notification provided for in Section 46 of this act, shall notify and pay the tax imposed by Section 4 of this act to the state upon the same terms and conditions as if the exporter were an occasional importer licensed under Section 18 of this act. However, the supplier and exporter under this subsection may, by mutual agreement, permit the supplier to assume the liability of the exporter and adjust the taxes of the exporter payable to the supplier.

B. In the event that an exporter removes from a bulk plant in this state motor fuel as to which the tax imposed by this act has previously been paid or accrued, the exporter may apply for and the

state shall issue a refund of the tax upon a showing of proof of export satisfactory to the Commission in conformity with Section 11 of this act.

C. In the event that an unlicensed importer diverts motor fuel from a destination outside this state to a destination inside this state after having removed the product from a terminal outside this state, the importer, in addition to compliance with the notification provided for in Section 46 of this act, shall notify the state and shall pay the tax imposed by this act to this state upon the same terms and conditions as if the unlicensed importer were a licensed occasional importer subject to Section 18 of this act without deduction for the allowances provided by Section 27 of this act. However, an importer who has purchased the product from a licensed supplier may, by mutual agreement with the supplier, permit the supplier to assume the liability of the importer and adjust the taxes of the importer payable to the supplier.

D. All licensed importers shall otherwise report and pay tax on diversions into this state of imported product under Section 18 of this act in accordance with the rules applicable to that license class. However, an importer who has purchased the product from a licensed supplier may, by mutual agreement with the supplier, permit the supplier to assume the liability of the importer and adjust the taxes of the importer payable to the supplier.

E. If a monthly report is filed or the amount due is remitted later than the time required by this act, the tax remitter shall pay to the Commission all of the motor fuel tax the remitter collected from the sale of motor fuel during the taxable period in addition to penalties and interest.

F. In the event of a legal diversion from a destination in this state to another state, Section 45 of this act shall apply and an unlicensed exporter diverting the product shall apply for a refund from this state in conformity with paragraph 3 of Section 10 of this

act and Section 11 of this act. However, a supplier may take a credit for diversions directed by that supplier for the account of the supplier. Additionally, the exporter may, by mutual agreement with the supplier, assign the claim of the exporter to the supplier for which the supplier may take a credit.

G. In the event that the second state involved in a cross-border shipment has entered into a multi-state compact with this state, the diverter shall pay or seek refund only upon the difference in state taxes with notice to both states upon proof shown of payment to the actual destination state. The Commission shall periodically determine procedures for making this adjustment and a list of those states which meet these criteria.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.30 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The final report required by Section 40 of this act shall be accompanied by payment of the liability of the final month except as otherwise provided in this section.

B. Any motor fuel vendor who possessed a license to sell motor fuel at wholesale or at retail prior to the effective date of this act who is ineligible to elect eligible purchaser status, or who otherwise does not apply for or does not receive eligible purchaser status under Section 23 of this act, may in the alternative elect to make payment of the tax calculated pursuant to the final report provided in Section 40 of this act if the tax is paid in two equal installments beginning twelve (12) months after the effective date of this act and subject to regulations promulgated by the Commission.

C. If a person elects under subsection B of this section to defer payment, the person shall not be eligible to claim eligible purchaser status under Section 23 of this act for a period of

thirty-six (36) months following the election under subsection B of this section.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.31 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each person blending untaxed materials, including blendstocks, fuel grade ethanol and additives with motor fuels as to which tax has already been paid or accrued shall remit the tax imposed by this act.

B. Any consumer liable for the tax payable under subsection A of this section shall remit the tax directly to the Commission within thirty (30) days of the blending event in accordance with regulations promulgated by the Commission.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.32 of Title 68, unless there is created a duplication in numbering, reads as follows:

Subject to gallonage limits and other conditions established by the Commission, the Commission shall provide for the payment of tax imposed by this act by a person importing gasoline or diesel motor fuel from a bulk plant in another state in a tank wagon if the destination of that vehicle does not exceed twenty-five (25) miles from the border of this state.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.33 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each supplier engaged in business in this state as a supplier shall first obtain a supplier's license.

B. Any person who desires to precollect the tax imposed by this act as a supplier and who meets the definition of a permissive supplier may obtain a permissive supplier's license. Application for or possession of a permissive supplier's license shall not in itself subject the applicant or licensee to the jurisdiction of this

state for any other purpose than administration and enforcement of this act.

C. Each terminal operator, other than a supplier licensed under subsection A of this section, engaged in business in this state as a terminal operator shall first obtain a terminal operator's license for each terminal site.

D. The state may in its discretion require an exporter to first obtain an exporter's license. The state shall require that any exporter who exports product to another state without first paying the motor fuel tax of that destination state to the supplier shall first obtain an exporter's license.

E. Each person who is not licensed as a supplier shall obtain a transporter's license before transporting motor fuel by whatever manner from a point outside this state to a point inside this state, or from a point inside this state to a point outside this state, regardless of whether the person is engaged for hire in interstate commerce or for hire in intrastate commerce.

F. 1. Each person desiring to deliver motor fuel into this state on behalf of such person, for the account of that person, or for resale to a purchaser in this state, from another state in a fuel transport truck or in a pipeline or barge shipment into storage facilities other than a qualified terminal, shall first make application for and obtain either an occasional importer's license, or a bonded importer's license.

2. Paragraph 1 of this subsection shall not apply to persons who exclusively import motor fuel which is exempted because it has been dyed in accordance with paragraph 17 of Section 10 of this act.

3. Paragraph 1 of this subsection shall not apply to persons who import nonexempt motor fuels meeting the following conditions:

a. all of the motor fuel is subject to one or more tax precollection agreements with suppliers as provided under Section 19 of this act,

b. all of the motor fuel tax precollected by the supplier is expressly evidenced on the terminal-issued shipping paper as more specifically provided under Section 44 of this act, and

c. the Commission has determined that all border states have adopted terminal reporting requirements adequate for the mutual enforcement of this act.

4. A person desiring to import motor fuel to a destination in this state from another specific terminal source state, and who has not entered into an agreement to prepay the motor fuel tax of this state to the supplier or permissive supplier with respect to such imports, shall obtain a valid occasional importer's license, or subject to the Two Million Dollar ($2,000,000.00) bonding requirements of subsection B of Section 35 of this act, a valid bonded importer's license under paragraph 1 of this subsection. In either event, the person shall:

a. obtain an import verification number from the Commission no sooner than twenty-four (24) hours prior to entering the state for each separate import into this state, but in any event the number shall be obtained prior to entering this state, and

b. display the import verification number on the terminal-issued shipping document required under Section 50 of this act, and

c. comply with the payment requirements under Section 18 of this act, whichever is applicable.

5. The importers' licenses issued pursuant to this section shall be specific to each source of supply state, and in the event that the other terminal source of supply state shall have adopted reciprocal legislation, or a multi-state compact, providing for collection of destination state tax by the terminal supplier in accordance with terminal-issued shipping papers designating the

intended state of destination, then the importer shall be ineligible for a license to import motor fuel outside the bulk transfer system from the other state, and any license to so import from the other state shall be rendered invalid.

G. Each person who is an importer of motor fuel into this state by a tank wagon operating out of or controlling a bulk plant in another state, if the destination of that tank wagon is within twenty-five (25) miles of the border of this state, shall make application for and obtain a license from the Commission prior to engaging in such importation activities. However, registration as a tank wagon operator-importer shall not constitute authorization of such persons to acquire nonexempt motor fuel free of the tax imposed by this act at a terminal either within this state or without this state for direct delivery to a location in this state. Any person who possesses a valid importer's license shall be eligible as a tank wagon operator-importer without issuance of a separate license provided the importer also operates one or more bulk plants outside this state. Operators of tank wagon delivery product into this state more than twenty-five (25) miles from the border shall be required to apply for an importer's license under subsection F of this section.

H. 1. Each person who engages in the business of selling motor fuel at wholesale or retail, or storing or distributing motor fuel for resale within this state, shall first obtain a fuel vendor license which shall be operative for all locations controlled or operated by that licensee in this state or in any other state from which the person removes fuel for delivery and use in this state.

2. Each fuel vendor shall maintain detailed records of all purchases and sales for a period of not less than three (3) years.

3. All fuel vendor records shall be maintained in English and Arabic numerals or language acceptable to electronic formats.

4. The Commission may, in its discretion, exempt from paragraph 1 of this subsection any or all classes of persons who possess a valid supplier, terminal operator, carrier, importer, tank wagon operator or exporter license.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.34 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each application for a license under this act shall be made upon a form prepared and furnished by the Commission. It shall be subscribed to by the applicant and shall contain the information as the Commission may reasonably require for the administration of this act, including the applicant's federal identification number and, with respect to the applicant for an exporter's license, a copy of the applicant's license to purchase or handle motor fuel tax free in the specified destination state or states for which the export license is to be issued.

B. The Commission shall investigate each applicant for a license under this act. No license shall be issued if the Commission determines that any one of the following exists:

1. The application is not filed in good faith;

2. The applicant is not the real party in interest;

3. The license of the real party in interest has been revoked for cause;

4. Any good cause the Commission may determine;

5. With respect to an exporter's license, the applicant is not licensed in the intended specific state(s) of destination; or

6. The applicant has a prior conviction for motor fuel tax evasion.

C. Applicants, including corporate officers, partners, and individuals, for a license issued by the Commission may be required to submit their fingerprints to the Commission at the time of applying. Officers of publicly held corporations and their

subsidiaries shall be exempt from this fingerprinting provision. Persons, other than applicants for an importer's license, who possessed licenses issued under a predecessor statute continuously for three (3) years prior to the effective date of this act shall also be exempt from this provision. Fingerprints required by this section must be submitted on forms prescribed by the Commission. The Commission may forward to the Federal Bureau of Investigation or any other agency for processing all fingerprints submitted by license applicants. The receiving agency shall issue its findings to the Commission. The license application fee shall be used to pay the costs of the investigation. The Commission, or another state agency, may maintain a file of fingerprints.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.35 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection C of this section, concurrently with the filing of an application for a license under this act, the Commission shall require the applicant to file with the Commission a surety bond or cash deposit in an amount determined by the Commission of not less than Two Thousand Dollars ($2,000.00) or not more than a three-month tax liability for the applicant as estimated by the Commission and conditioned upon the keeping of records and the making of full and complete reports and payments as required by this act.

B. Suppliers and bonded importers shall be required to post a bond of not less than Two Million Dollars ($2,000,000.00), except that with respect to a person registered under the Internal Revenue Section 4101 as a taxable fuel registrant, the bond may be reduced to not less than One Million Dollars ($1,000,000.00). However, in either case, an applicant may alternatively show proof of financial responsibility in lieu of posting of bond. Proof of Five Million Dollars ($5,000,000.00) net worth shall constitute evidence of

financial responsibility in the absence of circumstances indicating the Commission is otherwise at risk with respect to collection of taxes from the applicant.

C. If the applicant files a bond, the bond shall:

1. Be with a surety company approved by the Commission which may be an affiliate in the business of assuring such obligations;

2. Name the applicant as the principal and the state as the obliged; and

3. Be on forms prescribed by the Commission.

D. The Commission may, at the reasonable discretion of the Commission, require a licensee, or an applicant, to furnish current verified, financial statements. The Commission may make independent inquiry into the financial condition of the applicant and, in any case, is not required to accept as accurate financial statements which have not been certified or independently audited. If the Commission determines that a financial condition of a licensee warrants an increase in the bond or cash deposit, the Commission may require the licensee to furnish an increased bond or cash deposit.

E. 1. The Commission may require a licensee to file a new bond with a satisfactory surety in the same form and amount if:

a. liability upon the previous bond is discharged or reduced by a judgment rendered, payment made, or otherwise disposed of, or

b. in the opinion of the Commission, any surety on the previous bond becomes unsatisfactory.

If the new bond is unsatisfactory, the Commission shall cancel the license. If the new bond is satisfactorily furnished, the Commission shall release in writing the surety on the previous bond from any liability accruing after the effective date of the new bond.

2. If a licensee has a cash deposit with the Commission and the deposit is reduced by a judgment rendered, payment made, or

otherwise disposed of, the Commission may require the licensee to make a new deposit equal to the amount of the reduction.

F. 1. If the Commission reasonably determines that the amount of the existing bond or cash deposit is insufficient to ensure payment to the state of the tax and any penalty and interest for which the licensee is or may become liable, the licensee shall, upon written demand of the Commission, file a new bond or increase the cash deposit. The Commission shall allow the licensee at least fifteen (15) days to secure the increased bond or cash deposit.

2. The new bond or cash deposit shall meet the requirements set forth in this act.

3. If the new bond or cash deposit required under this section is unsatisfactory, the Commission shall cancel the license certificate of the licensee.

G. 1. Sixty (60) days after making a written request for release to the Commission, the surety of a bond furnished by a licensee shall be released from any liability to the state accruing on the bond after the sixty-day period. The release does not affect any liability accruing before the expiration of the sixty-day period.

2. The Commission shall promptly notify the licensee furnishing the bond that a release has been requested. Unless the licensee obtains a new bond that meets the requirements of this act and files with the Commission the new bond within the sixty-day period, the Commission shall cancel the license.

3. Sixty (60) days after making a written request for release to the Commission, the cash deposit provided by a licensee is canceled as security for any obligation accruing after the expiration of the sixty-day period. However, the Commission may retain all or part of the cash deposit for up to three (3) years and one (1) day as security for any obligations accruing before the effective date of the cancellation. Any part of the deposit not

retained by the Commission shall be released to the licensee. Before the expiration of the sixty-day period, the licensee shall provide the Commission with a bond that satisfies the requirements of this act or the Commission shall cancel the license.

4. Any licensee who has filed a bond or other security under this act is entitled, on request, to have the Commission return, refund, or release the bond or security if, in the judgment of the Commission, the licensee has continuously complied with the provisions of this act for the previous three (3) consecutive years. However, if the Commission determines that the revenues of the state would be jeopardized by the return, refund or release of bond or security, the Commission may elect to retain the bond or security, or having released such, may reimpose a requirement for bond or security to protect the revenues of this state. The decision of the Commission to not release a bond or security may be reviewed, after application by the licensee, pursuant to the Administrative Procedures Act.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.36 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. If the applicant and bond are approved, the Commission shall issue a license and as many copies as the licensee has places of business for which a license is required.

B. A license is valid until suspended, revoked for cause, or canceled.

C. No license is transferable to another person or to another place of business. For purposes of this section, a transfer of a majority interest in a business association, other than a publicly held association, including corporations, partnerships, trusts, joint ventures and any other business association shall be deemed to be a transfer of any license held by the business association to another person. Any substantial change in ownership of a business

association, other than a publicly held business association, shall be reported to the Commission pursuant to rules promulgated by the Commission.

D. Each license shall be preserved and conspicuously displayed at the place of business for which it is issued. The Commission shall have authority to waive this requirement for any class of licensee in its discretion.

E. Upon the discontinuance of the business or relocation, the license issued for the location shall be immediately surrendered to the Commission.

F. Whenever any person licensed to do business under this act discontinues, sells, or transfers the business, the licensee shall immediately notify the Commission in writing of the discontinuance, sale, or transfer. The notice shall give the date of discontinuance, sale, or transfer and in the event of the sale or transfer of the business, the name and address of the purchaser or transferee. The licensee shall be liable for all taxes, interest, and penalties that accrue or may be owing and any criminal liability for misuse of the license that occurs prior to issuance of the notice.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.37 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of determining the amount of precollected motor fuel tax due, every supplier shall file with the Commission, on forms prescribed and furnished by the Commission, a verified statement by the supplier. The Commission may require the reporting of any information reasonably necessary to determine the amount of precollected motor fuel tax due.

B. The reports required by this section shall be filed with respect to information for the preceding calendar month on or before the twenty-seventh day of the current month.

C. The supplier report required by this section shall include the following information with respect to billed gallons of motor fuel, for all products in the aggregate provided the supplier shall identify if billed gallon is net or gross:

1. Removal of gallons of motor fuel by the reporting supplier from the bulk transfer/terminal system in this state as to which the tax imposed by this act has been precollected or accrued by the reporting supplier;

2. Removal of gallons of diesel fuel or heating oil from terminals in this state by the reporting supplier, tax exempt, as to which dye has been added in accordance with paragraph 17 of Section 10 of this act;

3. Removal of gallons of motor fuel from terminals in this state by the reporting supplier, tax exempt, for export from this state by that supplier and as to which the proper motor fuel tax for that other destination state has been collected or accrued by the reporting supplier at the time of removal from the terminal, sorted by state of destination;

4. Removal of gallons of motor fuel from terminals in this state by the reporting supplier, destination state tax exempt, for export by such persons, sorted by state of destination under claim of destination state tax exemption for an exempt use recognized by the Commission under subparagraph c of paragraph 1 of Section 10 of this act;

5. Removal of gallons of motor fuel from terminals in this state by the reporting supplier, tax exempt, for sale to exporters, for export by such persons, and as to which the proper motor fuel tax for that other destination state has been collected or accrued by the reporting supplier at the time of removal from the terminal, sorted by state of destination;

6. Removal of gallons of motor fuel from terminals within this state for sale by the reporting supplier directly to the United States government or any agency or instrumentality thereof;

7. Removal of gallons of motor fuel from terminals within this state for sale by the reporting supplier directly to consumers other than the federal government, or any agencies and instrumentalities thereof, for any other exempt use for which the consumers have properly assigned refund claims to the ultimate vendor and each distributor in the chain including the reporting supplier;

8. Total removals in this state;

9. Removal of gallons of motor fuel from a terminal in another state by the reporting supplier, for sale to a licensed importer, tax exempt, for import into this state by that licensed importer;

10. Removal of gallons of motor fuel from a terminal in another state by the reporting supplier for import other than by bulk transfer by that supplier into this state, or for sale by the reporting supplier to a person for import into this state by that person, and in either case, as to which the tax in this state was accrued by the reporting supplier at the time of removal from the out-of-state terminal;

11. Removal of gallons of diesel fuel or heating oil from a terminal in another state by the reporting supplier, for import or for sale for import into this state, as to which dye has been added in accordance with paragraph 17 of Section 10 of this act;

12. Total removals from out-of-state terminals with this state as the state of destination;

13. Corrections made by the supplier pursuant to Section 17 of this act for changes in destination state which affect the tax liability of the supplier or the customer of the supplier to this state;

14. Gallons removed by the supplier from a terminal within or without this state and sold to another distributor for resale to a

consumer for an exempt purpose as to which a refund claim has been assigned by all parties to the supplier; and

15. Such other information which the Commission in its discretion determines is reasonably required to determine tax liability under this act.

D. Every licensed supplier or permissive supplier shall separately disclose and identify, in a written statement to the Commission with the supplier or permissive supplier report, any removal and sale from the bulk transfer/terminal system in another state by that supplier to a person other than a licensed supplier, permissive supplier or importer of gallons of motor fuel, other than diesel fuel dyed in accordance with paragraph 17 of Section 10 of this act, and which gallons are destined for this state, as shown by the terminal-issued shipping paper, and as to which gallons the tax imposed by this act has not been collected or accrued by the supplier upon the removal. Any person who knowingly violates or knowingly aids or abets another to violate this provision shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00), or shall be sentenced to a term of not more than one (1) year in the county jail, or both such fine and imprisonment.

E. Each supplier shall separately identify each sale of K-1 kerosene, other than dyed diesel fuel, sold free of tax in accordance with reporting requirements established by the Commission.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.38 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each licensed occasional importer and each licensed bonded importer shall file monthly with the Commission a verified sworn statement of operations within this state including:

1. Taxable gallons tax prepaid to a supplier upon removal from an out-of-state terminal;

2. With regard to a licensed occasional importer, taxable gallons subject to the three-day payment rule as set forth in Section 18 of this act sorted by source state, by supplier, and by terminal or bulk plant location;

3. With regard to a licensed bonded importer, taxable gallons subject to tax remittance by the bonded importer according to Section 18 of this act, sorted by source state, by supplier, and by terminal or bulk plant;

4. Such other information with respect to the source and means of transportation of nonexempt motor fuel as the Commission in its discretion may require on forms prescribed and furnished by the Commission. However, the Commission may waive any portion or all of the reporting requirements if it determines that border states have adopted and implemented reciprocal terminal report requirements adequate to assure the Commission that it receives complete information in respect of motor fuel removed by and on behalf of suppliers from terminals in border states which is destined for this state.

B. Each licensed tank wagon importer shall file monthly with the Commission a verified sworn statement of operations within this state plus such other information in respect of the source and means of transportation of nonexempt motor fuel as the Commission in its discretion may require on forms prescribed and furnished by the Commission.

C. A person who knowingly violates or knowingly aids and abets another to violate this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00), or shall be sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.39 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each person operating a terminal in this state shall file monthly with the Commission a sworn statement of operations within this state for each terminal within this state, including the information set out in subsection B of this section, on forms prescribed and furnished by the Commission. The Commission may require the reporting of any information it considers reasonably necessary in addition to that required under subsection B of this section.

B. The monthly terminal report required by this section shall include the following information for each terminal location in this state:

1. Terminal code assigned by the Internal Revenue Service;

2. Total inventory at the terminal operated by the terminal operator;

3. Detailed schedules of receipts by shipment including:

a. carrier name or alpha code,

b. carrier federal identification number,

c. mode of transportation,

d. date received,

e. document number,

f. net gallons received, and

g. product type;

4. Detailed schedules of removals by shipment including:

a. carrier name or alpha code,

b. carrier federal identification number,

c. mode of transportation,

d. destination state,

e. supplier responsible for reporter removal,

f. supplier federal identification number,

g. date removed from terminal,

h. document number,

i. net gallons, and

j. gross gallons;

In the event the Internal Revenue Service provides a common system of assigning to carriers alpha-numeric codes in lieu of names, then this data will be required in lieu of carrier names.

C. For purposes of reporting and determining tax liability under this act, every licensee shall maintain inventory records as required by the Commission.

D. In the event that the source state does not require a terminal report which provides data substantially similar to that required by this section, any terminal operator subject to the police power of this state, and who operates a terminal outside that state, shall provide a report of gallons removed as to which the operator issued a shipping paper indicating this state as the destination state consistent with the information required under this section. This provision shall be ineffective if substantially similar data is readily available to this state from a federal terminal report or from the source state.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.40 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Every licensee shall, upon the discontinuance, sale, or transfer of the business or upon the cancellation, revocation or termination by law of a license under subsection C or F of Section 36 of this act, or as otherwise provided, within thirty (30) days, make a report as required under this act marked "Final Report", and shall pay all motor fuel taxes and penalties that may be due the state except as may otherwise be provided by law.

B. The payment shall be made to the Commission in accordance with Section 30 of this act.

C. For purposes of this section, any person who was licensed to remit motor fuel taxes by this state prior to the effective date of this act and who is not licensed as a supplier under this act shall be deemed to have the license terminated under this section as of the effective date of this act.

D. Any former licensee shall be given the opportunity to apply for eligible purchaser status as provided in Sections 22 and 23 of this act, prior to the effective date of this act. Should such determination not be complete before the effective date, collection of tax shown on the final report of the former license shall be delayed until the determination is complete. However, the final report shall be due not later than thirty (30) days after a denial of eligible purchaser status under Section 30 of this act becomes final.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.41 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each person licensed as an exporter shall file monthly reports with the Commission on forms prescribed and furnished by the Commission concerning the amount of motor fuel exported from this state.

B. The report shall contain the following information with respect to motor fuel other than diesel fuel dyed in accordance with the Internal Revenue Code:

1. All shipments of motor fuel removed from a terminal in this state as to which the tax imposed by this act previously was paid or accrued for direct delivery outside of this state by the exporter;

2. All shipments of motor fuel acquired free of all states' motor fuel taxes at a terminal in this state for direct delivery outside of this state by the exporter;

3. All shipments of motor fuel acquired free of this state's tax at a terminal in this state for direct delivery outside of this

state but as to which the destination state's motor fuel tax was paid or accrued to the supplier at the time of removal from the terminal;

4. The gallons delivered to taxing jurisdictions outside this state out of bulk plant storage, and whether by transport truck or tank wagon;

5. The name and federal employer identification number of the person receiving the exported motor fuel from the exporter;

6. The date of the shipments; and

7. The carrier name or alpha code and carrier federal identification number.

The Commission may, in addition, require the reporting of any other information it considers reasonably necessary to the enforcement of this act. The Commission may waive this reporting requirement if it finds the reports unnecessary to the administration of this act.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.42 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each person licensed as a transporter in this state shall file monthly reports with the Commission on forms prescribed and furnished by the Commission concerning the amount of motor fuel transported within or across the borders of this state. However, transport truck operations exclusively within the state are not reportable. If a transporter fails to make the reports required by this section, the person is subject to a civil penalty of One Thousand Dollars ($1,000.00) for each violation, as reasonably determined by the Commission.

B. The reports required by this section are for information purposes only and the Commission may waive the filing of the reports if the reports are unnecessary for the proper administration of this act. This section shall cease to be effective if substantially

similar data is available from federal government sources including a federal terminal report.

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.43 of Title 68, unless there is created a duplication in numbering, reads as follows:

In the event the tax imposed by this act is not precollected and must be collected from the consumer in accordance with Section 28 of this act, the tax is due and payable by the consumer on the first day of each month for the preceding calendar month, and if not paid on or before the 15th day of the following month, shall be delinquent. The consumer shall file with the Commission, on forms furnished by the Commission, a return verified by affidavit showing in detail the total purchase price of the motor fuel, the number of gallons purchased, the price per gallon, the location of the purchase and any other information the Commission may deem reasonably necessary. With each return, the consumer shall remit to the Commission the amount of tax shown on the return to be due. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.44 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each person operating a refinery, terminal, or bulk plant in this state shall prepare and provide to the driver of every fuel transportation vehicle receiving motor fuel into the vehicle storage tank at the facility an automated machine-printed shipping document setting out on its face:

1. Identification by address of the terminal or bulk plant from which the motor fuel was removed;

2. The date the motor fuel was removed;

3. The amount of motor fuel removed, actual gallons and net gallons;

4. The state of destination as represented to the terminal operator by the transporter, the shipper or the agent of the shipper; and

5. Any other information reasonably required by the Commission for the enforcement of this act.

B. A terminal operator may manually prepare shipping papers as a result of extraordinary unforeseen circumstances, including acts of God, which temporarily interfere with the ability of the terminal operator to issue automated machine-generated shipping papers. However, the terminal operator shall, prior to manually preparing the papers, provide telephonic notice to the Commission and obtain a service interruption authorization number in which the employees of the terminal operator shall add to the manually prepared papers prior to removal of each effected transport load from the terminal. The service interruption authorization number shall be valid for use by the terminal operator for a period not to exceed twenty-four (24) hours. If the interruption has not been cured within the twenty-four-hour period, additional notice(s) to the Commission shall be required and interruption authorization number(s) may be issued upon explanation by the terminal operator satisfactory to the Commission.

C. An operator of a bulk plant in this state delivering motor fuel into a tank wagon for subsequent delivery to a consumer in this state is exempt from this section.

D. A terminal operator may load motor or diesel fuel, a portion of which fuel is destined for sale or use in this state and a portion of which fuel is destined for sale or use in another state or states. However, such split loads removed shall be documented by the terminal operator by issuing shipping papers designating the state of destination for each portion of the fuel.

E. Each terminal operator shall post a conspicuous notice proximately located to the point of receipt of shipping papers by transport truck operators, which notice shall describe in clear and concise terms the duties of the transport operator and retail dealer under Section 45 of this act, provided that the Commission may by rule or notice establish the language, type, style and format of the notice.

F. A person who knowingly violates or knowingly aids and abets another to violate this section shall be guilty of a felony.

SECTION 45. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.45 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each person transporting motor fuel in a fuel transportation vehicle upon the public highways of this state shall:

1. Carry on board the shipping document issued by the terminal operator or the bulk plant operator of the facility where the motor fuel was obtained, whether within or without this state. The shipping paper shall set out on its face the state of destination of the motor fuel transported in the vehicle as represented to the terminal operator at the time the fuel transportation vehicle was loaded, or as otherwise provided in paragraph 3 of this subsection;

2. Show and permit duplication of the shipping document by a law enforcement officer, or representative of the Commission, upon request, when transporting, holding or off-loading the motor fuel described in the shipping document;

3. Deliver motor fuel described in the shipping document to a point in the destination state shown on the face of the document unless the person or the agent of the person does all of the following:

a. notifies the Commission or its nominee before the earlier of removal from the state in which the shipment originated, or the initiation of delivery,

that the person received instructions after the shipping document was issued to deliver the motor fuel to a different destination state,

b. receives from the Commission a verification number authorizing the diversion, and

c. writes on the shipping document the change in destination state and the confirmation number for the diversion;

4. Provide a copy of the shipping document to the distributor or other person who controls the facility to which the motor fuel is delivered;

5. Meet such other conditions as the Commission may reasonably require for the enforcement of this act.

The Commission shall provide by regulation for handwritten designations and alternative procedures for operators of tank wagons that have received motor fuel at a bulk plant for delivery within or without this state.

B. Every person transporting motor fuel in vehicles upon the public highways of this state shall provide the original or a copy of the terminal-issued shipping document accompanying the shipment to the operator of the retail outlet, bulk plant or bulk end user bulk storage facility to which delivery of the shipment was made.

C. Each operator of a motor fuel retail outlet, bulk plant or bulk end user bulk storage facility shall receive, examine, and retain for a period of thirty (30) days at the delivery location the terminal-issued shipping document received from the transporter for every shipment of motor fuel that is delivered to that location with record retention of the shipping paper of three (3) years required offsite.

D. No retail dealer, bulk plant operator, wholesale distributor or bulk end user shall knowingly accept delivery of motor fuel into bulk storage facilities in this state if that delivery is not

accompanied by a shipping paper issued by the terminal operator, or bulk plant operator as provided by regulations, that sets out on its face this state as the state of destination of the motor fuel or a diversion verification number pursuant to Section 46 of this act, and such other information as is required under Sections 49 and 50 of this act.

E. Any person who knowingly violates or knowingly aids and abets another to violate subsection B or D of this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00), or shall be sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment.

SECTION 46. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.46 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Commission shall promulgate rules for relief in a case where a shipment of motor fuel is legitimately diverted from the represented destination state after the shipping paper has been issued by the terminal operator or where the terminal operator failed to cause proper information to be printed on the shipping paper.

B. The relief rules shall include a provision requiring that the shipper, the transporter, or an agent of either provide notification before the diversion or correction to the Commission if an intended diversion or correction is to occur, that a verification number be assigned and manually added to the face of the terminal-issued shipping paper, and the relief provision shall be consistent with the refund provisions of this act, including Section 21 of this act.

C. The relief provisions shall establish a protest procedure so that any person found to be in violation of Section 44 and subsection C of Section 45 of this act may establish a defense to

any civil penalty imposed under this act for violation of such section or sections upon establishing substantial evidence satisfactory to the Commission that the violation was the result of honest error made in the context of a good faith and reasonable effort to properly account for and report fuel shipments and taxes.

D. The Commission shall make reasonable efforts to coordinate with neighboring states and the Federation of Tax Administrators for the operation of common telephonic diversion verification number assignment system including the shared burdens thereof.

SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.47 of Title 68, unless there is created a duplication in numbering, reads as follows:

The supplier and the terminal operator shall be entitled to rely for all purposes of this act on the representation by the transporter, the shipper or the agent of the shipper as to the intended state of destination and tax-exempt use of the shipper. The shipper, importer, transporter, agent of the shipper and any purchaser, not the supplier or terminal operator, shall be jointly liable for any tax otherwise due to the state as a result of a diversion of the motor fuel from the represented destination state. A terminal operator shall be entitled to rely on the representation of a licensed supplier with respect to the obligation of the supplier to precollect tax and the related shipping paper representation to be as shown on the shipping paper as provided by subsection A of Section 44 of this act.

SECTION 48. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.48 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Except as expressly provided in subsection B of this section, no person shall sell, use, deliver, or store in this state, or import for sale, use, delivery or storage in this state, motor fuel as to which the tax imposed by Section 4 of this act has not

been previously paid to or accrued by either a licensed supplier, or permissive supplier, at the time of removal from a terminal, or a licensed importer provided all the conditions of Section 50 of this act applicable to lawful import by the importer shall have been met.

B. The provisions of subsection A of this section shall not apply to:

1. A supplier with respect to motor fuel held within the bulk transfer/terminal system in this state which was manufactured in this state or imported into this state in a bulk transfer;

2. A consumer with respect to motor fuel placed in the vehicle supply tank of that person outside of this state;

3. Diesel fuel dyed in accordance with paragraph 17 of Section 10 of this act;

4. Motor fuel in the process of exportation by a licensed exporter in accordance with the shipping papers required by Section 45 of this act as to which the destination state tax has been paid or accrued to the supplier and a statement meeting the requirements of paragraph 2 of subsection A of Section 49 of this act is shown on the shipping papers;

5. Gasoline, diesel fuel and kerosene used in aircraft subject to the conditions and exceptions in paragraph 10 of Section 10 of this act;

6. Fuel in possession of a consumer as to which a refund has been issued;

7. Government and other exempt fuel under paragraphs 6, 7 and 8 of Section 10 of this act;

8. A licensed importer who has met the conditions of Section 49 of this act;

C. A person who violates this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00), or be sentenced to a term of not more

than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment.

SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.49 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsections C and D of this section, no person shall operate a transport truck that is engaged in the shipment of motor fuel on the public highways of this state without having on board a terminal-issued shipping paper bearing, in addition to the requirements of subsection A of Section 45 of this act, a notation indicating the following:

1. With respect to diesel fuel acquired under claim of exempt use, a statement indicating the fuel is "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" for the load or the appropriate portion of the load; or

2. With regard to any other motor fuel, a notation indicating "(supplier name) responsible (state name) motor fuel tax", or any other annotation acceptable to the Commission, which otherwise indicates that the tax imposed by this act, or by the destination state, has been paid to the supplier with respect to the entire load or the appropriate portion thereof.

B. A person is in violation of subsection A of this section upon boarding the vehicle with a shipping paper which does not meet the requirements set forth in this section.

C. A licensed importer or a transporter acting on behalf of the licensed importer shall be exempt from paragraph 2 of subsection A of this section if Section 50 of this act is otherwise applicable. However, no exemption from this section shall be effective with respect to shipments delivered to a state which has adopted reciprocal legislation as recognized by the Commission.

D. The Commission may in its discretion provide an advance notification procedure with respect to documentation for imported

motor fuel as to which the importer is unable to obtain terminal-issued shipping papers which comply with this section.

E. Any person who knowingly violates any part of this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00), or be sentenced to a term of not more than six (6) months in the county jail, or shall be punishable by both such fine and imprisonment.

F. The Commission, its appointee, or representative may seize, confiscate and dispose of any motor fuel which should be accompanied by a shipping paper meeting the requirements of this section which is not accompanied by the required shipping paper.

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.50 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In the event that a licensed importer acquires motor fuel destined for this state which has neither been dyed in accordance with the Internal Revenue Code and the regulations issued thereunder, nor tax paid to or accrued by the supplier at the time of removal from the out-of-state terminal, any licensed importer and transporter operating on behalf of the licensed importer shall meet all of the following conditions prior to entering motor fuel onto the highways of this state by loaded transport truck:

1. The importer or the transporter shall have obtained an import verification number from the Commission not sooner than twenty-four (24) hours prior to entering this state;

2. The import verification number shall have been set out prominently and indelibly on the face of each copy of the terminal-issued shipping paper carried on board the transport truck;

3. The terminal origin and the name and address of the importer shall also be set out prominently on the face of each copy of the terminal-issued shipping paper;

4. The terminal-issued shipping paper data otherwise required by this act shall be present; and

5. All tax imposed by this act with respect to previously requested import verification number activity on the account of the importer or the transporter shall have been timely precollected and remitted.

B. Any person who knowingly violates or knowingly aids and abets another to violate this provision shall be guilty of a felony and shall, upon conviction, be fined not more than Ten Thousand Dollars ($10,000.00), or be sentenced to a term of not more than three (3) years in the State Penitentiary, or shall be punishable by both such fine and imprisonment.

C. The Commission, its appointee, or representative may seize, confiscate and dispose of any motor fuel which should be accompanied by a shipping paper meeting the requirement of this section which is not accompanied by the required shipping paper.

SECTION 51. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.51 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. No person shall export motor fuel from this state unless that person has obtained an exporter's license or a supplier's license or has paid the applicable destination state motor fuel tax to the supplier and can demonstrate proof of export in the form of a destination state bill of lading.

B. A consumer which exports fuel in a vehicle fuel supply tank incident to interstate transportation shall be exempt from this section.

C. Any person who negligently violates this section shall be subject to a civil penalty in the amount of Five Hundred Dollars ($500.00).

D. Any person who knowingly violates or knowingly aids and abets another to violate this provision shall be guilty of a felony

and shall, upon conviction, be fined not more than Ten Thousand Dollars ($10,000.00), or be sentenced to a term of not more than three (3) years in the State Penitentiary, or shall be punishable by both such fine and imprisonment.

SECTION 52. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.52 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. No person shall operate or maintain a motor vehicle on any public highway in this state with motor fuel contained in the fuel supply tank for the motor vehicle that contains dye as provided under paragraph 17 of Section 10 of this act.

B. This section does not apply to:

1. Persons operating motor vehicles that have received fuel into their fuel tanks outside of this state in a jurisdiction that permits introduction of dyed motor fuel of that color and type into the motor fuel tank of highway vehicles; or

2. Uses of dyed fuel on the highway which are lawful under the Internal Revenue Code and regulations thereunder and as set forth in Section 10 of this act unless otherwise prohibited by this act.

C. Any person who negligently violates this section shall be subject to a civil penalty in the amount of Five Hundred Dollars ($500.00).

D. Any person who knowingly violates or knowingly aids and abets another to violate this section shall be guilty of a felony and shall, upon conviction, be fined not more than Ten Thousand Dollars ($10,000.00), or be sentenced to a term of not more than three (3) years in the State Penitentiary, or shall be punishable by both such fine and imprisonment.

SECTION 53. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.53 of Title 68, unless there is created a duplication in numbering, reads as follows:

No person shall engage in any business activity in this state as to which a license is required by this act unless the person shall have first obtained the license. Any person who negligently violates this section is subject to a civil penalty in the amount of One Thousand Dollars ($1,000.00). Any person who knowingly violates or knowingly aids and abets another to violate this section shall be guilty of a felony and shall, upon conviction, be fined not more than Ten Thousand Dollars ($10,000.00), or be sentenced to a term of not more than three (3) years in the State Penitentiary, or shall be punishable by both such fine and imprisonment.

SECTION 54. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.54 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. No person shall sell or purchase any product for use in the supply tank of a motor vehicle for general highway use that does not meet ASTM standards as published in the annual Book of Standards and its supplements unless amended or modified by the Commission.

B. The transporter and the agent of the transporter and customer have the exclusive duty to dispose of any product in violation of this section in the manner provided by federal and state law.

C. Any person who knowingly violates or knowingly aids and abets another to violate this section shall be guilty of a felony and shall, upon conviction, be fined not more than Ten Thousand Dollars ($10,000.00), or be sentenced to a term of not more than three (3) years in the State Penitentiary, or shall be punishable by both such fine and imprisonment.

SECTION 55. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.55 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. No terminal operator shall imprint, and no supplier shall knowingly permit a terminal operator to imprint on behalf of the

supplier, any statement on a shipping paper relating to motor fuel to be delivered to this state or to a state having substantially the same shipping paper legending requirements with respect to:

1. Any responsibility of the supplier or liability for payment of the tax imposed by this act; or

2. The tax-paid or tax-collected status of any motor fuel unless the supplier or representative of the supplier shall have first provided the terminal operator with a representation or direction to make the statement on behalf of the supplier.

B. Any terminal operator who shall negligently imprint any statement in violation of this section shall be subject to a civil penalty of Twenty Dollars ($20.00) for each violation.

C. Any terminal operator who shall knowingly imprint any statement in violation of this section shall be guilty of a felony in addition to any other tax, fines, penalties or sanctions which may be imposed and shall, upon conviction, be fined not more than Ten Thousand Dollars ($10,000.00), or be sentenced to a term of not more than three (3) years in the State Penitentiary, or shall be punishable by both such fine and imprisonment.

D. Any supplier who knowingly violates this section shall be jointly liable with the terminal operator.

SECTION 56. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.56 of Title 68, unless there is created a duplication in numbering, reads as follows:

A notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" shall be:

1. Provided by the terminal operator to any person that receives dyed diesel fuel at a terminal rack of that terminal operator;

2. Provided by any seller of dyed diesel fuel to its buyer if the diesel fuel is located outside the bulk transfer/terminal system

and is not sold from a retail pump posted in accordance with the requirements of paragraph 3 of this section; and

3. Posted by a seller on any retail pump where it sells dyed diesel fuel for use by its buyer.

The form of notice required under paragraphs 1 and 2 of this section shall be provided by the time of the removal or sale and shall appear on shipping papers, bills of lading, and invoices accompanying the sale or removal of the dyed diesel fuel.

SECTION 57. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.57 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each person operating motor fuel dispenser equipment accessible by the general public shall provide metering devices for each dispenser and shall maintain records sufficient to enable the Commission to determine the volumes dispensed through that equipment with reasonable accuracy.

B. No person shall exchange, replace, rollback or otherwise tamper with any such metering equipment without following procedures provided by the Commission for legitimate maintenance, repairs and replacement purposes.

C. Any person who shall violate this section shall be guilty of a felony and shall, upon conviction, be fined not more than Ten Thousand Dollars ($10,000.00), or be sentenced to a term of not more than three (3) years in the State Penitentiary, or shall be punishable by both such fine and imprisonment.

SECTION 58. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.58 of Title 68, unless there is created a duplication in numbering, reads as follows:

Each terminal operator in this state and every supplier licensed by this state for the collection of tax on motor fuel shall cause terminal-issued shipping papers to meet such tamper-resistant standards as the Commission may by regulation require including, but

not limited to messages which identify whether shipping papers have been photocopied, numbering systems, nonreproducible coding and other devices. However, the Commission may not make any such regulations effective earlier than twenty-four (24) months after the promulgation of a final regulation imposing the requirements.

SECTION 59. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.59 of Title 68, unless there is created a duplication in numbering, reads as follows:

No person shall operate a tank wagon in this state unless that tank wagon has first been registered under IFTA for use on the highways of this state and has displayed on the vehicle an IFTA sticker designating the vehicle for use in this state. However, any vehicle licensed in this state and exempt from the IFTA regulations shall be exempt from this requirement.

SECTION 60. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.60 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. No person shall sell or hold for sale dyed diesel fuel for any use that the person knows or has reason to know is not a nontaxable use of the diesel fuel.

B. No person shall use or hold for use any dyed diesel fuel for a use other than a nontaxable use and the person knew or had reason to know that the diesel fuel was so dyed.

C. No person shall willfully, with intent to evade tax, alter or attempt to alter the strength or composition of any dye or marker in any dyed diesel fuel.

D. Any business entity, each officer, employee, or agent of the entity who willfully participates in any act in violation of this section shall be jointly and severally liable with the entity for the penalty which shall be the same as imposed under federal law.

SECTION 61. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.61 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. A supplier, permissive supplier, or importer who knowingly fails to precollect or timely remit tax otherwise required to be paid over to the Commission pursuant to Section 18 or 20 of this act, or pursuant to a tax precollection agreement under Section 19 of this act shall be liable for the uncollected tax plus a one hundred percent (100%) penalty. The burden of proof shall rest with the Commission.

B. A person who fails or refuses to pay over to the state the tax on motor fuel at the time required in this act or who fraudulently withholds or appropriates or otherwise uses the money or any portion thereof belonging to the state shall be guilty of a felony and shall, upon conviction, be fined not more than Ten Thousand Dollars ($10,000.00), or shall be sentenced to a term of not more than three (3) years in the State Penitentiary, or shall be punishable by both such fine and imprisonment.

C. Truck drivers violating Section 45, 49 or 50 of this act shall be guilty of a misdemeanor for the first offense and shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00), or shall be sentenced to a term of not more than six (6) months in the county jail, or shall be punishable by both such fine and imprisonment. For the second and each subsequent offense, violators shall be guilty of a felony and shall, upon conviction, be fined not more than Ten Thousand Dollars ($10,000.00), or shall be sentenced to a term of not more than three (3) years in the State Penitentiary, or shall be punishable by both such fine and imprisonment.

SECTION 62. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.62 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. If any person liable for the tax under this act files a false or fraudulent return, there shall be added to the tax an amount equal to the tax the person evaded or attempted to evade.

B. The Commission shall impose a civil penalty of One Thousand Dollars ($1,000.00) for the first occurrence of transporting motor fuel without adequate shipping papers annotated as required under Section 45, 49 or 50 of this act. Each subsequent occurrence described in this subsection is subject to a civil penalty of Five Thousand Dollars ($5,000.00).

C. A supplier that makes sales for export to a person who does not have an appropriate export license or without collecting the destination state tax on motor fuel nonexempt in the destination state shall be subject to a civil penalty equal to the amount of the motor fuel tax due in the destination state in addition to the tax due to this state.

D. The Commission may impose a civil penalty against every terminal operator that fails to meet shipping paper issuance requirements under Sections 21, 44 and 56 of this act. The civil penalty imposed on the terminal operator shall be the same as the civil penalty imposed under subsection B of this section.

E. The Commission shall impose a civil penalty on the operator of a vehicle who knowingly violates the prohibition on sale or use of dyed fuel upon public highways of this state in an amount equivalent to that imposed by Section 6714 of the Internal Revenue Code.

F. Each importer or transporter which knowingly imports undyed motor fuel in a transport truck without either a valid importer license or supplier license, and without either an import verification number or a shipping paper showing on its face as required under this act that the motor fuel tax of this state is not due shall be subject to a civil penalty of Ten Thousand Dollars ($10,000.00) for each occurrence.

SECTION 63. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.63 of Title 68, unless there is created a duplication in numbering, reads as follows:

If a person is found operating a motor vehicle in violation of the shipping paper requirements in Sections 45, 49, 50 and 56 of this act, the vehicle and its cargo is subject to impoundment, seizure, and subsequent sale and forfeiture, in accordance with the general laws of this state respecting seizure and forfeiture. The failure of the operator of a motor vehicle to have on board, when loaded, a terminal-issued bill of lading with a destination state machine-printed on its face pursuant to Section 45 of this act or which fails to meet the descriptive annotation requirements of Sections 49, 50 and 56 of this act, if applicable, shall be presumptive evidence of a violation sufficient to warrant impoundment and seizure of the vehicle and its cargo.

SECTION 64. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.64 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Commission, or its appointees, including federal government employees or persons operating under contract with the state, upon presenting appropriate credentials may conduct inspections and remove samples of fuel to determine coloration of diesel fuel, or to identify shipping paper violations at any place where taxable fuel is or may be produced, stored or loaded into transport vehicles. Inspections shall be performed in a reasonable manner consistent with the circumstances, but in no event is prior notice required. Inspectors may physically inspect, examine or otherwise search any tank, reservoir, or other container that can or might be used for the production, storage, or transportation of fuel. Inspection may be made of any equipment used for, or in connection with, the production, storage, or transportation of fuel. Inspectors may demand to be produced for immediate inspection the

shipping papers, documents and records required to be kept by a person transporting fuel. These places may include, but are not limited to:

1. A terminal;

2. A fuel storage facility that is not a terminal;

3. A retail fuel facility;

4. Highway rest stops; or

5. A designated inspection site. For purposes of this section, a "designated inspection site" means any state highway or waterway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Commission either fixed or mobile.

B. Inspections to determine violations under this act may be conducted by the Department of Public Safety, agents of the Commission, motor carrier inspectors in this state in addition to their duties otherwise defined, and any other law enforcement officer through procedures established by the Commission. Agents of the Commission have the same power and authority provided to authorized personnel under the applicable statute.

C. Inspectors may reasonably detain any person or equipment transporting fuel in or through this state for the purpose of determining whether the person is operating in compliance with the provisions of this act and any rules promulgated pursuant to this act. Detainment may continue for such time only as is necessary to determine whether the person is in compliance.

SECTION 65. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.65 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Commission or any authorized deputy, employee, or agent is authorized to audit and examine the records, books, papers, and equipment of terminal suppliers, importers, wholesalers, jobbers, retail dealers, terminal operators, fuel vendors and all private and

common carriers of motor fuel to verify the completeness, truth and accuracy of any statement or report and ascertain whether or not the tax imposed by this act has been paid.

B. The Commission shall have the same general authority provided under subsection A of this section with respect to narrow transportation sampling audits. However, all fuel vendors and bulk purchasers of fuel shall make available to the Commission necessary records with respect to such transaction(s) which the Commission is attempting to verify during normal business hours at the physical location of the person in this state, or at the offices of the Commission if the location at which the records are located is outside of this state, within three business days after request.

C. The Commission or any appointee, including federal government employees and persons contracting with the state, may, upon proof of credentials shown, in the aggregate referred to for purposes of this section as fuel inspectors, inspect and each fuel vendor, motor fuel transporter or bulk purchaser shall disclose, immediately upon request, any shipping paper required by this act to be maintained at the physical location where the request is made which may include any place motor fuel is stored or held for sale or transportation.

D. Any person who shall refuse to permit any inspection or audit authorized by this act shall be subject to a civil penalty of Five Thousand Dollars ($5,000.00) in addition to any penalty imposed by any other provision of this act.

E. Any person who refuses, for the purpose of evading tax, to allow an inspection shall, in addition to being liable for any other penalties imposed by this act, be guilty of a felony and shall, upon conviction, be fined not more than Ten Thousand Dollars ($10,000.00), or be sentenced to a term of not more than three (3) years in the State Penitentiary, or shall be punishable by both such fine and imprisonment.

SECTION 66. AMENDATORY 68 O.S. 1991, Section 1363, is amended to read as follows:

Section 1363. Classification of vendors.

For the purpose of this article, all vendors are classified into five groups:

~~(1)~~ 1. Group One, vendors who are regularly and continuously engaged in a business at an established place of business and make sales subject to this article;

~~(2)~~ 2. Group Two, vendors who occasionally make sales or become subject to this article;

~~(3)~~ 3. Group Three, vendors who are transient persons, firms or corporations and make seasonal sales or in any manner become subject to this article, or vendors, either within or without this state, who make sales, subject to this article, through peddlers, solicitors or other salesmen who do not have established places of business in this state;

~~(4)~~ 4. Group Four, vendors who continuously, regularly or systematically engage in retail sales to the Oklahoma consumer by solicitation through display of products by advertisement in newspapers, or radio or television media located in this state and make sales subject to this article; or vendors who continuously, regularly or systematically engage in retail sales to the consumer within Oklahoma by solicitation by advertisement through mail order or catalog publications; and

~~(5)~~ 5. Group Five, vendors who hold a valid ~~distributor's~~ license pursuant to Section ~~510~~ 33 of this ~~title~~ act remitting sales tax based upon the use of motor fuel or diesel fuel as a sale defined pursuant to Section 1352 of this title.

SECTION 67. AMENDATORY 17 O.S. 1991, Section 354, as last amended by Section 23, Chapter 285, O.S.L. 1995 (17 O.S. Supp. 1995, Section 354), is amended to read as follows:

Section 354. A. Except as otherwise provided by this section, there shall be an assessment of one cent ($0.01) per gallon upon the sale of each gallon of motor fuel, diesel fuel and blending materials ~~sold to a person~~ used or consumed in this state ~~by a distributor~~. The assessment imposed pursuant to the provisions of this section shall be for the purposes of providing revenue to:

1. The Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund pursuant to paragraph 1 of subsection C of this section;

2. The State Highway Construction and Maintenance Fund pursuant to paragraph 2 of subsection C of this section;

3. The Corporation Commission pursuant to paragraph 2 of subsection C of this section; and

4. The Environmental Trust Revolving Fund pursuant to paragraph 2 of subsection C of this section.

The assessment shall be imposed at the time of the sale of the motor fuel, diesel fuel and blending materials and shall be ~~collected~~ precollected and remitted to the Oklahoma Tax Commission ~~by such distributor~~ in accordance with this act and as provided by Section 355 of this title.

B. 1. Exempt from the assessment imposed pursuant to subsection A of this section are:

a. the state government,

b. the federal government, and

c. class I railroads~~, and~~

~~d. sales between distributors, except for distributors required to operate on a tax-paid basis, and sales for exportation outside of this state specified by Section 507 of Title 68 of the Oklahoma Statutes~~.

2. Exempt from the assessment imposed for purposes specified in paragraph 2 of subsection A of this section are sales of:

a. motor fuel, diesel fuel and blending materials used solely and exclusively in district-owned or leased public school buses, FFA and 4-H club trucks for the purposes of legally transporting public school children, or in the operation of vehicles used in driver training,

b. motor fuels, diesel fuels and blending materials used solely and exclusively to propel motor vehicles on the public roads and highways of this state when leased or owned and being operated for the sole benefit of a county, city, town ~~or~~, volunteer fire department with a state certification and rating, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe as specified by Section ~~527~~ 10 of ~~Title 68 of the Oklahoma Statutes~~ this act,

c. motor fuel, diesel fuel and blending materials to counties and cities and towns,

d. diesel fuel for off-road purposes specified by Section ~~509~~ 10 of ~~Title 68 of the Oklahoma Statutes~~ this act,

e. motor fuel, diesel fuel and blending materials used for agricultural purposes specified by Section ~~509~~ 10 of ~~Title 68 of the Oklahoma Statutes~~ this act, and

f. motor fuel, diesel fuel and blending materials used in aircraft or in aircraft engines pursuant to Section ~~508~~ 10 of ~~Title 68 of the Oklahoma Statutes~~ this act.

C. The assessment imposed by subsection A of this section shall be distributed in the following manner:

1. Revenue from the assessment shall be deposited in the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund created in Section 353 of this title in amounts necessary to

maintain the maintenance level of the Indemnity Fund pursuant to subsection D of this section;

2. Except as otherwise provided in subsection D of this section, revenue from the assessment shall be deposited as follows:

a. the first One Million Dollars ($1,000,000.00) collected during each fiscal year shall be earmarked for appropriation to the Corporation Commission in such amount to be used solely for regulatory activities associated with the exploration and production of oil and gas,

b. the second One Million Dollars ($1,000,000.00) collected during each fiscal year shall be deposited in the Environmental Trust Revolving Fund created in Section 2-3-403 of Title 27A of the Oklahoma Statutes, to be used solely for the cleanup of abandoned oil and gas processing and refining sites, and

c. the balance of the monies collected during each fiscal year shall be deposited in the State Transportation Fund and shall be used solely for the purpose of matching Federal-Aid funds for the construction of highways and roads in this state.

D. 1. If at any time the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund falls below the required maintenance level on or before December 31, 1999, the Administrator shall notify the Tax Commission that the Indemnity Fund has fallen below the required maintenance level and that the assessment is to be deposited into the Indemnity Fund for at least three (3) calendar months pursuant to the provisions of paragraph 2 of this subsection.

2. At least fifteen (15) days prior to the calendar month in which the assessment is to be collected for credit to the Indemnity Fund, the Tax Commission, upon notification by the Administrator that the Indemnity Fund has fallen below the required maintenance

level, shall notify the ~~distributors~~ suppliers, licensed importers or other appropriate persons that the assessment is being imposed for purposes of maintaining the Indemnity Fund. The notice shall include a date certain upon which to begin collecting the assessment for credit to the Indemnity Fund and a date certain for ending the assessment for credit to the Indemnity Fund. Upon notice by the Tax Commission that the assessment imposed is for credit to the Indemnity Fund, the ~~distributor~~ supplier, licensed importer or other appropriate person shall also assess, for the specified period required by the Tax Commission, the sales of:

a. motor fuel, diesel fuel and blending materials used solely and exclusively in district-owned or leased public school buses, FFA and 4-H Club trucks for the purposes of legally transporting public school children or in the operation of vehicles used in driver's training,

b. motor fuels, diesel fuels and blending materials used solely and exclusively to propel motor vehicles on the public roads and highways of the state when leased or owned and being operated for the sole benefit of a county, city or town ~~or~~, volunteer fire department with a state certification and rating, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe as specified by Section ~~527~~ 10 of ~~Title 68 of the Oklahoma Statutes~~ this act,

c. motor fuel, diesel fuel and blending materials to counties and cities and towns,

d. diesel fuel for off-road purposes specified by Section ~~509~~ 10 of ~~Title 68 of the Oklahoma Statutes~~ this act,

e. motor fuel, diesel fuel and blending materials used for agricultural purposes specified by Section ~~509~~ 10 of ~~Title 68 of the Oklahoma Statutes~~ this act, and

f. motor fuel, diesel fuel and blending materials used in aircraft and aircraft engines pursuant to Section ~~508~~ 10 of ~~Title 68 of the Oklahoma Statutes~~ this act.

3. After the collection period required by this subsection has expired, the revenue collected from the assessment shall be again deposited for appropriation to the Corporation Commission, and in the Environmental Trust Revolving Fund and the State Transportation Fund as provided in subsection C of this section.

SECTION 68. AMENDATORY 17 O.S. 1991, Section 355, is amended to read as follows:

Section 355. A. It shall be the duty of every ~~distributor~~ supplier, licensed importer or any other appropriate person under this act to ~~collect~~ precollect and remit any assessment so ~~collected~~ precollected pursuant to the ~~provision~~ provisions of this act and Section 354 of this title and make and submit an assessment collection report as required by this section.

B. 1. The assessment imposed pursuant to the provision of Section 354 of this title shall be collected and remitted to the Oklahoma Tax Commission at the same time and in the same manner as provided by law for the collection and remission of tax levies upon the sale of gasoline within this state. The basis for computation of the amount due shall be one hundred percent (100%) of the net gallonage reported to the Tax Commission for assessment.

2. Each ~~distributor~~ supplier, licensed importer or other appropriate person shall make and submit for each calendar month that ~~such~~ the assessment is imposed an itemized and verified assessment collection report showing:

a. the name of the ~~distributor~~ supplier, licensed importer or other appropriate person collecting the assessment;

b. the total amount of motor fuel, diesel fuel and blending materials sold during the preceding month;

c. the total amount of assessments collected by ~~such distributor~~ the supplier, licensed importer or other appropriate person during the preceding month; and

d. such further information the Tax Commission may require to enable it to compute correctly and collect the assessment made pursuant to this act.

~~Such~~ The reports shall be filed at the same time and in like manner as required for gasoline tax reports pursuant to ~~Section 505 of Title 68 of the Oklahoma Statutes~~ this act.

C. Every ~~distributor~~ supplier, licensed importer or other appropriate person shall keep and preserve suitable records of the gross sales of motor fuel, diesel fuel and blending materials, the assessment collected and such other pertinent records and documents which may be necessary to determine the amount of assessment due as will substantiate and prove the accuracy of ~~such~~ the reports. All ~~such~~ the records shall be preserved for a period of three (3) years, unless the Tax Commission, in writing, has authorized their destruction or disposal at an earlier date. ~~Such~~ The records shall be open for examination by employees of the Tax Commission, the Corporation Commission or the Oklahoma Department of Transportation in the performance of their duties pursuant to law.

D. Any ~~distributor~~ supplier, licensed importer or other appropriate person who ~~fails~~ fail to comply with any provisions of this section shall pay a penalty imposed by the Tax Commission. Any ~~such~~ monies collected for payment of the penalty shall be deposited in the same manner as the assessments pursuant to the provisions of subsection B of Section 354 of this title. ~~Such~~ The penalty shall

be equal to ten percent (10%) of the gross amount of the assessments received by the ~~distributor~~ supplier, licensed importer or other appropriate person for the report period that ~~such distributor~~ the supplier, licensed importer or other appropriate person failed to timely mail the required report or remit any monies collected pursuant to the provisions of this act.

E. The Tax Commission shall keep a separate accounting of all ~~such~~ the monies received pursuant to this section and together with any interests and penalties thereon shall deposit such monies monthly as provided in subsection B of Section 354 of this title.

SECTION 69. REPEALER 68 O.S. 1991, Sections 501, as amended by Section 32, Chapter 366, O.S.L. 1993, 502, 502.1, 502.2, 502.3, 502.4, as amended by Section 1, Chapter 114, O.S.L. 1995, 502.5, as amended by Section 2, Chapter 114, O.S.L. 1995, 502.6, 502.7, 504, as last amended by Section 1, Chapter 241, O.S.L. 1994, 504.1, 505, as amended by Section 16, Chapter 146, O.S.L. 1993, 506, 507, 508, 509, as last amended by Section 7, Chapter 258, O.S.L. 1994, Section 18, Chapter 146, O.S.L. 1993, 510, as amended by Section 33, Chapter 366, O.S.L. 1993, 510.1, as amended by Section 1, Chapter 33, O.S.L. 1994, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 522.1, 523, 523.1, 524, 525, 526, 527, as amended by Section 1, Chapter 300, O.S.L. 1992, 530 and 531 (68 O.S. Supp. 1995, Sections 501, 502.4, 502.5, 504, 505, 509, 509.2, 510, 510.1 and 527), are hereby repealed.

SECTION 70. This act shall become effective July 1, 1996.

SECTION 71. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-2-8929 JAF