This is to advise you that we have reviewed for constitutionality and legal sufficiency Senate Bill 624, a bill which amends Art. 56, Sec. 136 to temporarily reduce the motor fuel tax on gasohol which is produced in Maryland. As the reduction of this tax violates the prohibition in the Federal Constitution on the states' discriminating against interstate commerce, we are unable to approve the bill.

Article I, Sec. 8, Cl. 3 of the Federal Constitution authorizes Congress "to regulate commerce ... among the several states." It is well understood that this clause is also a limitation on the powers of the states. In this regard, the Supreme Court recently declared:

> "One of the fundamental principles of Commerce Clause jurisprudence is that no State, consistent with the Commerce Clause, may 'impose a tax which discriminates against interstate commerce ... by providing a direct commercial advantage to local business.' Northwestern States Portland Cement Co. v. Minnesota, 358 U.S. 450, 458, 79 S.Ct. 357, 362, 3 L.Ed. 2d 421 (1959). See Boston Stock Exchange v. State Tax Commission, 429 U.S. 318, 329, 97 S.Ct. 599, 606, 50 L.Ed.2d 514 (1977). This antidiscrimination principle 'follows inexorably from the basic purpose of the Clause' to prohibit the multiplication of preferential trade areas destructive of the free commerce anticipated by the Constitution. Boston Stock Exchange, supra, 429 U.S. at 329, 97 S.Ct. at 606. See Dean Milk Co. v. Madison, 340 U.S. 349, 356, 71 S.Ct. 295, 298, 95 L.Ed. 329 (1951)."

Maryland v. Louisiana, ____ U.S. ____, 101 S.Ct. 2114, 2133 (1981). Taxing the sale of gasohol at a lesser rate simply because it is produced in Maryland, is clearly "discriminatory against interstate commerce ... by providing a direct commercial advantage to local business." Just recently, the Minnesota Supreme Court struck down a similarly preferential tax on gasohol produced in that State. Archer Daniels Midland Co. v. State of Minnesota, 315 N.W. 2d 597, 598-600 (Minn. 1982).

As the motor fuel tax is pledged to the redemption of the consolidated transportation bonds, Transportation Article, Sec. 3-215, and as the bill makes no provision to insure that there is adequate revenue to redeem these bonds, there are also issues of whether the bill violates the prohibition in the Federal Constitution on the states impairing contracts, Art. I, Sec. 10, Cl. 1, and the ban in the State Constitution on the repeal of taxes pledged to redeem the State's debt, Art. III, Sec. 34. Because the bill is so clearly unconstitutional as a violation of the Commerce Clause, we find it unnecessary to address these other issues.