

City of Semmes, Alabama

ORDINANCE 2011-14

AN ORDINANCE TO FIX AND PRESCRIBE A LICENSE TAX FOR THE SALE, DISTRIBUTION, USE OR DELIVERY OF GASOLINE, MOTOR FUEL, OR ANY OTHER FUEL USED IN THE PROPULSION OF VEHICLES, TO PROVIDE FOR THE ASCERTAINMENT, COLLECTION AND PAYMENT OF SUCH LICENSE TAX AND TO FIX PENALTIES FOR THE VIOLATION OF ANY OF THE PROVISIONS OF THIS ORDINANCE

BE IT HEREBY ORDAINED by the Mayor and City Council of Semmes, Alabama as follows:

Section 1. DEFINITIONS. For the purpose of this ordinance, the following terms have the respective meaning as ascribed by this section:

1. **CITY** – City of Semmes, Alabama, which includes the corporate limits and the police jurisdiction of the City of Semmes, Alabama.
2. **GASOLINE** – Gasoline, naphtha and other liquid motor fuels or any device or substitute therefore commonly used in internal combustion engines; provided that such term shall not be held to apply to those products known commercially as “kerosene oil”, “fuel oil”, or “crude oil” when used for lighting, heating or industrial purpose.
3. **MOTOR FUEL** – Diesel or tractor fuel, gas, oil, distillate or liquefied gas, kerosene, jet fuel or any substitutes or devices therefore when used in the operation of any motor vehicle upon the highways of this State.
4. **PERSON** – Persons, corporations, co-partnerships, companies, agencies, associations, incorporated or otherwise, singular or plural.
5. **DISTRIBUTOR** – Any person who engages in the selling of gasoline or motor fuel within the City by wholesale domestic trade but shall not apply to any transaction of such distributor in interstate commerce.

6. **REFINER** – Any person who manufactures, distills, blends, compounds or mixes any one or more products in the production of gasoline or motor fuel as herein described.
7. **RETAIL DEALER** – Any person herein defined as a distributor who is also engaged in the selling of gasoline or motor fuel within the City in broken quantities.
8. **STORER** – Any person who ships or causes to be shipped or receives gasoline or motor fuel into this City in any quantities and stores the same in any manner and withdraws or uses the same for any purpose.
9. **USER** – Any person who uses or consumes gasoline or motor fuel in this State in any manner or for any purpose; provided that the term “user” is not to include any refiner who has a refinery or refineries located within the State of Alabama when using gasoline or motor fuel in the manufacturing or refining process, or any person who holds a federal permit to blend motor fuels under the federal law and statutes and who pays the federal excise tax on such motor fuels directly to the federal government, when such person uses gasoline in this state in such blending process.

Section 2. LEVY OF TAX IN CORPORATE LIMITS OF CITY. An excise tax is hereby levied on persons selling, distributing, using, storing or withdrawing from storage for any purpose whatever, gasoline or motor fuel within the corporate limits of said City at the rate of 4¢ (4 cents) per gallon and to require every distributor, retail dealer or storer of gasoline or motor fuel as herein defined to pay such excise tax upon the selling, distributing, or withdrawing from storage for any use, gasoline or motor fuel as herein defined in such City; provided that the excise tax levied pursuant to the provisions of this ordinance shall not be levied upon the sale of gasoline or motor fuel in interstate commerce, and provided further that if the excise tax levied pursuant to this ordinance upon the sale of such gasoline or motor fuel shall have been paid by a distributor or by retail dealer or storer, such be sufficient, the intention being that the tax shall not be paid but once. The excise tax levied pursuant to the provisions of this act shall apply to persons, firms, corporations, dealers or distributors storing gasoline or motor fuel and distributing the same or allowing the same to be withdrawn from storage, whether such withdrawal be for sale or other use, provided that sellers of gasoline or motor fuel and its substitutes paying the tax herein authorized may pay the same computed and paid on the basis of their sales as hereinafter required, and storers and distributors shall compute and pay such tax on the basis of their withdrawals or distributions. The tax herein

authorized shall be in addition to any and all excise or other taxes imposed on gasoline or motor fuel or any device or substitute therefore, or on the business of selling, distributing, storing or withdrawing from storage for any purpose, gasoline or motor fuel as herein definite; however, such tax shall not be levied by the City upon any gasoline or motor fuel herein defined when used in essential governmental functions by the State of Alabama, or any agency thereof, or county governing agencies, municipalities and boards of education.

Section 3. LEVY OF TAX IN POLICE JURISDICTION. An excise tax is hereby levied on persons selling, distributing, using, storing or withdrawing from storage for any purpose whatever, gasoline or motor fuel within the police jurisdiction of said City at the rate of 2¢ (2 cents) per gallon and to require every distributor, retail dealer or storer of gasoline or motor fuel as herein defined to pay such excise tax upon the selling, distributing, or withdrawing from storage for any use, gasoline or motor fuel as herein defined in such police jurisdiction of City; provided that the excise tax levied pursuant to the provisions of this ordinance shall not be levied upon the sale of gasoline or motor fuel in interstate commerce, and provided further that if the excise tax levied pursuant to this ordinance upon the sale of such gasoline or motor fuel shall have been paid by a distributor or by retail dealer or storer, such be sufficient, the intention being that the tax shall not be paid but once. The excise tax levied pursuant to the provisions of this act shall apply to persons, firms, corporations, dealers or distributors storing gasoline or motor fuel and distributing the same or allowing the same to be withdrawn from storage, whether such withdrawal be for sale or other use, provided that sellers of gasoline or motor fuel and its substitutes paying the tax herein authorized may pay the same computed and paid on the basis of their sales as hereinafter required, and storers and distributors shall compute and pay such tax on the basis of their withdrawals or distributions. The tax herein authorized shall be in addition to any and all excise or other taxes imposed on gasoline or motor fuel or any device or substitute therefore, or on the business of selling, distributing, storing or withdrawing from storage for any purpose, gasoline or motor fuel as herein definite; however, such tax shall not be levied by the City upon any gasoline or motor fuel herein defined when used in essential governmental functions by the State of Alabama, or any agency thereof, or county governing agencies, municipalities and boards of education.

Section 4. PERMIT AND TAX FOR SELLER OR DISTRIBUTORS WITH NO PLACE OF BUSINESS WITHIN THE CITY OR POLICE JURISDICTION. – It shall be unlawful for any distributor or seller having no place of business either within the corporate limits or within the police jurisdiction of the City to make any sales or deliveries of gasoline or

kerosene within the City or police jurisdiction without first obtaining a permit from the City Clerk to do so, and said sellers or distributors shall be liable for and pay the same license taxes specified by the license tax ordinance.

Section 5. COLLECTION OF GASOLINE TAX. – On or before the twentieth day of the month following the adoption of this ordinance every person upon who the excise tax is levied shall file to the City of Semmes, or its designated collection agency, on forms prescribed, a full, true, accurate and complete statement of all gasoline, diesel fuel, kerosene and other motor fuels sold and delivered by such distributor or seller within the corporate limits of said City and within the police jurisdiction of said City, and which shall contain a detailed and specified statement of all gasoline, diesel fuel, kerosene and other fuels sold and delivered to any other distributor or seller engaged in either of said businesses within the corporate limits or within the police jurisdiction of the City.

Any person failing to pay within such time shall be guilty of violation of this section and in addition to payments for such violation, shall pay a penalty of twenty percent (20%) of such license tax, payable and collectable as all other license penalties.

Any seller or distributor who shall fail or omit to make or file any statement required by this section, or who shall make any false statement therein, shall be guilty of violation of this ordinance. Said violation shall be given a misdemeanor and upon conviction shall be subject to a fine or not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00) for each offense.

Section 6. METERS REQUIRED, SPECIFICATION, READING OR METERS, INSTALLATION, TAMPERING PROHIBITED. – Every person selling gasoline, diesel fuel, kerosene, etc., at retail within the City or police jurisdiction thereof, shall have said gasoline, diesel fuel, kerosene, etc., measured through meters, and every gasoline pump or other container or whatever name called, through which gasoline, diesel fuel, kerosene, etc., is delivered shall be equipped with a meter.

The meters required by this Section shall be of a standard type to meet the specifications laid down by officials of the City, and shall be subject to inspection at all times by said officials or persons designated by them, and said meters shall be read at prescribed intervals by the officials or such persons designated by them.

The meters shall be attached property to the pumps or containers so as to show a true reading and measurement of the gasoline, diesel fuel, kerosene, or other motor fuels discharged by said pumps or containers, and shall be so attached as to be conveniently read.

It shall be unlawful for any person to tamper with the meters, or turn back the reading of same, except by orders of the officials of the City, and a

correct record shall be made and kept of the said meters and any turning back of the meters on the same.

It shall be unlawful for any person to refuse any authorized representative of the City to read at any time, any gasoline meter on any gasoline pump or container within the City of the police jurisdiction thereof, and in addition to such penalty provided in the Ordinance, the City may revoke the license of such persons refusing to permit inspection of said meters.

Section 7. SEVERABILITY. – Should any section or provision of this Ordinance be declared void or invalid by a court of competent jurisdiction, it shall not affect the validity of any other section or provision of this Ordinance.

Section 8. EFFECTIVE DATE. – This Ordinance shall become effective October 1, 2011.

ADOPTED AND APPROVED THIS THE 4th DAY OF August, 2011.

/s/ Judith Hale - Mayor

Attest:

/s/ Helen Joyce - Acting City Clerk