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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO TAXATION

Introduced By: Representatives Costantino, Slater, Almeida, and Silva

Date Introduced: February 03, 2009

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 31-2-6 of the General Laws in Chapter 31-2 entitled "Division of  
2 Motor Vehicles" is hereby repealed.

3 ~~31-2-6. Offices. — The administrator shall maintain offices in those places in the state  
4 that he or she may deem necessary to properly carry out the powers and duties vested in the  
5 division of motor vehicles. The administrator shall maintain a branch office in the town of  
6 Warren and keep that office open for business at least three (3) days per week.~~

7 SECTION 2. Sections 31-3.1-6, 31-3.1-11, 31-3.1-12, 31-3.1-19, and 31-3.1-20 of the  
8 General Laws in Chapter 31-3.1 entitled "Certificates of Title and Security Interests" are hereby  
9 amended to read as follows:

10 31-3.1-6. Issuance and records. -- (a) The division of motor vehicles shall file each  
11 application received and, when satisfied as to its genuineness and regularity and that the applicant  
12 is entitled to the issuance of a certificate of title, shall issue, upon payment of a fee of ~~twenty five~~  
13 ~~dollars (\$25.00)~~ fifty dollars (\$50.00), a certificate of title of the vehicle.

14 (b) The division of motor vehicles shall maintain a record of all certificates of title  
15 issued by it:

16 (1) Under a distinctive title number assigned to the vehicle;

17 (2) Under the identifying number of the vehicle;

18 (3) Alphabetically, under the name of the owner; and

19 (4) At the discretion of the division of motor vehicles, in any other method it

1 determines.

2 (c) Title searches, lien searches, and other transactions not cited and involving titles  
3 shall be conducted upon payment of a fee of ~~twenty five dollars (\$25.00)~~ fifty dollars (\$50.00).

4 **31-3.1-11. Lost, stolen or mutilated certificates.** -- (a) If a certificate of title is lost,  
5 stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if none, the owner or  
6 legal representative of the owner named in the certificate, as shown by the records of the division  
7 of motor vehicles, shall promptly apply for and may obtain a duplicate upon furnishing  
8 information satisfactory to the division of motor vehicles and pay a ~~twenty five dollar (\$25.00)~~  
9 fifty dollar (\$50.00) fee. The duplicate certificate of title shall contain the legend "this is a  
10 duplicate certificate and may be subject to the rights of a person under the original certificate." It  
11 shall be mailed to the first lienholder named in it or, if none, to the owner.

12 (b) The division of motor vehicles shall not issue a certificate of title to a transferee  
13 upon application made on a duplicate until fifteen (15) days after receipt of the application.

14 (c) A person recovering an original certificate of title for which a duplicate has been  
15 issued shall promptly surrender the original certificate to the division of motor vehicles.

16 (d) A person applying for a duplicate title may designate an automobile dealer as the  
17 designated recipient of the duplicate title provided, that there is no current lien holder and the  
18 applicant/owner signs an affidavit stating that the vehicle has been sold or traded to the dealer in  
19 such form as designated by the administrator of the division of motor vehicles.

20 **31-3.1-12. Transfer.** -- (a) If the owner transfers his or her interest in a vehicle, other  
21 than by the creation of a security interest, he or she shall, at the time of the delivery of the  
22 vehicle, execute an assignment and warranty of title to the transferee in the space provided for it  
23 on the certificate or as the division of motor vehicles prescribes, and cause the certificate and  
24 assignment to be mailed or delivered to the transferee or to the division of motor vehicles.

25 (b) Except as provided in § 31-3.1-13, the transferee shall, promptly after delivery to  
26 him or her of the vehicle, execute the application for a new certificate of title in the space  
27 provided for it on the certificate or as the division of motor vehicles prescribes, and cause the  
28 certificate and application to be mailed or delivered to the division of motor vehicles.

29 (c) Upon request of the owner or transferee, a lienholder in possession of the certificate  
30 of title shall, unless the transfer was a breach of his or her security agreement, either deliver the  
31 certificate to the transferee for delivery to the division of motor vehicles or upon receipt from the  
32 transferee of the owner's assignment, the transferee's application for a new certificate, the  
33 registration card, license plates and the required fee of ~~twenty five dollars (\$25.00)~~ fifty dollars  
34 (\$50.00), mail or deliver them to the division of motor vehicles. The delivery of the certificate

1 does not affect the rights of the lienholder under his or her security agreement.

2 (d) If a security interest is reserved or created at the time of the transfer, the certificate  
3 of title shall be retained by or delivered to the person who becomes the lienholder, and the parties  
4 shall comply with the provisions of § 31-3.1-20.

5 (e) Except as provided in § 31-3.1-13 and as between the parties, a transfer by an owner  
6 is not effective until the provisions of this section and § 31-3.1-15, have been complied with.  
7 However, an owner who has delivered possession of the vehicle to the transferee and has  
8 complied with the provisions of this section and § 31-3.1-15, requiring action by him or her, is  
9 not liable as owner for any subsequent damages resulting from operation of the vehicle.

10 (f) The administrator of the division of motor vehicles shall prescribe and/or approve a  
11 power-of-attorney form which complies with § 408(d)(1)(C) of the Motor Vehicle Information  
12 and Cost Savings Act, 49 U.S.C. § 32705(b)(2), as amended, and any regulations promulgated  
13 pursuant to it, and this form may be used in connection with transfers of title under this section to  
14 the full extent permitted by federal law.

15 **31-3.1-19. Perfection of security interests.** -- (a) Unless excepted by § 31-3.1-18, a  
16 security interest in a vehicle of a type for which a certificate of title is required is not valid against  
17 creditors of the owner or subsequent transferees or lienholders of the vehicle unless perfected as  
18 provided in this chapter.

19 (b) A security interest is perfected by the delivery to the division of motor vehicles of the  
20 existing certificate of title, if any, an application for a certificate of title containing the name and  
21 address of the lienholder, and the date of his or her security agreement. A security interest may  
22 also be perfected by the execution of a security lien statement and the required fee of ~~twenty five~~  
23 ~~dollars (\$25.00)~~ fifty dollars (\$50.00) and registration card.

24 (c) If a vehicle is subject to the security interest when brought into this state, the validity  
25 of the security interest is determined by the law of the jurisdiction where the vehicle was when  
26 the security interest attached, subject to the following:

27 (1) If the parties understood at the time the security interest attached that the vehicle  
28 would be kept in this state and it was brought into this state within the following thirty (30) days  
29 for purposes other than transportation through this state, the validity of the security interest in this  
30 state is determined by the law of this state.

31 (2) If the security interest was perfected under the law of the jurisdiction where the  
32 vehicle was when the security interest attached, the following rules apply:

33 (i) If the name of the lienholder is shown on an existing certificate of title issued by that  
34 jurisdiction, his security interest continues perfected in this state.

1 (ii) If the name of the lienholder is not shown on an existing certificate of title issued by  
2 that jurisdiction, the security interest continues perfected in this state for four (4) months after a  
3 first certificate of title of the vehicle is issued in this state and beyond that if, within the four (4)  
4 month period, it is perfected in this state. The security interest may also be perfected in this state  
5 after the expiration of the four (4) month period. If done at that time, perfection dates from the  
6 time of perfection in this state.

7 (3) If the security interest was not perfected under the law of the jurisdiction where the  
8 vehicle was when the security interest attached, it may be perfected in this state. If done at that  
9 time, perfection dates from the time of perfection in this state.

10 (4) A security interest may be perfected under subsection (c)(2)(ii) or subsection (c)(3)  
11 either as provided in subsection (b), or by the lienholder delivering to the division of motor  
12 vehicles a notice of security interest in the form the division of motor vehicles prescribes and the  
13 required fee.

14 **31-3.1-20. Security interest – Change of certificate.** -- If an owner creates a security  
15 interest in a vehicle:

16 (1) The owner shall immediately execute the application, in the space provided for it on  
17 the certificate of title or on a separate form the division of motor vehicles prescribes, to name the  
18 lienholder on the certificate, showing the name and address of the lienholder and the date of his  
19 security agreement, and cause the certificate of application and the required fee and registration  
20 card to be delivered to the lienholder.

21 (2) The lienholder shall immediately cause the certificate, application, and the required  
22 fee and registration card to be mailed or delivered to the division of motor vehicles.

23 (3) Upon request of the owner or subordinate lienholder, a lienholder in possession of the  
24 certificate of title shall either mail or deliver the certificate to the subordinate lienholder for  
25 delivery to the division of motor vehicles or, upon receipt from the subordinate lienholder of the  
26 owner's application and the required fee and registration card, mail or deliver them to the division  
27 of motor vehicles with the certificate. The delivery of the certificate does not affect the rights of  
28 the first lienholder under his or her security agreement.

29 (4) Upon receipt of the certificate of title, the application, the required fee of ~~twenty five~~  
30 ~~dollars (\$25.00)~~ fifty dollars (\$50.00), and the registration card, the division of motor vehicles  
31 shall either endorse on the certificate or issue a new certificate containing the name and address  
32 of the new lienholder, and mail the certificate to the first lienholder named in it.

33 SECTION 3. Section 31-8-4 of the General Laws in Chapter 31-8 entitled "Offenses  
34 Against Registration and Certificate of Title Laws" is hereby amended to read as follows:

1           **31-8-4. Suspension or revocation of registration or certificate of title.** -- (a) The  
2 division of motor vehicles is authorized to suspend or revoke the registration of a vehicle or a  
3 certificate of title, registration card, or registration plate, or any nonresident or other permit, in  
4 any of the following events:

5           (1) When the division of motor vehicles is satisfied that the registration or that the  
6 certificate, card, plate, or permit was fraudulently or erroneously issued;

7           (2) When the division of motor vehicles determines that a registered vehicle is  
8 mechanically unfit or unsafe to be operated or moved upon the highways;

9           (3) When a registered vehicle has been dismantled or wrecked;

10          (4) When the division of motor vehicles determines that the required fee has not been  
11 paid and the fee is not paid upon reasonable notice and demand;

12          (5) When a registration plate or permit is knowingly displayed upon a vehicle other than  
13 the one for which issued;

14          (6) When the division of motor vehicles determines that the owner has committed any  
15 offense under chapters 3 – 9 of this title involving the registration or the certificate, card, plate, or  
16 permit to be suspended or revoked; or

17          (7) When the division of motor vehicles is so authorized under any other provision of  
18 law.

19          (8) Upon receipt or notice the carrier and/or operator of a commercial motor vehicle has  
20 violated or is not in compliance with 49 CFR 386.72 or 49 CFR 390.5 et seq. of the motor carrier  
21 safety regulation or chapter 23 of this title.

22          (b) Upon removal of cause for which the registration or certificate of title was revoked,  
23 denied or suspended, the division of motor vehicles shall require the registrant or applicant to pay  
24 a restoration fee of ~~fifty dollars (\$50.00)~~ two hundred and fifty dollars (\$250.00).

25          SECTION 4. Section 31-11-10 of the General Laws in Chapter 31-11 entitled  
26 “Suspension or Revocation of Licenses - Violations” is hereby amended to read as follows:

27          **31-11-10. Reinstatement after revocation or suspension.** -- (a) Any person whose  
28 license or privilege to drive a motor vehicle on the public highways has been revoked or  
29 suspended shall not be entitled to have a license or privilege renewed or restored unless the  
30 revocation or suspension was for a cause which has been removed. After the expiration of the  
31 term of the revocation or suspension he or she may apply to be restored to his or her right to  
32 drive, but the division of motor vehicles shall not grant the application unless and until it is  
33 satisfied after investigation of the driving ability of the person that it will be safe to license him or  
34 her to drive a motor vehicle on the public highways and it has received a reinstatement fee of

1 ~~seventy five dollars (\$75.00)~~ two hundred and fifty dollars (\$250.00). The reinstatement fee and  
2 assessment fee shall not be required by any person whose license was suspended on the basis of  
3 physical or mental fitness and who has later been declared competent to operate a motor vehicle.

4 (b) Any person whose license has been suspended on the basis of physical or mental  
5 fitness shall have the right to request review at any time of the suspension determination in  
6 accordance with the hearing procedures of § 31-11-7(d) – (f).

7 SECTION 5. Sections 31-46-2 and 31-46-3 of the General Laws in Chapter 31-46  
8 entitled “Rhode Island Salvage Law” are hereby amended to read as follows:

9 **31-46-2. Salvage by insurer.** -- If the insurance company sells the motor vehicle for any  
10 reason, it shall make application for a salvage certificate of title. The division of motor vehicles  
11 shall issue the salvage certificate of title on a form prescribed for by the administrator of the  
12 division of motor vehicles, that shall be of a color easily distinguished from the original  
13 certificate of title, and shall bear the same number and information as the original certificate of  
14 title. The salvage certificate of title shall be assigned by the insurance company to a salvage  
15 dealer or any other person for use as evidence of ownership upon the sale or other disposition of  
16 the salvage motor vehicle, and the title shall be assignable to any other person. The division of  
17 motor vehicles shall charge the insurance company a fee of ~~twenty five dollars (\$25.00)~~ fifty  
18 dollars (\$50.00) for the cost of processing each salvage certificate title.

19 **31-46-3. Salvage by non-insurer.** -- If the total cost of repairs to rebuild or reconstruct  
20 the motor vehicle to its condition immediately before it was wrecked, destroyed or damaged, and  
21 for legal operations on the roads or highways, exceeds seventy-five percent (75%) of the fair  
22 market value of the motor vehicle immediately preceding the time it was wrecked, destroyed or  
23 damaged, and the motor vehicle is less than seven (7) years beyond the date of manufacture, the  
24 owner shall return within ten (10) days to the division of motor vehicles, the certificate of title of  
25 that vehicle and obtain a salvage certificate of title for that vehicle as prescribed for by the  
26 administrator of the division of motor vehicles. For the purposes of this section, "fair market  
27 value" shall mean the retail value of a motor vehicle as set forth in a current edition of any  
28 nationally recognized compilation of retail values, including automated databases, or from  
29 publications commonly used by the automotive industry to establish the values of motor vehicles,  
30 or determined pursuant to market survey of comparable vehicles with regard to condition and  
31 equipment. If any person, individual, or corporation or other owner sells the motor vehicle for any  
32 reason, that owner shall make application for a salvage certificate of title. The division of motor  
33 vehicles shall issue the salvage certificate of title on a form prescribed by the administrator of the  
34 division of motor vehicles that shall be of a color easily distinguished from the original certificate

1 of title and shall bear the same number and information as the original certificate of title. The  
2 administrator of the division of motor vehicles shall charge the owner a fee of ~~twenty-five dollars~~  
3 ~~(\$25.00)~~ fifty dollars (\$50.00) for the cost of processing each salvage certificate of title.

4 SECTION 6. Section 44-19-10.2 of the General Laws in Chapter 44-19 entitled "Sales  
5 and Use Taxes - Enforcement and Collection" are hereby amended to read as follows:

6 **44-19-10.2. Floor stock tax on inventory.** -- (a) A floor tax is imposed on the inventory  
7 of stamped packages of cigarettes held for sale in this state at 12:01 A.M. on ~~July 1, 2005, other~~  
8 ~~than the inventory of cigarettes offered for sale to a consumer at retail~~ February 17, 2009. The  
9 floor tax will apply to the stamped cigarette inventory of distributors, ~~and dealers but not to the~~  
10 ~~inventory of retail sellers to the extent the inventory is held for retail sale. If a distributor or dealer~~  
11 ~~also sells at the retail level, the stamped inventory held for sale at a retail location shall not be~~  
12 ~~included in the inventory subject to the floor tax.~~ In addition, the floor tax will apply to any  
13 unaffixed tax stamps in the possession of a distributor or dealer at 12:01 A.M. on ~~July 1, 2005~~  
14 February 17, 2009 that had been issued prior to that date. The inventory necessary to account for  
15 the floor tax must be taken as of the close of business on ~~June 30, 2005~~ February 16, 2009.

16 (b) The floor tax shall be computed in the same manner as the prepayment of sales tax on  
17 cigarettes as set forth in subsection 44-19-10.1(a); provided, that credit shall be allowed for any  
18 sales tax paid on said cigarettes or unaffixed tax stamps prior to February 17, 2009.

19 SECTION 7. Sections 44-20-12 and 44-20-13 of the General Laws in Chapter 44-20  
20 entitled "Cigarette Tax" are hereby amended to read as follows:

21 **44-20-12. Tax imposed on cigarettes sold.** -- A tax is imposed on all cigarettes sold or  
22 held for sale in the state. The payment of the tax to be evidenced by stamps, which may be  
23 affixed only by licensed distributors to the packages containing such cigarettes. Any cigarettes on  
24 which the proper amount of tax provided for in this chapter has been paid, payment being  
25 evidenced by the stamp, is not subject to a further tax under this chapter. The tax is at the rate of  
26 ~~one hundred twenty-three (123)~~ one hundred seventy-three (173) mills for each cigarette.

27 **44-20-13. Tax imposed on unstamped cigarettes.** -- A tax is imposed at the rate of ~~one~~  
28 ~~hundred twenty-three (123)~~ one hundred seventy-three (173) mills for each cigarette upon the  
29 storage or use within this state of any cigarettes not stamped in accordance with the provisions of  
30 this chapter in the possession of any consumer within this state.

31 SECTION 8. Chapter 44-20 of the General Laws entitled "Cigarette Tax" is hereby  
32 amended by adding thereto the following section:

33 **44-20-12.3. Floor stock tax on cigarettes and stamps.** -- (a) Whenever used in this  
34 section, unless the context requires otherwise:

1           (1) "Cigarette" means and includes any cigarette as defined in § 44-20-1(2);

2           (2) "Person" means and includes each individual, firm, fiduciary, partnership,  
3 corporation, trust, or association, however formed.

4           (b) Each person engaging in the business of selling cigarettes at retail in this state shall  
5 pay a tax or excise to the state for the privilege of engaging in that business during any part of the  
6 calendar year 2009. In calendar year 2009, the tax shall be measured by the number of cigarettes  
7 held by the person in this state at 12:01 a.m. on February 17, 2009 and is computed at the rate of  
8 fifty (50.0) mills for each cigarette on February 3, 2009.

9           (c) Each distributor licensed to do business in this state pursuant to this chapter shall pay  
10 a tax or excise to the state for the privilege of engaging in business during any part of the calendar  
11 year 2009. The tax is measured by the number of stamps, whether affixed or to be affixed to  
12 packages of cigarettes, as required by § 44-20-28. In calendar year 2009 the tax is measured by  
13 the number of stamps, as defined in § 44-20-1(10), whether affixed or to be affixed, held by the  
14 distributor at 12:01 a.m. on February 17, 2009, and is computed at the rate of fifty (50.0) mills per  
15 cigarette in the package to which the stamps are affixed or to be affixed.

16           (d) Each person subject to the payment of the tax imposed by this section shall, on or  
17 before February 27, 2009, file a return with the tax administrator on forms furnished by him or  
18 her, under oath or certified under the penalties of perjury, showing the amount of cigarettes or  
19 stamps in that person's possession in this state at 12:01 a.m. on February 17, 2009, and the  
20 amount of tax due, and shall at the time of filing the return pay the tax to the tax administrator.  
21 Failure to obtain forms shall not be an excuse for the failure to make a return containing the  
22 information required by the tax administrator.

23           (e) The tax administrator may promulgate rules and regulations, not inconsistent with  
24 law, with regard to the assessment and collection of the tax imposed by this section.

25           SECTION 9. Section 44-17-1 of the General Laws in Chapter 44-17 entitled "Taxation  
26 of Insurance Companies" is hereby amended to read as follows:

27           **44-17-1. Companies required to file -- Payment of tax -- Retaliatory rates. [Effective**  
28 **January 1, 2009.] --** (a) Every domestic, foreign, or alien insurance company, mutual  
29 association, organization, or other insurer, including any health maintenance organization, as  
30 defined in section 27-41-1, any nonprofit dental service corporation as defined in section 27-20.1-  
31 2 and any nonprofit hospital or medical service corporation, as defined in chapters 27-19 and 27-  
32 20, except companies mentioned in section 44-17-6, and organizations defined in section 27-25-1,  
33 transacting business in this state, shall, on or before March 1 in each year, file with the tax  
34 administrator, in the form that he or she may prescribe, a return under oath or affirmation signed

1 by a duly authorized officer or agent of the company, containing information that may be deemed  
2 necessary for the determination of the tax imposed by this chapter, and shall at the same time pay  
3 an annual tax to the tax administrator of two percent (2%) of the gross premiums on contracts of  
4 insurance, except:

5 ~~(1) Entities subject to chapters 27-19, 27-20, and 27-20.1 shall pay the following: one~~  
6 ~~and three quarters percent (1.75%) of the gross premiums on contracts of insurance, excluding~~  
7 ~~any business related to the administration of programs under Title XIX of the Social Security Act,~~  
8 ~~42 U.S.C.; provided, further, notwithstanding any provision of the law to the contrary, installment~~  
9 ~~payments shall equal at least ninety percent (90%) of estimated liability in the first year; or~~

10 ~~-(2) Health maintenance organizations as defined in section 27-41-1, shall pay the~~  
11 ~~following: one and three quarters percent (1.75%) of the gross premiums on contracts of~~  
12 ~~insurance, excluding any business related to the administration of programs under Title XIX of~~  
13 ~~the Social Security Act, 42 U.S.C.; provided, further, notwithstanding any provision of the law to~~  
14 ~~the contrary, installment payments shall equal at least ninety percent (90%) of estimated liability~~  
15 ~~in the first year; or~~

16 ~~-(3) Ocean marine insurance, as referred to in section 44-17-6, covering property and~~  
17 ~~risks within the state, written during the calendar year ending December 31st next preceding, but~~  
18 ~~in the case of foreign or alien companies, except as provided in section 27-2-17(d) the tax is not~~  
19 ~~less in amount than is imposed by the laws of the state or country under which the companies are~~  
20 ~~organized upon like companies incorporated in this state or upon its agents, if doing business to~~  
21 ~~the same extent in the state or country.~~

22 SECTION 10. Sections 46-12.9-8 and 46-12.9-11 of the General Laws in Chapter 46-  
23 12.9 entitled "Rhode Island Underground Storage Tank Financial Responsibility Act" are hereby  
24 amended to read as follows:

25 **46-12.9-8. Review board.** -- (a) There is hereby authorized, created and established the  
26 "underground storage tank review board," to approve, modify, or deny disbursements to eligible  
27 parties and to have such other powers as are provided herein.

28 (b) The review board shall consist of nine (9) members, as follows: the director of the  
29 department of environmental management or his or her designee who shall be a subordinate  
30 within the department of environmental management. The governor, with the advice and consent  
31 of the senate, shall appoint eight (8) public members one of whom shall have expertise and  
32 experience in financial matters. In making these appointments the governor shall give due  
33 consideration to recommendations from the American Petroleum Institute, the Independent Oil  
34 Marketers Association, the Oil Heat Institute, the Environment Council, the Independent Oil

1 Dealers Association and the Rhode Island Marine Trade Association. The newly appointed  
2 members will serve for a term of three (3) years commencing on the day they are qualified. Any  
3 vacancy which may occur on the board shall be filled by the governor, with the advice and  
4 consent of the senate, for the remainder of the unexpired term in the same manner as the  
5 member's predecessor as prescribed in this section. The members of the board shall be eligible to  
6 succeed themselves. Members shall serve until their successors are appointed and qualified. No  
7 one shall be eligible for appointment unless he or she is a resident of this state. The members of  
8 the board shall serve without compensation. Those members of the board as of the effective date  
9 of this act [July 15, 2005] who were appointed to the board by members of the general assembly  
10 shall cease to be members of the board on the effective date of this act, and the governor shall  
11 thereupon nominate three (3) members, each of whom shall serve the balance of the unexpired  
12 term of his or her predecessor. Those members of the board as of the effective date of this act  
13 [July 15, 2005] who were appointed to the board by the governor shall continue to serve the  
14 balance of their current terms. Thereafter, the appointments shall be made by the governor as  
15 prescribed in this section.

16 (c) When claims are pending, the review board shall meet at the call of the chair ~~no less~~  
17 ~~than four (4) times per year~~. All meetings shall be held consistent with chapter 46 of title 42.

18 (d) The review board and its corporate existence shall continue until terminated by law.  
19 Upon termination of the existence of the review board, all its rights and properties shall pass to  
20 and be vested in the state.

21 (e) The review board shall have the following powers and duties, together with all powers  
22 incidental thereto or necessary for the performance of those stated in this chapter:

23 (1) To elect or appoint officers and agents of the review board, and to define their duties:

24 (2) To make and alter bylaws, not inconsistent with this chapter, for the administration of  
25 the affairs of the review board. Such bylaws may contain provisions indemnifying any person  
26 who is or was a director or a member of the review board, in the manner and to the extent  
27 provided in § 7-6-6 of the Rhode Island nonprofit corporation act;

28 (3) To approve and submit an annual report within ninety (90) days after the end of each  
29 fiscal year to the governor, the speaker of the house of representatives, the president of the senate,  
30 and the secretary of state, of its activities during that fiscal year. The report shall provide: an  
31 operating statement summarizing meetings or hearings held, including meeting minutes, subjects  
32 addressed, and decisions rendered; a summary of the review board's actions, fees levied, collected  
33 or received as prescribed in §§ 46-12.9-7 and 46-12.9-11, claims submitted, verified, approved,  
34 modified, and denied as prescribed in § 46-12.9-7, and reconsideration hearings held as

1 prescribed in § 46-12.9-9; a synopsis of any law suits or other legal matters related to the  
2 authority of the review board; and a summary of performance during the previous fiscal year  
3 including accomplishments, shortcomings and remedies; a briefing on anticipated activities in the  
4 upcoming fiscal year; and findings and recommendations for improvements; and a summary of  
5 any training courses held pursuant to subdivision (f)(15) of this section. The report shall be posted  
6 electronically as prescribed in § 42-20-8.2.

7 (4) To conduct a training course for newly appointed and qualified members and new  
8 designees of ex-officio members within six (6) months of their qualification or designation. The  
9 course shall be developed by the executive director, approved by the board, and conducted by the  
10 executive director. The board may approve the use of any board or staff members or other  
11 individuals to assist with training. The training course shall include instruction in the following  
12 areas: the provisions of chapters 46-12.9, 42-46, 36-14, and 38-2; and the boards rules and  
13 regulations. The director of the department of administration shall, within ninety (90) days of the  
14 effective date of this act [July 15, 2005], prepare and disseminate training materials relating to the  
15 provisions of chapters 36-14, 38-2, and 42-46.

16 (f) Upon the passage of this act and the appointment and qualification of the three (3)  
17 new members prescribed in subsection (b) of this section, the board shall elect from among its  
18 members a chair. Thereafter, the board shall elect annually in February a chair from among the  
19 members. The board may elect from among its members such other officers as it deems  
20 necessary.

21 (g) Six (6) members of the board shall constitute a quorum and the vote of the majority  
22 of the members present shall be necessary and shall suffice for any action taken by the board. No  
23 vacancy in the membership of the board shall impair the right of a quorum to exercise all of the  
24 rights and perform all of the duties of the board.

25 (h) Members of the board shall be removable by the governor pursuant to section 36-17  
26 and removal solely for partisan or personal reasons unrelated to capacity or fitness for the office  
27 shall be unlawful.

28 **46-12.9-11. Fundings.** -- (a) There is hereby imposed an environmental protection  
29 regulatory fee of ~~at the rate of~~ one cent (\$0.01) per gallon payable of motor fuel, to be collected  
30 by distributors of motor fuel when the product is sold to owners and/or operators of underground  
31 storage tanks. Each distributor shall be responsible to the tax administrator for the collection of  
32 the regulatory fee, and if the distributor is unable to recover the fee from the person who ordered  
33 the product, the distribution shall nonetheless remit to the tax administrator the regulatory fee  
34 associated with the delivery. In accordance with the regulations to be promulgated hereunder, the

1 fee shall be collected, reported, and paid to the Rhode Island division of taxation as a separate  
2 line item entry, on a quarterly tax report by those persons charged with the collection, reporting,  
3 and payment of motor fuels taxes. This fee shall be administered and collected by the division of  
4 taxation. Notwithstanding the provisions of this section, the fee shall not be applicable to  
5 purchases by the United States government.

6 (b) Of the one cent (\$0.01) per gallon environmental protection regulatory fee collected  
7 by distributors of motor fuel and paid to the Rhode Island division of taxation, one-half cent  
8 (\$0.005) shall be deposited in the Intermodal Surface Transportation Fund to be distributed  
9 pursuant to § 31-36-20 and one-half cent (\$0.005) shall be paid to the underground storage tank  
10 review board. ~~All fees derived under the provisions of this chapter~~ All environmental protection  
11 regulatory fees paid to the review board, including tank registration fees assessed pursuant to §  
12 46-12.9-7(9), shall be ~~paid to and~~ received by the review board, which shall keep such money in a  
13 distinct interest bearing restricted receipt account to the credit of and for the exclusive use of the  
14 fund, provided that for the period January 1, 2008 through June 30, 2008, all revenues generated  
15 by the environmental protection regulatory fee up to a maximum of two million dollars  
16 (\$2,000,000) shall be deposited into the general fund. In fiscal year 2009, all revenues generated  
17 by the environmental protection regulatory fee up to a maximum equivalent to two million two  
18 hundred thirty-seven thousand five hundred dollars (\$2,237,500) shall be deposited into the  
19 general fund. All fees collected may be invested as provided by law and all interest received on  
20 such investment shall be credited to the fund.

21 (c) When the fund reaches the sum of eight million dollars (\$8,000,000), the imposition  
22 of the fee set forth in this chapter shall be suspended, and the division of taxation shall notify all  
23 persons responsible for the collection, reporting and payments of the fee of the suspension. In the  
24 event that the account balance of the fund subsequently is reduced to a sum less than five million  
25 dollars (\$5,000,000) as a result of fund activity, the fee shall be reinstated by the division of  
26 taxation, following proper notice thereof, and once reinstated, the collection, reporting, and  
27 payment of the fee shall continue until the account balance again reaches the sum of eight million  
28 dollars (\$8,000,000).

29 (d) Upon the determination by the review board and the department that the fund has  
30 reached a balance sufficient to satisfy all pending or future claims, the review board shall  
31 recommend to the general assembly the discontinuation of the imposition of the fee created in this  
32 section.

33 SECTION 11. Section 31-36-20 of the General Laws in Chapter 31-36 entitled "Motor  
34 Fuel Tax" is hereby amended to read as follows:

1           **31-36-20. Disposition of proceeds.** -- (a) Notwithstanding any other provision of law to  
2 the contrary, all moneys paid into the general treasury under the provisions of this chapter or  
3 chapter 37 of this title, and title 46 shall be applied to and held in a separate fund and be  
4 deposited in any depositories that may be selected by the general treasurer to the credit of the  
5 fund, which fund shall be known as the Intermodal Surface Transportation Fund; provided, that in  
6 fiscal year 2004 for the months of July through April six and eighty-five hundredth cents  
7 (\$0.0685) per gallon of the tax imposed and accruing for the liability under the provisions of §  
8 31-36-7, less refunds and credits, shall be transferred to the Rhode Island public transit authority  
9 as provided under § 39-18-21. For the months of May and June in fiscal year 2004, the allocation  
10 shall be five and five hundredth cents (\$0.0505). Thereafter, until fiscal year 2006, the allocation  
11 shall be six and twenty-five hundredth cents (\$0.0625). For fiscal ~~year~~ years 2006 ~~and thereafter~~  
12 through FY 2008, the allocation shall be seven and twenty-five hundredth cents (\$0.0725);  
13 provided, that expenditures shall include the costs of a market survey of non-transit users and a  
14 management study of the agency to include the feasibility of moving the Authority into the  
15 Department of Transportation, both to be conducted under the auspices of the state budget officer.  
16 The state budget officer shall hire necessary consultants to perform the studies, and shall direct  
17 payment by the Authority. Both studies shall be transmitted by the Budget Officer to the 2006  
18 session of the General Assembly, with comments from the Authority. For fiscal year 2009 and  
19 thereafter, the allocation shall be seven and seventy-five hundredth cents (\$0.775), of which one-  
20 half cent (\$0.005) shall be derived from the one cent (\$0.01) per gallon environmental protection  
21 fee pursuant to § 46-12.9-11. One cent (\$0.01) per gallon shall be transferred to the  
22 Elderly/Disabled Transportation Program of the department of elderly affairs, and the remaining  
23 cents per gallon shall be available for general revenue as determined by the following schedule:  
24           (i) For the fiscal year 2000, three and one fourth cents (\$0.0325) shall be available for  
25 general revenue.  
26           (ii) For the fiscal year 2001, one and three-fourth cents (\$0.0175) shall be available for  
27 general revenue.  
28           (iii) For the fiscal year 2002, one-fourth cent (\$0.0025) shall be available for general  
29 revenue.  
30           (iv) For the fiscal year 2003, two and one-fourth cent (\$0.0225) shall be available for  
31 general revenue.  
32           (v) For the months of July through April in fiscal year 2004, one and four-tenths cents  
33 (\$0.014) shall be available for general revenue. For the months of May through June in fiscal year  
34 2004, three and two-tenths cents (\$0.032) shall be available for general revenue, and thereafter,

1 until fiscal year 2006, two cents (\$0.02) shall be available for general revenue. For fiscal year  
2 2006 and thereafter one cent (\$0.01) shall be available for general revenue.

3 (2) All deposits and transfers of funds made by the tax administrator under this section,  
4 including those to the Rhode Island public transit authority, the department of elderly affairs and  
5 the general fund, shall be made within twenty-four (24) hours of receipt or previous deposit of the  
6 funds in question.

7 (3) Commencing in fiscal year 2004, the Director of the Rhode Island Department of  
8 Transportation is authorized to remit, on a monthly or less frequent basis as shall be determined  
9 by the Director of the Rhode Island Department of Transportation, or his or her designee, or at the  
10 election of the Director of the Rhode Island Department of Transportation, with the approval of  
11 the Director of the Department of Administration, to an indenture trustee, administrator, or other  
12 third party fiduciary, in an amount not to exceed two cents (\$0.02) per gallon of the gas tax  
13 imposed, in order to satisfy debt service payments on aggregate bonds issued pursuant to a Joint  
14 Resolution and Enactment Approving the Financing of Various Department of Transportation  
15 Projects adopted during the 2003 session of the General Assembly, and approved by the  
16 Governor.

17 (b) Notwithstanding any other provision of law to the contrary, all other funds in the  
18 fund shall be dedicated to the department of transportation, subject to annual appropriation by the  
19 general assembly. The director of transportation shall submit to the general assembly, budget  
20 office and office of the governor annually an accounting of all amounts deposited in and credited  
21 to the fund together with a budget for proposed expenditures for the succeeding fiscal year in  
22 compliance with §§ 35-3-1 and 35-3-4. On order of the director of transportation, the state  
23 controller is authorized and directed to draw his or her orders upon the general treasurer for the  
24 payments of any sum or portion of the sum that may be required from time to time upon receipt  
25 of properly authenticated vouchers.

26 (c) At any time the amount of the fund is insufficient to fund the expenditures of the  
27 department of transportation, not to exceed the amount authorized by the general assembly, the  
28 general treasurer is authorized, with the approval of the governor and the director of  
29 administration, in anticipation of the receipts of monies enumerated in § 31-36-20 to advance  
30 sums to the fund, for the purposes specified in § 31-36-20, any funds of the state not specifically  
31 held for any particular purpose. However, all the advances made to the fund shall be returned to  
32 the general fund immediately upon the receipt by the fund of proceeds resulting from the receipt  
33 of monies to the extent of the advances.

1           SECTION 12. Sections 1 through 5 shall take effect upon passage. Sections 6 through 8  
2 shall take effect on February 17, 2009. Sections 9 through 11 shall take effect on January 1, 2009.

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LC00895  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TAXATION

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- 1           This act would increase fees and taxes on various items and activities.  
2           Sections 1 through 5 would take effect upon passage. Sections 6 through 8 would take  
3 effect on February 17, 2009. Sections 9 through 11 would take on January 1, 2009.

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LC00895  
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