

ORDINANCE NUMBER 1908

ORDINANCE NUMBERS 380, 381, 456, 659 and 1667 (As Amended)

BE IT ORDAINED by the City Council of the City of Prichard, Alabama, that Ordinance Numbers 380, 381, 456, 659 and 1667 be and hereby is amended to increase the tax levied pursuant to Section 2, thereof, so that the Ordinance Numbers 380, 381, 456, 659, and 1667 as amended, shall read in its entirety as follows:

Section 1 As used in this ordinance, the term "gasoline" shall include gasoline, naphtha or any other liquid motor fuel commonly used to operate an internal combustion engine provided that nothing in this ordinance shall apply to those products known commercially as kerosene oil, fuel oil or crude oil commonly used for lighting, seeing, heating, or industrial purposes, except when such products are used as a substitute for gasoline in the operation of a motor vehicle. The word "person" means and includes persons, corporations, co-partnerships, companies, associations, incorporated or otherwise, singular or plural. The term "distributor" shall include any person as herein defined, who engages in the selling or distribution of gasoline within the corporate limits of the City of Prichard, Alabama, at wholesale or retail. The word "refiner" shall include any person who manufactures, blends, distills, compounds, or mixes any two or more products in the production of a liquid motor fuel, or gasoline as herein defined. The term "storer" as herein used shall include any person who ships, causes to be shipped or receives gasoline, as herein defined, within the corporate limits of the City of Prichard in any quantity, stores same in any container and withdraws same from storage for any purpose, whether for sale or other disposition. The term "City of Prichard" as used herein shall be construed to mean the City of Prichard, Alabama.

Section 2 Every distributor, refiner or storer of gasoline, as herein defined, shall pay an excise tax of 5 cents per gallon upon the selling, distribution, storing and withdrawing from storage for use or sale any gasoline within the corporate limits of the City of Prichard; provided, 2 1/2 cents in the Police Jurisdiction, however, that the excise tax herein levied shall not apply to sale of gasoline delivered beyond the City of Prichard; providing further that where excise tax herein imposed shall have been paid to the City of Prichard by one distributor, refiner, or storer, it shall be sufficient, the intention being that the tax shall be paid but once. Evidence satisfactory to the Mayor shall be submitted by any person-making sale for delivery at points beyond the City limits.

Section 3 The excise tax imposed by Section 2 hereof shall apply to persons as defined herein, storing gasoline and distributing same or allowing same to be withdrawn from storage for sale or other use; provided that the person selling gasoline or its substitutes, shall report and pay the tax on the basis of their sales. Refiners, storers, and distributors making sales for resale, shall compute and pay the tax herein levied upon the basis of their withdrawals or wholesale sales.

Section 4 The tax herein levied shall be held to constitute a debt due the City of Prichard, and all gasoline deposits of the distributor, refiner or storer shall be held liable for the payment thereof, wheresoever located. Such debt shall constitute a lien, superior to all other liens except claim of the United States Government or the State of Alabama against such property.

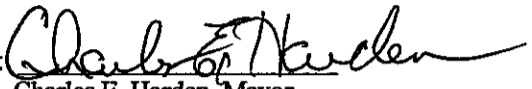
Section 5 Any person violating any of the provisions of this Ordinance shall be guilty of an offense against the City of Prichard and shall, on conviction, be fined not more than \$100.00 and also may be imprisoned in the City Jail for not more than 6 months, one or both at the discretion of the Judge trying the case, and each day's violation shall constitute a separate offense.

Section 6 All ordinances and parts of ordinances in conflict with this ordinance are hereby expressly repealed; provided that, nothing herein shall be held or construed to repeal any ordinance heretofore adopted providing for the collection of an excise tax upon the sale, distribution or withdrawal of gasoline, until all such taxes which accrued prior to the adoption of this ordinance are paid in full. And provided further, that nothing in this ordinance shall be held or construed to repeal any annual license tax heretofore imposed upon any person for the privilege of operating a retail gasoline service station, pump, or any other occupation for which an annual license fee has been fixed by a City ordinance.

Section 7 The provisions of this ordinance are severable. The subsequent declaration by any court of law that any provisions are unconstitutional or unenforceable shall not affect the enforceability of the remaining provisions.

This ordinance shall become immediately effective upon its adoption by the City Council and advertised as required by law.

ADOPTED this the 3rd day of October 2002

APPROVED: 
Charles E. Harden, Mayor


ATTEST: 
City Clerk