# TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVEN	JE			
Rule Nos. 810-8-161				
Rule Title: Penalty for Sale or Use of Motor Fuel Without Payment of Motor Fuel Tax - Dyed Motor Fuel				
New;Amend; _XX Repeal;Adopt	by Reference			
Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?	No			
Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?	Yes			
Is there another, less restrictive method of regulation available that could adequately protect the public?	No			
Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?	No			
Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?	N/A			
Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?	<u>Yes</u>			
*************	*******			
Does the proposed rule have any economic impact?	No			
If the proposed rule has an economic impact, the propo by a fiscal note prepared in accordance with subsection ( 1975.	sed rule is required to be accompanied f) of Section 41-22-23, Code of Alabama			
*************	**********			
Certification of Authorized Official	************			
I certify that the attached proposed rule has been requirements of Chapter 22, Title 41, Code of Alabama 1 filing requirements of the Administrative Procedure Division	975 and that it conforms to all applicable on of the Legislative Reference Service.			
Signature of certifying officer Michael E.	Yasa			
Date 3/13/17				

## ECONOMIC IMPACT STATEMENT FOR APA RULE (Section 41-22-23(f))

Control N	o. <u>810</u>	Department o	r Agen	cy <b>REVENUE</b>		
Rule No:	810-8-16	1				
Rule Title Fuel	: Penalty	for Sale or Use of I	Motor Fu	el Without Paymer	nt of Motor Fuel Tax	- Dyed Motor
***************************************	_New	Amend_	X	Repeal	Adopt by R	leference
● NO ○ YES	This rule	e has no econo	mic imi			
1.	NEED/E	XPECTED BEI	NEFIT	OF RULE:		
2.		BENEFITS OF NT, AND FEAS HIEVING THE	ו חומונ	VIEANS FOR A	LE IS THE MOS LLOCATING RE	T EFFECTIVE, SOURCES
3.	EFFECT	OF THIS RUL	E ON (	COMPETITION:	:	
4.	EFFECT THE GE IMPLEM	CUNAFFICAL	E ON ( AREA	COST OF LIVIN WHERE THE F	IG AND DOING E RULE IS TO BE	3USINESS IN
5.	EFFECT AREA HI	OF THIS RULE ERE THE RULE	E ON E	MPLOYMENT BE IMPLEME	IN THE GEOGR NTED:	APHICAL
6.	SOURCE	OF REVENUE SING THIS RUL	E TO B E:	E USED FOR II	MPLEMENTING	AND
7.	ALL LOT	-D FEMOUNO.	INCLL	IDING ANALVO	C IMPACT OF THE SIS OF PERSONS BENEFIT FROM	0 14/1 10 14/11

- 8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
- 9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
- 10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
- 11. OTHER COMMENTS:

# ALABAMA DEPARTMENT OF REVENUE Business & License Tax Division

#### NOTICE OF INTENDED ACTION

#### RULE NO. & TITLE

810-8-102	Fuel and Mileage Reporting in a Lessee-Lessor Arrangement will be the Responsibility of the Lessor
810-8-103	Interstate Motor Carrier Fuel Tax Refund
810-8-105	Motor Fuel Marker Enforcement
810-8-107	IMC Fuel Permit Fees
810-8-108	Miles Per Gallon Standard
810-8-109	Purchase Invoice Requirements
810-8-110	Quarterly Fuel Tax Return to be Filed with the Department of
	Revenue

**INTENDED ACTION:** Repeal the above rules

SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the above rules due to the fact that they were originally adopted under the Interstate Motor Carrier Tax Program and that program has been replaced by the International Fuel Tax Agreement (IFTA); therefore, these rules are no longer necessary.

### RULE NO. & TITLE

810-8-115	Additional Motor Fuel Tax Rate
810-8-116	Summary of Tax Rates for Motor Fuels Used in Motor Vehicles
	for Highway Operation
810-8-125	Summary of the Rates Applying to State and Local Government

**INTENDED ACTION:** Repeal the above rules

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to repeal the above rules due to the fact that they are no longer necessary.

#### RULE NO. & TITLE

810-8-101	Eligibility for Consideration of an Applicant for a Wholesale Gasoline
	License
810-8-106	Statement of Gross Sales Exclusion
810-8-118	Procedure for Issuing Refund of Gasoline and Motor Fuel Excise Taxes
	for Agricultural Purposes and for the Delivery of Biomass Products
810-8-119	Tax-Free Sales of Motor Fuel
810-8-121	Undyed Motor Fuel Used Exclusively for "Off-Road Vehicles" and "Off-
	Road Equipment"
810-8-124	Credit Card Sales at Retail Outlets to Exempt Entities
810-8-128	Distributor's License
810-8-148	Termination of License
810-8-149	Revocation of License
810-8-151	Denial of License
810-8-152	Returns and Payments, Monthly Report of Distributors
810-8-155	Purchase Records of a Licensed Distributor
810-8-161	Penalty for Sale or Use of Motor Fuel Without Payment of Motor Fuel
	Tax - Dyed Motor Fuel
810-8-162	Stated and Uniform Policy Pertaining to the Exemption of Certain
	Taxpayers from State Motor Fuel Taxes

**INTENDED ACTION:** Repeal the above rules

**SUBSTANCE OF PROPOSED ACTION:** Due to the passage of the Alabama Terminal Excise Tax Act (Act 2011-565), the department finds it necessary to repeal the above rules as they are no longer necessary.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 10:00 a.m. on Wednesday, May 9, 2012, in the Office of the Legal Division, Room 3114, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

All interested parties may present their views in writing to the Deputy Commissioner of the Alabama Department of Revenue, Room 4112, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132 at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

#### FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, May 9, 2012

## **CONTACT PERSON AT AGENCY:**

Patricia Toles Alabama Department of Revenue 4131 Gordon Persons Building Montgomery, Alabama 36132 (334) 242-1380

Michael E. Mason, Deputy Commissioner

Alabama Department of Revenue

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# 810-8-1-.61 Penalty for Sale or Use of Motor Fuel Without Payment of Motor Fuel Tax - Dyed Motor Fuel. (REPEALED)

- (1) Any person who willfully sells for use or who willfully uses motor fuel in the operation of a motor vehicle in Alabama upon which the motor fuel tax levied by Chapter 17 of Title 40 of the Code of Alabama, has not been paid or the payment thereof assumed by a distributor licensed by the Alabama Department of Revenue, and which is not tax-exempt, shall for each failure be subject to a penalty imposed by the Department of Revenue of not less than \$100 nor more than \$10,000.
- (2) The term "willfully" is defined as an intentional violation of a known legal duty.
- (3) This penalty does not apply to the tax-exempt use of motor fuel for off-road. Motor fuel that is indelibly dyed and chemically marked in accordance with regulations issued by the U.S. Secretary of the Treasury under 26 U.S.C. 4082 is exempt from both federal motor fuels tax and Alabama motor fuels tax because it is for tax-exempt off-road use. With the exception of on-road use specifically provided by 26 U.S.C. 4082, such motor fuel may not be sold or used for non-exempt purposes such as in the operation of a motor vehicle on the highways of Alabama. This legal duty not to use dyed or marked motor fuel is well known because of the readily visible color of the fuel. Dyed or marked fuel found in the supply tank of a motor vehicle being operated on the highways of Alabama is prima facie evidence of willfulness in failure to pay the proper Alabama motor fuel tax.
- (4) Any person, firm or corporation who knowingly dispenses dyed or marked motor fuel into the supply tank of any motor vehicle to be used on the highways of Alabama for non-exempt purposes shall also be subject to this penalty.
- (5) This penalty shall be applied so that it increases in severity with multiple offenses. For the first offense, the amount of the penalty shall be the greater of \$10 for each gallon of untaxed motor fuel involved or a minimum \$100, but not to exceed \$10,000. For each subsequent offense, the penalty shall increase an additional \$10 per gallon of untaxed motor fuel involved. For example, upon the second offense the penalty shall be the greater of \$20 per gallon or a minimum \$100, but not to exceed \$10,000. For the third offense, the penalty shall be the greater of \$30 per gallon or a minimum \$100, but not to exceed \$10,000.

Author:

Paul Bozeman

Authority:

Section 40-17-22, Code of Alabama 1975

History:

Filed with LRS August 11, 1995. Certification filed with LRS

December 11,1995, effective January 15, 1996.