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H.27

Introduced by Representatives Aswad of Burlington, Atkins of Winooski,  
Audette of S. Burlington, Deen of Westminster, Howard of  
Rutland City, Macaig of Williston and Marek of Newfane  
Referred to Committee on  
Date:  
Subject: Motor vehicles; diesel fuel tax; gasoline tax; fees  
Statement of purpose: This bill proposes to replace the current taxes on diesel  
fuel and gasoline with fees.

An act relating to diesel fuel and gasoline fees

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 23 V.S.A. chapter 27 is amended to read:

CHAPTER 27. DIESEL FUEL ~~TAX~~ FEES

§ 3001. PURPOSE

The purpose of this chapter is to impose a ~~tax~~ fee on ~~all users~~ the sale of  
diesel fuel ~~upon the sale~~ or the use of such fuel by motor vehicles on public  
highways.

§ 3002. DEFINITIONS

\* \* \*



1 from a dealer or user, the distributor shall pay the same to the commissioner  
2 with the monthly report required by section 3014 of this title.

3 (2) a A user who uses fuel shall pay the ~~tax~~ fee to the commissioner as  
4 provided in section 3015 of this title. The ~~tax~~ fee shall attach at the time of the  
5 consumption of such fuel in the propulsion of a motor vehicle upon the  
6 highways of the state.

7 (c) A ~~tax~~ fee of three cents per gallon is imposed on each gallon of railroad  
8 fuel used in the state.

9 (d)(1) For users, the following uses shall be exempt from ~~taxation~~ the fees  
10 imposed under this chapter and be entitled to a credit for any ~~tax~~ fee paid for  
11 such uses under section 3020 of this title:

12 \* \* \*

13 (2) Provided, however, that no ~~tax~~ fee shall be due with respect to fuel  
14 for use in any state, municipal, school district, fire district or other  
15 governmentally-owned vehicle, as long as the distributor takes from the  
16 purchaser at the time of sale an exemption certificate in the form prescribed by  
17 the commissioner; and provided, further, that no ~~tax~~ fee shall be due with  
18 respect to fuel delivered for farm use to a farm bulk fuel storage tank.

19 (e) A distributor may use as the measure of the ~~tax~~ fee so levied and  
20 assessed the gross quantity of diesel fuel purchased, imported, produced,  
21 refined, manufactured and compounded by the distributor, less one percent for

1 shrinkage, loss by evaporation or otherwise, instead of the quantity sold,  
2 distributed or used.

3 \* \* \*

4 § 3007. DIESEL FUEL USER'S LICENSE

5 \* \* \*

6 (c) This section shall not apply to users' vehicles exempt from reporting  
7 requirements under section 3014 of this title or to users' vehicles exempt from  
8 ~~taxation~~ the imposition of fees under subdivisions 3003(d)(3) and (5) of this  
9 title, or to users' vehicles that are being operated under the provisions of  
10 sections 463 or 516 of this title.

11 § 3008. REFUSAL TO ISSUE LICENSE

12 (a) The commissioner may refuse to issue a license after a finding that the  
13 application:

14 \* \* \*

15 (4) is filed by a person who is delinquent in the payment of any ~~tax-fee~~,  
16 interest, penalty, or other expense due the commissioner by him or her.

17 § 3009. DISCONTINUANCE, REVOCATION, AND REINSTATEMENT  
18 OF LICENSES

19 (a) When any person ceases to be a licensee by reason of a discontinuance,  
20 sale or transfer of his or her business at any location, he or she shall notify the  
21 commissioner in writing at the time the discontinuance, sale, or transfer takes

1 effect. The notice shall give the date of discontinuance and, in the event of a  
2 sale or transfer of the business, the name and address of the purchaser or  
3 transferee. All ~~taxes~~ fees, interest, and penalties not yet due and payable under  
4 the provisions of this chapter shall be due and payable, notwithstanding such  
5 provisions, concurrently with the discontinuance, sale or transfer. The licensee  
6 shall file a report and simultaneously pay all ~~taxes~~ fees, interest, penalties, and  
7 other expenses due by him or her and surrender to the commissioner the  
8 license certificate issued to him or her together with all duplicates and copies,  
9 and a user shall remove and surrender to the commissioner all identification  
10 markers from his or her motor vehicles. Until such notice has been given to  
11 the commissioner by a licensee required to file a bond, the seller and his or her  
12 surety shall be liable for the ~~taxes~~ fees, interest, penalties, and other expenses  
13 accruing against the transferee, but only to the extent of the value of the  
14 property transferred.

15 \* \* \*

16 § 3010. TEMPORARY AUTHORIZATION

17 Any vehicle registered in a jurisdiction other than Vermont that is eligible  
18 for motor fuel ~~tax~~ fee licensing under the International Fuel Tax Agreement  
19 Plan that is not licensed in Vermont for fuel tax or fee reporting purposes, may  
20 obtain a trip permit prior to entering this state. The fee for the permit shall be  
21 \$15.00. The permits shall be valid for a period of 72 hours and shall satisfy

1 motor fuel ~~tax~~ fee reporting and payment obligations that may arise from the  
2 trip. Trip permits must be kept with the vehicle while being operated.

3 § 3011. BOND REQUIREMENT; AMOUNT; FAILURE OF SECURITY

4 (a) When the commissioner deems it necessary to protect the revenues to  
5 be obtained under this chapter, he or she may require a user, dealer or  
6 distributor to file with him or her a bond, issued by a surety company  
7 authorized to transact business in this state and approved by the commissioner  
8 of banking, insurance, securities, and health care administration of this state as  
9 to solvency and responsibility, in an amount fixed by the commissioner, but  
10 not to exceed the total potential liability of such person, to secure the payment  
11 of any ~~tax~~ fees or penalties or interest due or which may become due from a  
12 licensee under this chapter. In the event that the commissioner determines that  
13 such person is to file a bond, he or she shall give notice to him or her to that  
14 effect, specifying the amount of the bond required. That person shall file a  
15 bond within 15 days after the giving of the notice unless within those 15 days  
16 he or she shall request in writing a hearing before the commissioner at which  
17 the necessity, propriety and amount of the bond shall be determined by the  
18 commissioner. The determination shall be final and shall be complied with  
19 within 15 days after the giving of notice thereof. In lieu of a bond, securities  
20 approved by the commissioner or cash in such amount as he or she may  
21 prescribe may be deposited, which shall be kept in the custody of the state

1 treasurer who may at any time upon instructions from the commissioner  
2 without notice to the depositor apply them to any ~~tax~~ fees or interest or  
3 penalties due, and for that purpose the securities may be sold by him or her at  
4 public or private sale without notice to the depositor thereof.

5 \* \* \*

6 § 3013. RECORDS; SALES INVOICE; INSPECTION

7 \* \* \*

8 (b) Each sale or delivery of fuel by a dealer to a user shall be recorded on  
9 demand by the user upon a preprinted, serially numbered invoice approved in  
10 form and content by the commissioner and a copy delivered to the user. The  
11 sales invoice shall constitute a receipt for the amount of ~~tax~~ fees collected by  
12 the dealer upon payment by the user. Copies of the sales invoices shall be  
13 retained by the user and the dealer for not less than three years. For the  
14 purposes of claiming a ~~tax~~ fee credit or refund under sections 3015 and 3020 of  
15 this title, a user with the approval of the commissioner may submit as a receipt  
16 a record of purchases made upon which the ~~tax was~~ fees were paid at the time  
17 of purchase; provided, however, that the supporting documents are available  
18 for audit purposes in readily accessible form or on readable microfilm.

19 (c) The commissioner or his or her agents may examine the books and  
20 records of any distributor, dealer, or user during the usual business hours of the

1 day to verify the truth and accuracy of any statement, report, or return or to  
2 determine if the ~~tax~~ fee imposed by this chapter has been paid.

3 \* \* \*

4 § 3014. REPORTS; EXCEPTIONS

5 (a) Every distributor or dealer, on or before the last day of each month,  
6 shall file with the commissioner on forms prescribed by him or her a report for  
7 the preceding month which shall include the number of gallons of fuel sold or  
8 delivered. A distributor's report shall also include the identity of the person to  
9 whom the fuel was sold or delivered, the amount of the ~~tax~~ fee collected and  
10 by whom, and the monthly total of fuel sold or delivered. The report shall be  
11 filed even though no fuel was sold or delivered.

12 \* \* \*

13 (d) If the commissioner deems it necessary in order to ~~insure~~ ensure  
14 payment of the ~~tax~~ fee, or to facilitate the administration of this chapter, the  
15 commissioner may require reports and payment of ~~tax~~ fees to be made for  
16 other than and in addition to quarterly periods. A user may apply to the  
17 commissioner for approval to file reports and pay ~~taxes~~ fees on a more frequent  
18 basis.

19 (e) The commissioner may exempt a dealer from the monthly report  
20 requirement if the dealer holds a valid license and annually certifies that the

1 dealer purchases all fuel sold or delivered from a licensed distributor and pays  
2 the ~~tax~~ fee on such fuel to the distributor.

3 \* \* \*

4 § 3015. COMPUTATION AND PAYMENT OF ~~TAX~~ FEE

5 Each report required under section 3014 of this title from licensed  
6 distributors, dealers, or users shall be accompanied by a remittance payable to  
7 the department of motor vehicles for the amount of ~~tax~~ fees due which shall be  
8 computed in the following manner:

9 (1) The distributor's ~~tax~~ fee shall be determined by multiplying the  
10 number of gallons of fuel sold or delivered into the bulk tanks of dealers or  
11 users by the rate per gallon stated in section 3003 of this title.

12 (2) Except as provided in subdivision 3002(9) of this title, the user's ~~tax~~  
13 fee shall be determined by multiplying the number of gallons of fuels used in  
14 Vermont in motor vehicles operated by the user at the rate per gallon stated in  
15 section 3003 for vehicles weighing or registered for 26,001 pounds or more.  
16 The ~~taxable gallonage~~ gallons to which the fee shall apply shall be computed  
17 on the basis of miles travelled within the state as compared to total miles  
18 travelled within and without the state, with the actual method of computation  
19 prescribed by the commissioner. A distributor may use as the measure of the  
20 ~~tax~~ fee so levied and assessed the gross quantity of fuel purchased, imported,  
21 produced, refined, manufactured, and compounded by the distributor, less one

1 percent for shrinkage, loss by evaporation or otherwise, instead of the quantity  
2 sold, distributed or used. From this amount of ~~tax~~ fees due, there shall be  
3 deducted the ~~tax~~ fee on fuel purchased in this state on which the ~~tax~~ fee has  
4 been previously paid by the user, provided the ~~tax-paid~~ fee-paid purchases are  
5 supported by copies of the sales invoices showing the amount of ~~tax~~ fees paid.  
6 Such copies shall be retained by the ~~taxpayer~~ user for a period of not less than  
7 three years and shall be available for inspection by the commissioner or his or  
8 her designated agents. If the computation shows additional ~~tax~~ fees to be due,  
9 it shall be remitted with the report filed under section 3014 of this title.

10 (3) If a remittance to cover payment of ~~tax~~ fees due as shown by a report  
11 required by this chapter is sent through the United States mail properly  
12 addressed to the department of motor vehicles, it shall be deemed received on  
13 the date shown by the postmark on the envelope containing the report only for  
14 purposes of avoiding penalty and interest.

15 \* \* \*

16 (4) All ~~tax~~ diesel fuel fees, interest, user license fees, and penalties  
17 collected by the department of motor vehicles under this chapter shall be  
18 forthwith paid to the state treasurer and credited to the transportation fund.

19 (5) Notwithstanding subdivision (4) of this section, ~~the~~ one cent per  
20 gallon of the fee imposed by this chapter shall be deposited into the petroleum  
21 cleanup fund established by 10 V.S.A. § 1941. ~~These fees~~ , which portion of

1 the fee shall be deemed the petroleum distributor licensing fee established by  
2 10 V.S.A. § 1942.

3 \* \* \*

4 § 3016. ADDITIONAL ASSESSMENT; TIME LIMIT

5 (a) If the commissioner is not satisfied that the report filed or the amount of  
6 ~~tax fees~~ paid by a ~~taxpayer~~ distributor or user is accurate, after investigating  
7 and finding such inaccuracy, he or she may make an additional assessment of  
8 ~~taxes~~ fees due from the ~~taxpayer~~ distributor or user, as the case may be, based  
9 upon his or her investigation. In estimating the ~~tax~~ fees due from a licensed  
10 user, fuel consumption shall be computed at the rate of 10 miles per gallon for  
11 vehicles registered up to and including 10,000 pounds and at four miles per  
12 gallon for all vehicles registered over 10,000 pounds for any unreported  
13 Vermont mileage in excess of four percent of the operator's total Vermont  
14 mileage. Any ~~tax~~ fee assessed for mileage up to four percent of the operator's  
15 total Vermont mileage shall be assessed based on the operator's fuel  
16 consumption average for his or her entire fleet. A penalty equal to 10 percent  
17 and interest at the rate of one and one-half percent per month shall be payable  
18 on the additional assessment, with interest computed from the date the ~~tax~~ fee  
19 payment was due.

20 \* \* \*

1 (b) When no report or payment of ~~tax~~ fees has been made as required by  
2 sections 3014 and 3015 of this title, or when a ~~wilfully~~ willfully false or  
3 fraudulent report has been filed, the ~~tax~~ fee may be assessed at any time; in all  
4 other cases, no assessment of additional ~~tax~~ fees, and the mailing of notice,  
5 shall be made after the expiration of three years from the date of filing a report.

6 § 3017. FAILURE TO FILE A REPORT OR PAY THE ~~TAX~~ FEE WHEN  
7 DUE; PENALTY

8 (a) Any person who fails to file a report when due shall pay a late fee of  
9 \$10.00 as partial compensation for the added administrative costs.

10 (b) In addition to the late fee prescribed in subsection (a) of this section,  
11 any person who fails to pay any ~~tax~~ fee when due, except a ~~tax~~ fee assessed  
12 pursuant to sections 3016 and 3018 of this title, shall pay in addition to the ~~tax~~  
13 fees interest calculated at one and one-half percent per month on the ~~tax~~ fees  
14 from the due date, until paid. In addition, if the ~~taxpayer~~ distributor or user, as  
15 the case may be, fails to pay the ~~tax~~ liability in full within 30 days, a penalty  
16 equal to five percent of the outstanding ~~tax~~ liability for each month or portion  
17 thereof, shall be paid; provided, however, that in no event shall the amount of  
18 the penalty imposed hereunder exceed 25 percent of the ~~tax~~ liability unpaid on  
19 the prescribed date of payment.

1 \* \* \*

2 § 3018. NEGLECT OR REFUSAL TO FILE A REPORT; ESTIMATE OF  
3 ~~TAX~~ FEE BY COMMISSIONER; PENALTY AND INTEREST

4 If any person neglects or refuses to file any report required by this chapter,  
5 the commissioner shall make an estimate of the ~~tax~~ fee due, based upon  
6 information available to the commissioner, for the period for which that person  
7 failed to make the report, and shall assess the ~~tax~~ fee due from the licensee,  
8 adding to the amount thus determined a penalty of 50 percent. In estimating  
9 the ~~tax~~ fee due from a licensed user, fuel consumption shall be computed at the  
10 rate of 10 miles per gallon for vehicles registered up to 10,000 pounds and four  
11 miles per gallon for those vehicles registered over 10,000 pounds. The  
12 assessment shall bear interest at the rate of one and one-half percent per month  
13 from the date the ~~tax~~ fee payment was due until paid.

14 \* \* \*

15 § 3020. CREDITS AND REFUNDS

16 (a) A person who purchased fuel within this state from a dealer or  
17 distributor upon which he or she paid the ~~tax~~ fee at the time of purchase, or a  
18 person exempt from the payment of the ~~tax~~ fee under subsection 3003(d) of  
19 this title and who purchased fuel within this state upon which he or she paid  
20 ~~tax~~ a fee at the time of purchase shall be entitled to a credit or refund equal to  
21 the amount of ~~tax~~ the fee per gallon in effect when the fuel was purchased.

1       When the amount of the credit to which any person is entitled for any reporting  
2       period exceeds the amount of ~~his or her tax~~ fees paid by him or her for the  
3       same period, the excess shall be allowed as a credit against ~~the tax~~ fees for  
4       which the person otherwise would be liable for the next succeeding reporting  
5       period. However, any credits to be calculated shall be applied against any  
6       outstanding assessments due with the balance to be credited against the ~~tax~~ fee  
7       liability for the next succeeding reporting period. If requested, he or she shall  
8       be entitled to a refund of any excess ~~tax~~ fees paid. When the excess ~~tax~~ fees  
9       paid ~~is~~ are \$25.00 or greater, a refund shall be made without a request being  
10      required. Credit or refunds for ~~tax-paid~~ fee-paid purchases must be claimed on  
11      either the report covering the reporting period in which the purchase was made  
12      or on the report filed for any of the next 11 following reporting periods, but in  
13      no case may credits or refunds be claimed more than 33 months following the  
14      due date of the report covering the reporting period in which the purchase was  
15      made.

16      (b) If the commissioner determines that a ~~tax~~ diesel fuel fee, penalty,  
17      interest or other fee required by this chapter has been paid more than once by a  
18      licensee, or has been illegally or erroneously collected or computed, the excess  
19      amount paid or collected shall be credited to the ~~tax~~ fee account of the licensee,  
20      and the licensee shall be notified thereof by mail.

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\* \* \*

(c) A person who sells or delivers fuel subject to the tax imposed by chapter 233 of Title 32 upon which the ~~tax~~ fee imposed by this chapter has been paid shall be entitled to a refund in the amount of such ~~tax~~ fee paid pursuant to this chapter.

\* \* \*

§ 3021. GENERAL POWERS OF COMMISSIONER

\* \* \*

(b) In addition to the powers specifically granted to the commissioner in this chapter, he or she may:

\* \* \*

(3) with the approval of the governor and secretary, enter into agreement with other states, the District of Columbia and Canadian provinces, providing for the reciprocal enforcement of the fuel use tax or fee laws imposed by the states or provinces entering into such an agreement, which agreement may empower the duly authorized officer of any contracting state or province, which extends like authority to officers or employees of this state, to sue for the collection of that state's or province's fuel use taxes or fees in the courts of this state.

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\* \* \*

(4) hold hearings, cause depositions to be taken, administer oaths and examine under oath any person relating to his or her business or relating to any matter under this chapter. This chapter shall also apply to any person who the commissioner has reason to believe is liable for the payment of a ~~tax~~ fee;

(5) compel the attendance of witnesses and order the production of any relevant books, records, papers, vouchers, accounts, or other documents of any person the commissioner has reason to believe is liable for the payment of a ~~tax~~ fee or of any person believed to have information pertinent to any matter under investigation by the commissioner at any hearing held under this chapter. The fees for travel and attendance of witnesses summoned or used by the commissioner and fees for officers shall be the same as for witnesses and officers before a district court and shall be paid by the state upon presentation of proper bills of cost to the commissioner of finance and management, but no fees or expenses shall be payable to a witness charged with a ~~use tax~~ user fee liability.

\* \* \*

§ 3022. PROCEEDINGS TO RECOVER ~~TAX~~ FEE

(a) Whenever any person fails to pay any ~~tax~~ fee, penalty or interest, the attorney general shall, upon the request of the commissioner, enforce the

1 payment on behalf of the state in any court of the state or of any other state of  
2 the United States or of any province of Canada.

3 \* \* \*

4 (c) The commissioner is authorized to contract with private collection  
5 agencies for collection of ~~tax~~ fee penalties and interest imposed on persons  
6 who have failed to pay after reasonable notification of the debt.

7 \* \* \*

8 § 3023. REVIEW OF COMMISSIONER'S DECISION

9 (a) Any aggrieved licensed user or ~~taxpayer~~ fee payer may have any  
10 decision, order, or finding of the commissioner made under this chapter  
11 reviewed under Rule 75 of the Vermont Rules of Civil Procedure.

12 \* \* \*

13 (b) The appeal provided by this section shall be the exclusive remedy  
14 available to any licensed user or ~~taxpayer~~ fee payer for review of a decision of  
15 the commissioner.

16 § 3024. PENALTIES

17 (a) Any person under this chapter who shall willfully: fail or refuse to pay  
18 the ~~tax~~ fee imposed or engage in any activity for which a license is required  
19 without having procured and maintained such license; fail to make any of the  
20 reports required; make any false statement in any application, report or  
21 statement required; refuse to permit the commissioner or any deputy to make

1 the examination as provided by subsection 3013(c) of this title; fail to keep  
2 proper records of quantities of fuel received, sold, used, or delivered in this  
3 state as required; make any false statement on any delivery ticket or invoice as  
4 to the quantity of fuel delivered, sold, or used; make any false statement in  
5 connection with a report or an application for the refund of any monies or ~~taxes~~  
6 fees; or engage in any act or activity with the intent to evade payment to or  
7 prevent collection by the state of the ~~tax~~ fee imposed, shall be, in addition to  
8 any other penalties herein or elsewhere prescribed, guilty of a misdemeanor  
9 punishable by a fine of not more than \$5,000.00 or imprisonment for not more  
10 than one year or both.

11 \* \* \*

12 § 3027. CIVIL FINE

13 In addition to any other penalty imposed for violation of this chapter, a civil  
14 fine of \$1,000.00 shall be imposed upon a purchaser or user for each instance  
15 in which the purchaser or user uses ~~untaxed~~ fuel for which a fee has not been  
16 paid to propel a motor vehicle upon the highways of the state.

17 § 3028. BULK SALES; TRANSFEREE LIABILITY

18 (a) Whenever a licensee (transferor) required to collect and remit the ~~tax~~  
19 fee required by this chapter shall make any sale, transfer, lease<sub>2</sub> or assignment  
20 (transfer) in bulk of any part or the whole of the assets of a business, otherwise  
21 than in the ordinary course of the business, the purchaser, transferee, lessee<sub>2</sub> or

1 assignee (transferee) shall, at least 10 days before taking possession of the  
2 subject of the transfer or before payment therefor if earlier, notify the  
3 commissioner in writing of the proposed transfer and of the price and date  
4 thereof; and whether or not the transferor has represented to, or has informed  
5 the transferee that the transferor owes any ~~tax~~ fees, interest, or penalties  
6 required by this chapter and whether or not the transferee has knowledge that  
7 such ~~taxes~~ fees, interest, or penalties are owed, and whether any ~~taxes~~ fees,  
8 interest, or penalties are in fact owed.

9 (b) Whenever the transferee shall fail to give notice to the commissioner as  
10 required by subsection (a) of this section, or whenever the commissioner shall  
11 inform the transferee that a possible claim for ~~taxes~~ fees, interest, or penalty  
12 exists, any sums of money, property, or choses in action, or other  
13 consideration, which the transferee is required to transfer over to or for the  
14 transferor shall be subject to a first priority right and lien for any ~~taxes~~ fees,  
15 interest, or penalty theretofore or thereafter determined to be due from the  
16 transferor to the state, and the transferee is forbidden to transfer the  
17 consideration to or for the transferor to the extent of the amount of the state's  
18 claim.

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§ 3029. PERSONAL LIABILITY

Any licensee who fails to collect the ~~tax~~ fee required by this chapter or to pay it to the commissioner in the manner required by this chapter shall be personally and individually liable for the amount of such ~~tax~~ fees and any interest and penalty assessed thereon pursuant to sections 3017 and 3018 of this title; and if the licensee is a corporation or other entity, the personal liability shall extend and be applicable to any officer or agent of the corporation or entity who as an officer or agent of the same is under a duty to collect the ~~tax~~ fee and pay it to the commissioner as required in this chapter.

§ 3030. ~~TAX~~ FEE LIABILITY AS PROPERTY LIEN; DISCHARGE AND FORECLOSURE

(a) If any licensee required to pay the ~~tax~~ fee under this chapter neglects or refuses to pay the same after demand is made by the commissioner, the amount, together with all penalties and interest provided for in this chapter and together with any costs that may accrue in addition thereto, shall be a lien in favor of the state of Vermont upon all property and rights to property, whether real or personal, belonging to such licensee.

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\* \* \*

Sec. 2. 23 V.S.A. chapter 28 is amended to read:

CHAPTER 28. GASOLINE ~~TAX~~ FEE

Subchapter 1. General Gasoline ~~Tax~~ Fee

§ 3101. DEFINITIONS

\* \* \*

(b) When a person receives motor fuel in circumstances which preclude the collection of the ~~tax~~ fee from the distributor by reason of the provisions of the constitution and laws of the United States, and shall thereafter sell or use the motor fuel in the state in a manner and under circumstances as may subject the sale to the taxing power of the state, the person shall be considered a distributor and shall make the same reports, pay the same ~~taxes~~ fees and be subject to all provisions of this subchapter relating to distributors of motor fuel.

\* \* \*

§ 3102. LICENSING AND BONDING OF DISTRIBUTORS

(a) Before commencing business, on application, a distributor shall first procure a license from the commissioner of motor vehicles permitting him or her to continue or to engage as a distributor. Before the commissioner issues a license, the distributor shall file with the commissioner a surety bond in a sum and form and with sureties as the commissioner may require in a sum not to

1 exceed \$400,000.00 conditioned upon the issuance of the report, the payment  
2 of ~~the tax and penalties~~ all fees, penalties, and fines provided in this  
3 subchapter. Upon approval of the application and bond, the commissioner  
4 shall issue to the distributor a nonassignable license which shall continue in  
5 force until surrendered or revoked.

6 (b) The amount of the surety bonds required shall be reviewed annually in  
7 September. The minimum amount required shall be the sum of the highest two  
8 months' payment during the preceding year or \$1,000.00, whichever is greater,  
9 but in no case shall it exceed \$400,000.00. For new licenses, the bond amount  
10 shall be based on an estimate of the ~~tax~~ fee liability for a two-month period.

11 (c) The amount of the bonds as established in accordance with  
12 subsection (b) of this section shall be increased whenever the commissioner  
13 deems it necessary to protect the revenues of the state. In addition, if payments  
14 and reports are delinquent for more than 10 days for more than one reporting  
15 period in a calendar year, the bond amount shall be increased to be the sum of  
16 the ~~tax~~ fee liability for the highest four months of the year.

17 \* \* \*

18 § 3103. DISCONTINUANCE, REVOCATION, AND REINSTATEMENT  
19 OF LICENSES

20 (a) When any person ceases to be a licensee by reason of a discontinuance,  
21 sale, or transfer of his or her business at any location, he or she shall notify the

1 commissioner in writing at the time the discontinuance, sale, or transfer takes  
2 effect. The notice shall give the date of discontinuance and, in the event of a  
3 sale or transfer of the business, the name and address of the purchaser or  
4 transferee. All ~~taxes~~ fees, interest, and penalties not yet due and payable under  
5 the provisions of this chapter shall be due and payable, notwithstanding those  
6 provisions, concurrently with the discontinuance, sale, or transfer. The  
7 licensee shall file a report and simultaneously pay all ~~taxes~~ fees, interest,  
8 penalties, and other expenses due by him or her and surrender to the  
9 commissioner the license certificate issued to him or her together with all  
10 duplicates and copies. Until the notice has been given to the commissioner by  
11 a licensee, the seller and his or her surety shall be liable for the ~~taxes~~ fees,  
12 interest, penalties, and other expenses accruing against the transferee, but only  
13 to the extent of the value of the property transferred.

14 \* \* \*

15 (b) The commissioner or his or her agents may examine the books and  
16 records of any distributor or dealer during the usual business hours of the day  
17 to verify the truth and accuracy of any statement, record, report, or return or to  
18 determine if the ~~tax~~ fee imposed by this chapter has been paid. If the books  
19 and records of a nonresident licensee are not available for examination in this  
20 state, the commissioner may request him or her to furnish at his or her office in  
21 Montpelier such books and records he or she reasonably requires. If the

1 licensee is unable or unwilling to comply with the request, the commissioner is  
2 authorized to charge him or her a reasonable per diem fee and expenses for the  
3 auditor making the examination out of state, which shall be payable within 30  
4 days of the mailing of a bill by the commissioner.

5 (c) The commissioner may enter into agreements with officials of other  
6 states, the District of Columbia, and Canadian provinces for the cooperative  
7 examination of licensee reports, returns, books and records, and for the  
8 collection of fees and penalties. In performing these duties, officials of other  
9 states, the District of Columbia, and Canadian provinces shall be deemed  
10 authorized agents of the commissioner for these purposes. The commissioner  
11 may provide information about the receipt, storage, delivery, sale, use, or other  
12 disposition of fuel by any licensee to officials in other states, the District of  
13 Columbia, and Canadian provinces who administer fuel tax or fee laws,  
14 provided these officials may furnish similar information to the commissioner.

15 \* \* \*

16 § 3106. IMPOSITION, RATE, AND PAYMENT OF ~~TAX~~ FEE

17 (a) Except for sales of motor fuels between distributors licensed in this  
18 state, which sales shall be exempt from the ~~tax~~ gasoline fee, in all cases not  
19 exempt from the ~~tax~~ fee under the laws of the United States at the time of filing  
20 the report required by section 3108 of this title, each distributor shall pay to the  
21 commissioner a ~~tax~~ fee of ~~\$0.19~~ \$0.25 per gallon upon each gallon of motor

1 fuel sold by the distributor. The distributor shall also pay to the commissioner  
2 a ~~tax~~ fee in the same amount upon each gallon of motor fuel used within the  
3 state by him or her.

4 (b) If a remittance to cover payment of ~~taxes~~ fees due as shown by a report  
5 required by this chapter is sent through the United States mail properly  
6 addressed to the department of motor vehicles, it shall be deemed received on  
7 the date shown by the postmark on the envelope containing the report only for  
8 purposes of avoiding penalty and interest. In the event a mailing date is  
9 affixed to the envelope by a machine owned or under the control of the person  
10 submitting the report, and the United States post office has corrected or  
11 changed the date stamped by causing the official United States post office  
12 postmark to also be imprinted on the envelope, the date shown by the official  
13 post office postmark shall be the accepted date if different from the original  
14 postmark.

15 (c) Except as provided in subsection (d) of this section, and subdivision  
16 1220a(b)(3) of this title, all ~~taxes~~ fees, interest and penalties collected by the  
17 department of motor vehicles under this chapter shall be paid to the state  
18 treasurer and credited to the transportation fund.

19 (d) Since many nonresidents and residents drive to outdoor areas of  
20 Vermont in order to view our natural resources, to hunt and fish and to use our  
21 natural resources for other healthful recreational purposes, it is the policy of

1 this state that a portion of the gasoline ~~tax~~ fee shall be dedicated for the  
2 purpose of conserving and maintaining our natural resources. Therefore,  
3 beginning in fiscal year 1998, three-eighths of one cent of the ~~tax~~ fee collected  
4 under subsection (a) of this section shall be transferred 76 percent to the fish  
5 and wildlife fund and 24 percent to the department of forests, parks and  
6 recreation for natural resource management.

7 \* \* \*

8 § 3106a. IMPOSITION; RATE AND PAYMENT OF LICENSE FEE

9 In all cases where a distributor is required to pay a ~~tax~~ gasoline fee under  
10 this chapter, the distributor shall also pay to the commissioner in the same  
11 manner and time the license fee, established under 10 V.S.A. § 1942, of one  
12 cent per gallon upon each gallon of such motor fuel sold by the distributor in  
13 the state. The commissioner shall deposit these license fees into the petroleum  
14 cleanup fund established by 10 V.S.A. chapter 59.

15 § 3107. ALTERNATIVE BASIS FOR COMPUTING ~~TAX~~ FEE

16 A distributor may use as the measure of the ~~tax~~ fee so levied and assessed  
17 the gross quantity of motor fuel purchased, imported, produced, refined,  
18 manufactured, and compounded by the distributor, less one percent for  
19 shrinkage, loss by evaporation or otherwise, instead of the quantity sold,  
20 distributed or used.

1 § 3108. RETURNS

2 For the purpose of determining the amount of the ~~tax~~ fee levied and  
3 assessed, by the 25th day of each calendar month each distributor shall send to  
4 the commissioner upon a form prepared and furnished by him or her a  
5 statement or return under oath or affirmation, showing both the number of  
6 gallons of motor fuel sold and the number of gallons of motor fuel used by the  
7 distributor during the preceding calendar month.

8 \* \* \*

9 § 3109. FAILURE TO FILE A REPORT OR PAY THE ~~TAX~~ FEE WHEN  
10 DUE; PENALTY

11 (a) Any person who fails to file a report when due shall pay a late fee of  
12 \$10.00 as partial compensation for the added administrative costs.

13 (b) In addition to the late fee prescribed in subsection (a) of this section,  
14 any person who fails to pay any ~~tax~~ fee when due shall pay in addition to the  
15 ~~tax~~ fee, interest calculated at one and one-half percent per month on the ~~tax~~ all  
16 fees from the due date, until paid. In addition, if the ~~taxpayer~~ distributor or  
17 user, as the case may be, fails to pay the ~~tax~~ fee liability in full within 30 days,  
18 a penalty equal to five percent of the outstanding ~~tax~~ fee liability for each  
19 month or portion of a month, shall be paid; provided, however, that in no event  
20 shall the amount of the penalty imposed exceed 25 percent of the ~~tax~~ fee  
21 liability unpaid on the prescribed date of payment. The commissioner may

1 remit all or any part of the penalty if he or she is satisfied that the delay was  
2 excusable.

3 § 3110. ADDITIONAL ASSESSMENT; TIME LIMIT

4 (a) If the commissioner is not satisfied that the report filed or the amount of  
5 ~~tax~~ fees paid by a distributor is accurate, after investigating and finding such  
6 inaccuracy, he or she may make an additional assessment of ~~taxes~~ fees due  
7 from the distributor based upon his or her investigation. A penalty equal to 10  
8 percent and interest at the rate of one and one-half percent per month shall be  
9 payable on the additional assessment, with interest computed from the date the  
10 ~~tax~~ fee payment was due.

11 \* \* \*

12 (b) When no report or payment of ~~tax~~ fees has been made as required by  
13 sections 3106 and 3108 of this title, or when a ~~wilfully~~ willfully false or  
14 fraudulent report has been filed, the ~~tax~~ fee may be assessed at any time. In all  
15 other cases, no assessment of additional ~~tax~~ fees, and the mailing of notice,  
16 shall be made after the expiration of three years from the date of filing a report.

17 § 3111. NEGLECT OR REFUSAL TO FILE A REPORT; ESTIMATE OF

18 ~~TAX~~ FEE BY COMMISSIONER; PENALTY AND INTEREST

19 If a distributor neglects or refuses to file any report required by this chapter,  
20 the commissioner shall make an estimate of the ~~tax~~ fee due, based upon  
21 information available to the commissioner, for the period for which the

1 distributor failed to make the report, and shall assess the ~~tax~~ fee due from the  
2 licensee, adding to the amount thus determined a penalty of 50 percent. The  
3 assessment shall bear interest at the rate of one and one-half percent per month  
4 from the date the ~~tax~~ fee payment was due until paid.

5 \* \* \*

6 § 3116. PROCEEDINGS TO RECOVER ~~TAX~~ FEE

7 (a) Whenever any person fails to pay any ~~tax~~ fee, penalty or interest under  
8 this title, the attorney general shall, upon the request of the commissioner,  
9 enforce the payment on behalf of the state in any court of the state or of any  
10 other state of the United States or of any province of Canada.

11 \* \* \*

12 (c) The commissioner is authorized to contract with private collection  
13 agencies for collection of ~~tax penalties~~ fees, penalties, and interest imposed on  
14 persons who have failed to pay after reasonable notification of the debt.

15 \* \* \*

16 § 3117. BOND REQUIREMENT; AMOUNT; FAILURE OF SECURITY

17 (a) Notwithstanding any language in section 3102 of this title to the  
18 contrary, when the commissioner deems it necessary to protect the revenues to  
19 be obtained under this subchapter, he or she may require a licensee to file with  
20 him or her a bond, issued by a surety company authorized to transact business  
21 in this state and approved by the commissioner of banking, insurance,

1 securities, and health care administration of this state as to solvency and  
2 responsibility, in an amount fixed by the commissioner, but not to exceed the  
3 total potential liability of such person, to secure the payment of any ~~tax~~ fees or  
4 penalties or interest due or which may become due from a licensee under this  
5 subchapter. In the event that the commissioner determines that such person is  
6 to file a bond, the commissioner shall give notice to such person to that effect,  
7 specifying the amount of the bond required. That person shall file a bond  
8 within 15 days after the giving of the notice unless within those 15 days he or  
9 she shall request in writing a hearing before the commissioner at which the  
10 necessity, propriety and amount of the bond shall be determined by the  
11 commissioner. The determination shall be final and shall be complied with  
12 within 15 days after the giving of notice thereof. In lieu of a bond, securities  
13 approved by the commissioner or cash in such amount as the commissioner  
14 may prescribe may be deposited, which shall be kept in the custody of the state  
15 treasurer who may at any time upon instructions from the commissioner  
16 without notice to the depositor apply them to any ~~tax~~ fees or interest or  
17 penalties due, and for that purpose the securities may be sold by the  
18 commissioner at public or private sale without notice to the depositor thereof.



1 from the transferor to the state, and the transferee is forbidden to transfer the  
2 consideration to or for the transferor to the extent of the amount of the state's  
3 claim.

4 \* \* \*

5 § 3119. PERSONAL LIABILITY

6 Any licensee who fails to collect the ~~tax~~ fee required by this subchapter or  
7 to pay it to the commissioner in the manner required by this subchapter shall  
8 be personally and individually liable for the amount of such ~~tax~~ fee and any  
9 interest and penalty assessed thereon pursuant to sections 3110 and 3111 of  
10 this title; and if the licensee is a corporation or other entity, the personal  
11 liability shall extend and be applicable to any officer or agent of the  
12 corporation or entity who as an officer or agent of the same is under a duty to  
13 collect the ~~tax~~ fee and pay it to the commissioner as required in this  
14 subchapter.

15 § 3120. ~~TAX FEE~~ LIABILITY AS PROPERTY LIEN; DISCHARGE AND  
16 FORECLOSURE

17 (a) If any licensee required to pay the ~~tax~~ fee under this subchapter neglects  
18 or refuses to pay the same after demand is made by the commissioner, the  
19 amount, together with all penalties and interest provided for in this subchapter  
20 and together with any costs that may accrue in addition thereto, shall be a lien

1 in favor of the state of Vermont upon all property and rights to property,  
2 whether real or personal, belonging to such licensee.

3 \* \* \*

4 Subchapter 2. Reciprocal Motor Fuel ~~Tax~~ Fee on Out-of-State Vehicles

5 § 3171. IMPOSITION AND RATE OF RECIPROCAL TAX, TOLL, OR  
6 FEE

7 Whenever under the laws of any other state or province any tax ~~or~~, toll, or  
8 fee is imposed upon the use of gasoline or other motor fuel by residents of this  
9 state for the privilege of operating a motor vehicle upon the highways of such  
10 state or province, excepting, however, a tax ~~or~~, toll, or fee imposed upon  
11 gasoline or other motor fuel purchased within such state or province, a ~~tax~~ fee  
12 computed and applied in the same manner as the tax ~~or~~, toll, or fee of such  
13 other state or province shall be imposed by this state upon the use of gasoline  
14 or other motor fuel by motor vehicles registered in such other state or province  
15 so long as the tax ~~or~~, toll, or fee imposed by such other state or province shall  
16 remain in force.

17 § 3172. AGREEMENTS FOR RECIPROCAL WAIVER OF TAX OR FEE

18 \* \* \*

19 Sec. 3. EFFECTIVE DATE

20 This act shall become effective on July 1, 2009.