

"AN ACT TO AMEND SUBSECTION (b)(2) OF SECTION 7 OF ACT 985 OF 1987, TO REMOVE THE REQUIREMENT OF AN EXEMPTION CERTIFICATE FOR PURCHASERS OF DISTILLATE SPECIAL FUEL FOR OFF-ROAD USE; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Subsection (b)(2) of Section 7 of Act 985 of 1987 is hereby amended to read as follows:

"(2) Such fuel was sold and delivered by the supplier to dealers, users, or off-road consumers who were, at the time of sale and delivery, except as provided in Section 10 of this Act, holders of licenses or permits issued by the Commissioner which entitle such dealers, users or off-road consumers to purchase fuel tax-free for off-road use."

SECTION 2. Subsection (k) of Section 2 of Chapter 1 of Act 40 of 1965, First Extraordinary Session, as amended, the same being Ark. Stat. Ann.

75-1240(k) is hereby amended to read as follows:

"(k) 'Supplier' means any person who is customarily in the wholesale business of offering distillate special fuels and/or liquefied gas special fuels for resale or use to any person in this State, and who makes bulk sales of fuel. The term 'supplier' shall include pipeline importers, first receivers and second receivers."

SECTION 3. Section 2 of Chapter 1 of Act 40 of 1965, First Extraordinary Session, as amended, the same being Ark. Stat. Ann. 75-1240, is hereby amended by adding thereto the following new subsections:

"(s) 'First Receiver' shall mean a supplier who purchases distillate special fuel from a pipeline importer or who imports distillate special fuel into the State by motor vehicle tank truck.

(t) 'Second Receiver' means a supplier who purchases distillate special fuel from a pipeline importer or first receiver or who imports distillate special fuel into this State by motor vehicle tank truck.

SECTION 4. Section 7(d) of Act 985 of 1987 is hereby amended to read as follows:

"(d) Sales of distillate special fuels by a pipeline importer, who has first received such fuels in this State, to a duly licensed first receiver or a duly licensed second receiver in this State."

SECTION 5. Section 7 of Act 985 of 1987 is hereby amended by adding the following new subsection:

"(f) Sales of distillate special fuels by a duly licensed first receiver in this State to a duly licensed second receiver within this State."

SECTION 6. (1) A duly licensed first receiver shall not sell untaxed distillate special motor fuel to another duly licensed first receiver or pipeline importer unless a specific exemption is available under Section 7 of Act 985 of 1987.

(2) A duly licensed second receiver shall not sell untaxed distillate special motor fuel unless a specific exemption is available under Section 7 of Act 985 of 1987.

SECTION 7. Act 985 of 1987 shall not be in effect on and after July 1, 1987, as stated in Section 17 of Act 985 of 1987 but shall be in full force and effect on and after August 1, 1987.

SECTION 8. Section 7(a) of Chapter 2 of Act 40 of 1965, First Extraordinary Session, as amended [Ark. Stat. Ann. 75-1247(a)] is hereby amended to read as follows:

"(a) No person shall commence operations as a supplier, dealer, user or off-road consumer of distillate special fuels without first procuring a license for that purpose from the Commissioner, which license shall be issued and remain in effect until revoked as hereinafter provided. Any person holding or applying for a supplier's license after August 1, 1987, shall make an election to operate either as a pipeline importer, first receiver, or second receiver. Once having made an election in writing filed with the Commissioner of Revenue, such election will remain in force until such time as the supplier makes another written election to change his status and such election and any change therein shall take effect on the first month following filing of the election."

SECTION 9. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 10. EMERGENCY. It is hereby found and determined by the General Assembly that, for the purpose of administering the distillate special fuel tax to increase revenues necessary for essential services required by the citizens of this State, it is necessary to remove the requirement of an exemption certificate for purchasers of distillate special fuel for off-road use. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: June 12, 1987

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