



# SENATE BILL 99: Appropriations Act of 2018, Sec. 38.6: Excise Tax Changes

2017-2018 General Assembly

<b>Committee:</b>		<b>Date:</b>	July 11, 2018
<b>Introduced by:</b>		<b>Prepared by:</b>	Nicholas Giddings Staff Attorney
<b>Analysis of:</b>	Sec. 38.6 of S.L. 2018-5		

**OVERVIEW:** *Sec. 38.6 of S.L. 2018-5 makes various excise tax changes, including the following:*

- *Requiring certain ABC permit holders to register with the Department of Revenue (Department) in order to aid in tax compliance.*
- *Increasing the motor fuel rate authorized to be charged by a certain class of gas stations allowed to charge the South Carolina rate due to the gas station being considered in North Carolina because of the NC/SC border recertification in 2016. The rate increase will be 2¢ each year over the next six years, totaling 12¢, to mirror the motor fuel rate increase imposed in South Carolina.*

*Sec. 38.6(c), requiring certain listed ABC permit holders to register with the Department and to notify the Department when a permittee discontinues their business, becomes effective July 1, 2018.*

*Except as otherwise provided, this section became effective June 12, 2018.*

### CURRENT LAW/BILL ANALYSIS/EFFECTIVE DATES:

Except as otherwise provided, this section became effective when it became law on June 12, 2018.

Subsection	Explanation	Effective Date
(a)	Replaces the phrase "wholesaler or retailer registered through the Secretary" with the term "purchaser" to make the statutory language internally consistent as the term "purchaser" is used to reference the nonresident vendor throughout the remainder of the statute.	
(b)	Removes language indicating that a retail dealer may make tobacco products at their place of business. In practice, only licensed wholesale dealers should be making or manufacturing any tobacco product.	
(c)	Requires the listed ABC permit holders to register with the Department and to notify the Department when a permittee discontinues their business.  Certain ABC permit holders must pay excise taxes. Most of these permittees hold commercial ABC permits, which remain valid indefinitely. Because these permittees do not have to renew their permits annually, they do not fall under the procedure to confirm State tax compliance, which only applies to newly issued permits	Effective July 1, 2018.

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	and annual permit renewals. This new statute provides the Department with a mechanism for requiring this type of permittee to comply with tax obligations.	
(d)	Removes language indicating that a bond for nonresident vendors may be made "by a pledge of obligations of the federal government, the State, or a political subdivision of the State." This same language was removed from a different section of the statute in S.L. 2014-3. In practice, only surety bonds or irrevocable letters of credit are accepted to satisfy the bonding requirement.	
(e)	Adds a tobacco product licensee's physical address to the list of information permitted to be disclosed by the Department. Under prior law, the Department could only provide public access to a list of the names and account numbers of tobacco product licensees. Because tobacco product licensees are required to obtain a license for "each place of business," the physical address of each license is needed for the user of the public access list to discern if the particular location is, in fact, licensed.	
(f)	<p>Modifies the language directing the manner in which the Department obtains data for the Consumer Price Index (CPI) in order to calculate the motor fuel tax rate.</p> <p>The tax rate calculation language<sup>1</sup> specifies that the data needed to calculate the CPI portion of the tax rate must be obtained through "the detailed report released in the October prior to the applicable calendar year by the Bureau of Labor Statistics...." As of June 2017, the Bureau of Labor Statistics stopped publication of the detailed report, and instead, releases the same information via publicly accessible databases available on the Bureau's website. By allowing for the use of "data determined by the Secretary to be equivalent," the Division will continue using the same data that was intended by the original enactment, but this will clarify that since the "detailed reports" are no longer available, the Bureau of Labor Statistics are an equivalent source.</p>	
(g) – (k)	<p>Increases the motor fuel tax rate for those gas stations deemed to be a special class under S.L. 2016-23 each year in accordance with the rate increase in South Carolina.</p> <p>Sec. 2.(b) of S.L. 2016-23 designated a class of gas stations (currently limited to one) that were recognized as being in North Carolina as a result of the boundary recertification as a special class of property authorized to charge a motor fuel tax rate of 16¢ per gallon, which was the rate charged by South Carolina at the time of enactment. The session law also directed the Revenue Laws Study Committee to monitor the rate of the gas tax charged by South Carolina and authorized the Committee to recommend an increase to</p>	

<sup>1</sup> Enacted in S.L. 2015-2.

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	<p>the motor fuel tax rate charged by these establishments up to the amount charged in South Carolina, should the rate in South Carolina change. In 2017, the South Carolina Legislature passed House Bill 3516, which permanently increased the motor fuel tax rate by 2¢ per gallon each year for the next six years, totaling 12¢ over that time, beginning July 1, 2017.</p>	
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