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1 **State of Arkansas**

2 **78th General Assembly**

3 **Regular Session, 1991**

# **A Bill**

**HOUSE BILL 1200**

4 **By: Representatives Foster, Allen, Carter, Dietz, Dowd, Gibson, Hogue,**  
5 **Jordan, Maddox, Mahony, McGee, McJunkin, J. Miller, S. Miller, Mullenix,**  
6 **Murphy, Newman, Parkerson, D. E. Roberts, Rorie, Schernayder, Shaver,**  
7 **Whorton, M. Wilson and B. Wood.**

8  
9

## **For An Act To Be Entitled**

11 "AN ACT TO LEVY ADDITIONAL TAXES ON MOTOR FUEL, DISTILLATE  
12 SPECIAL FUELS, AND LIQUEFIED GAS SPECIAL FUELS; TO AMEND  
13 ARKANSAS CODE §26-55-710 AND TO AMEND ARKANSAS CODE §26-  
14 56-214 TO INSURE THAT THE ADDITIONAL TAXES LEVIED BY THIS  
15 ACT ARE IMPOSED ON BONDED AND UNBONDED INTERSTATE MOTOR  
16 FUEL USERS AND BONDED AND UNBONDED INTERSTATE DISTILLATE  
17 SPECIAL FUEL USERS; TO AMEND ARKANSAS CODE §26-56-304 TO  
18 COMBINE ALL CURRENT ANNUAL FEES FOR AND TO INCLUDE IN SUCH  
19 ANNUAL FEES IMPOSED ON LIQUEFIED GAS SPECIAL FUEL USERS A  
20 PROPORTIONATE INCREASE IN THE ANNUAL FEES FOR VEHICLES  
21 USING LIQUEFIED PETROLEUM GAS TO APPROXIMATE THE PER  
22 GALLON ADDITIONAL TAXES IMPOSED BY THIS ACT ON LIQUEFIED  
23 GAS SPECIAL FUELS; TO REPEAL ARKANSAS CODE §§26-56-503 AND  
24 26-55-1003; TO PRESCRIBE THE PURPOSES FOR WHICH THE  
25 ADDITIONAL REVENUES DERIVED FROM THE TAXES AND FEES LEVIED  
26 HEREIN SHALL BE USED; TO DECLARE AN EMERGENCY; AND FOR  
27 OTHER PURPOSES."

28

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

30

31 SECTION 1. (a) On and after the effective date of this act, in  
32 addition to the taxes levied upon motor fuel in Arkansas Code §§26-55-205 and  
33 26-55-1002 and upon distillate special fuels in Arkansas Code §§26-56-201 and  
34 26-56-502 and upon liquefied gas special fuels in Arkansas Code §§26-56-301  
35 and 26-56-502, and in addition to any other taxes levied on such fuel or fuels

1 *during the Seventy-Eighth Regular Session of the General Assembly, there is*  
2 *hereby levied an excise tax of five cents (\$.05) per gallon upon all motor*  
3 *fuel and liquefied gas special fuels and an excise tax of two cents (\$.02) per*  
4 *gallon upon all distillate special fuels subject to the taxes levied in those*  
5 *code sections, and such additional taxes shall be collected, reported and paid*  
6 *in the same manner and at the same time as is prescribed by law for the*  
7 *collection, reporting, and payment of other motor fuel taxes, distillate*  
8 *special fuels taxes, and liquefied gas special fuels taxes.*

9

10 SECTION 2. Arkansas Code §26-55-710 is hereby amended to read as  
11 follows:

12 "26-55-710. Quarterly mileage reports - Tax computation.

13 (a) (1) Every person, firm, or corporation licensed under this  
14 subchapter shall, on or before the last day of the month following the end of  
15 each calendar quarter, file with the Director of the Department of Finance and  
16 Administration, on forms prescribed by him, a report showing the quantities of  
17 gasoline purchased and used in this state during the preceding calendar  
18 quarter, together with payment of the tax due thereon.

19 (2) The number of gallons of motor fuel upon which the tax has been paid  
20 by an interstate user shall be determined from the form obtained by the  
21 interstate user from a licensed dealer or licensed bulk distributor within the  
22 state.

23 (b) If it shall be determined by the quarterly reports filed with the  
24 director that the interstate user has used more gallons of gasoline in this  
25 state than the gasoline tax due thereon has been paid, the interstate user  
26 shall remit to the director an excise tax of eighteen and *one-half cents*  
27  *(\$.185) per gallon on the gasoline.*

28 (c) Interstate users may not take credit on reports at a tax rate in  
29 excess of that actually paid.

30 (d) (1) For the purpose of determining whether a licensed interstate  
31 user owes tax or is entitled to a credit or refund, the licensed interstate  
32 user shall determine the average miles per gallon of fuel used. The average  
33 miles per gallon shall be determined by dividing the total miles traveled in  
34 all jurisdictions by the total gallons of fuel used in all jurisdictions.

35 (2) The licensed interstate user shall then determine the total amount

1 of fuel used within the State of Arkansas by dividing the total number of  
 2 miles traveled within the State of Arkansas by the average miles per gallon.

3

4 (3) The taxpayer's tax liability shall be calculated by multiplying the  
 5 number of gallons of fuel used within the State of Arkansas by *eighteen and*  
 6 *one-half cents (\$.185) per gallon. A taxpayer shall be entitled to credits*  
 7 against his tax liability for tax-paid fuel purchased within the State of  
 8 Arkansas.

9 (e) For any licensed interstate user who fails to maintain adequate  
 10 mileage or fuel records, as required by §26-55-719, for the purpose of  
 11 determining the amount the interstate user owes the State of Arkansas for tax  
 12 on motor fuel used in this state as provided in this section, the number of  
 13 gallons of motor fuel used in this state shall be determined by an assessment  
 14 based on the following mileage factors per gallon of motor fuel as compared to  
 15 the appropriate class of vehicle set out in subsection (f) of this section.

16 (f) (1) For the purposes of this section:

17 (A) All automobiles, except buses, with a capacity of less than eight  
 18 (8) passengers shall be deemed to be Class A vehicles;

19 (B) All truck-type vehicles, except buses, with a factory rating and  
 20 gross loaded weight of less than twenty-two thousand five hundred pounds  
 21 (22,500 lbs.), shall be deemed to be Class B vehicles;

22 (C) All other vehicles except buses, with a factory rating in excess of  
 23 twenty-two thousand five hundred pounds (22,500 lbs.), or whose total gross  
 24 loaded weight exceeds twenty-two thousand five hundred pounds (22,500 lbs.)  
 25 shall be deemed to be Class C vehicles;

26 (D) All buses rated and licensed as such shall be deemed to be Class D  
 27 vehicles.

28 (2) The mileage factor per gallon of motor fuel for:

29 (A) Class A vehicles shall be twelve (12) miles;

30 (B) Class B vehicles shall be eight (8) miles;

31 (C) Class C vehicles shall be five (5) miles; and

32 (D) Class D vehicles shall be six (6) miles.

33 (3) These mileage factors shall be utilized in conjunction with the  
 34 Arkansas mileage as determined through an audit and based upon the best  
 35 records available regardless of source.

1 (g) (1) For the purposes of determining the amount any unlicensed or  
2 unbonded user owes the State of Arkansas for tax on motor fuel used in this  
3 state, only the above mileage factors per gallon of motor fuel for the  
4 applicable vehicle shall be utilized.

5 (2) If a quarterly report of an interstate user results in a net  
6 credit, the interstate user may elect to have the credit carried forward and  
7 applied against the motor fuel tax due for the succeeding eight (8) quarters  
8 or until the credit is completely used, whichever occurs first. In the  
9 alternative, a taxpayer who is entitled to a net credit on his quarterly fuel  
10 use tax report may elect to have the amount of credit refunded to him.

11 (3) An interstate user who had a total tax liability for motor fuel  
12 taxes during the previous calendar year of less than one hundred dollars  
13 (\$100) may, upon application to the director, obtain permission to report his  
14 motor fuel tax liability on an annual basis. The annual report shall be due on  
15 or before the last day of the month following the end of each fiscal year.

16 (h) The director shall prescribe the appropriate forms necessary for  
17 the administration of this subchapter. The director may make appropriate rules  
18 and regulations necessary to insure the accurate reporting of mileage traveled  
19 and gallons used and purchased by the licensed interstate users."  
20

21 SECTION 3. Arkansas Code §26-56-214 is hereby amended to read as  
22 follows:

23 "26-56-214. Interstate users - Reports - Computation of tax and refunds.

24 (a) Whenever an interstate user of distillate special fuels who is a  
25 bonded user of such fuels in all states in which he operates has exportations  
26 in excess of importations of tax-paid distillate special fuels in the fuel  
27 supply tanks of motor vehicles which fuels were delivered by a supplier into  
28 bulk storage facilities of the user within the State of Arkansas, the supplier  
29 may make a refund or allow a credit for the amount of the tax upon such excess  
30 upon approval by the director of a statement from the user to the effect that  
31 the tax-paid fuel was exported.

32 (b) (1) For the purpose of determining whether an interstate distillate  
33 special fuels user owes special motor fuel tax or is entitled to a credit or  
34 refund, the licensed interstate distillate special fuels user shall file a  
35 quarterly report on or before the last day of the month following the end of

1 each calendar quarter.

2 (2) If it shall be determined by the quarterly report that the  
 3 interstate user has used distillate special fuels in this state in excess of  
 4 the number of gallons of the fuel upon which the Arkansas tax had been paid,  
 5 the interstate user shall remit to the director, at the time of *filing the*  
 6 *report, an excise tax of eighteen and one-half cents (\$.185) per gallon of the*  
 7 *excess gallonage used.*

8 (3) If it shall be determined that the interstate user has purchased  
 9 more gallons of distillate special fuels in this state than he has used in  
 10 this state, then the user shall be entitled to a credit or *refund of eighteen*  
 11 *and one-half cents (\$.185) per gallon of the excess gallonage purchased in the*  
 12 *state.*

13 (c) The quarterly report required by this subchapter shall be filed on  
 14 or before the last day of the month following the end of each calendar quarter  
 15 and shall be made on forms prescribed by the director and shall include such  
 16 information as the director may require.

17 (d) (1) For the purpose of determining whether a distillate special  
 18 fuel user owes tax or is entitled to a credit or refund as provided in  
 19 subsection (b) of this section, the distillate special fuel user shall file  
 20 with the director a report showing the quantities of special motor fuels used  
 21 in this state during the preceding calendar quarter. This report shall be due  
 22 on or before the last day of the month following the end of each calendar  
 23 quarter.

24 (2) If it shall be determined by the quarterly report filed with the  
 25 director that the distillate special fuel user has used more gallons of  
 26 special motor fuel in this state than the special motor fuel tax due thereon  
 27 has been paid, the distillate special fuel user shall remit to *the director an*  
 28 *excise tax of eighteen and one-half cents (\$.185) per gallon of special motor*  
 29 *fuel.*

30 (3) Distillate special fuel users may not take credit on reports at a  
 31 tax rate in excess of that actually paid.

32 (e) (1) For the purpose of determining whether a distillate special fuel  
 33 user owes tax or is entitled to a credit or refund, the distillate special  
 34 fuel user shall determine the average miles per gallon of fuel used. The  
 35 average miles per gallon shall be determined by dividing total miles traveled

1 in all jurisdictions by the total gallons of fuel used in all jurisdictions.  
2 The distillate special fuel user shall then determine the total amount of fuel  
3 used within the State of Arkansas by dividing the total number of miles  
4 traveled within the State of Arkansas by the average miles per gallon.

5 (2) The taxpayer's tax liability shall be calculated by multiplying the  
6 number of gallons of fuel used within the State of Arkansas by *eighteen and*  
7 *one-half cents (\$ .185) per gallon*. A taxpayer shall be entitled to credits  
8 against his tax liability for tax-paid fuel purchased within the State of  
9 Arkansas.

10 (f) (1) Any licensed interstate user who fails to maintain adequate  
11 mileage or fuel records, for the purpose of determining the amount the  
12 interstate user owes the State of Arkansas for tax on distillate special fuel  
13 used in this state as provided in this section, the number of gallons of  
14 distillate special fuel used in this state shall be determined by an  
15 assessment based on the following mileage factors per gallon of distillate  
16 special fuel as compared to the appropriate class of vehicle set out in  
17 subdivision (2) of this subsection.

18 (2) For the purposes of this section:

19 (A) All automobiles, except buses, with a capacity of less than eight  
20 (8) passengers shall be deemed to be Class A vehicles;

21 (B) All truck-type vehicles, except buses, with a factory rating and  
22 gross loaded weight of less than twenty-two thousand five hundred pounds  
23 (22,500 lbs.), shall be deemed to be Class B vehicles;

24 (C) All other vehicles, except buses, with a factory rating in excess  
25 of twenty-two thousand five hundred pounds (22,500 lbs.), or whose total gross  
26 loaded weight exceeds twenty-two thousand five hundred pounds (22,500 lbs.)  
27 shall be deemed to be Class C vehicles; and

28 (D) All buses rated and licensed as such shall be deemed to be Class D  
29 vehicles.

30 (3) The mileage factor per gallon of distillate special fuel for:

31 (A) Class A vehicles shall be twelve (12) miles;

32 (B) Class B vehicles shall be eight (8) miles;

33 (C) Class C vehicles shall be five (5) miles; and

34 (D) Class D vehicles shall be six (6) miles.

35 (4) These mileage factors shall be utilized in conjunction with the

1 Arkansas mileage as determined through an audit and based upon the best  
2 records available regardless of source.

3 (g) For the purposes of determining the amount any unlicensed or  
4 unbonded user owes the State of Arkansas for tax on distillate special fuel  
5 used in this state, only the above mileage factors per gallon of distillate  
6 special fuel for the applicable vehicles shall be utilized.

7 (h) (1) If a quarterly report of a distillate special fuel user results  
8 in a net credit, the distillate special fuel user may elect to have the credit  
9 carried forward and applied against the special motor fuel tax due for the  
10 succeeding eight (8) quarters or until the credit is completely used,  
11 whichever occurs first. In the alternative, a taxpayer who is entitled to a  
12 net credit on his quarterly fuel use tax report may elect to have the amount  
13 of credit refunded to him.

14 (2) A distillate special fuel user who has a total tax liability for  
15 special motor fuel tax during the previous calendar year of less than one  
16 hundred dollars (\$100) may, upon application to the director, obtain  
17 permission to report his motor fuel tax liability on an annual basis. The  
18 annual report shall be due on or before the last day of the month following  
19 the end of each fiscal year.

20 (i) The director shall prescribe the appropriate forms necessary for  
21 the administration of this subchapter. The director may make appropriate rules  
22 and regulations necessary to insure the accurate reporting of the special  
23 motor fuel tax."

24

25 SECTION 4. Subsection (d) of Arkansas Code §26-56-304 is hereby amended  
26 to read as follows:

27 "(d) (1) At the time of applying for such permit and prior to the  
28 registration and issuance of a motor vehicle license for the vehicle, each  
29 applicant, except licensed liquefied gas special fuel suppliers, shall remit  
30 to the director, in addition to the regular fee prescribed by law for the  
31 registration and licensing of the vehicle, an additional fee in an amount  
32 which is determined by the General Assembly, based upon information available  
33 from statistical studies of the motor vehicular use of liquefied gas special  
34 fuels by various classes of users, as follows:

35





1 the actual mileage of the common or contract carrier or vehicle for hire for  
2 the previous year, the current year, or any other reasonable basis.

3 (3) The director shall establish regulations for computing the fees and  
4 for the enforcement of the collection thereof.

5 (4) If any new liquefied gas special fuel vehicle is placed in  
6 operation or any other vehicle shall be converted to a liquefied gas special  
7 fuel vehicle during the registration year, the owner shall be permitted to pay  
8 a proportionate part of the special fuel user's permit fee for such vehicle  
9 for the remainder of the current registration year based upon one-twelfth  
10 (1/12) of the annual fee for such vehicle for each calendar month or fraction  
11 thereof remaining in the current registration year."  
12

13 SECTION 5. (1) All of the additional taxes, fees, penalties and  
14 interest collected under the provisions of this act shall be classified as  
15 special revenues and shall be deposited in the state treasury. After  
16 deducting therefrom the amount to be credited to the Constitutional Officers  
17 Fund and the State Central Services Fund as provided in the Revenue  
18 Stabilization Law, §19-5-101, et seq., the treasurer shall transfer on the  
19 last business day of each month:

20 (A) Fifteen percent (15%) of the amount thereof to the County Aid  
21 Fund;

22 (B) Fifteen percent (15%) of the amount thereof to the Municipal Aid  
23 Fund; and

24 (C) Seventy percent (70%) of the amount thereof to the State Highway  
25 and Transportation Department Fund.

26 (2) The funds shall be further disbursed in the same manner and used  
27 for the same purposes as set out in the Arkansas Highway Revenue Distribution  
28 Law, §27-70-201, et seq. Provided, keeping with the spirit of Section 105 of  
29 Public Law 97-424 and the Arkansas State Highway and Transportation  
30 Department's goals for encouraging the participation of Disadvantaged Business  
31 Enterprises into entering and performing contracts with the Department,  
32 including the purchasing of supplies and equipment by the Department and for  
33 the construction, reconstruction, and maintenance of highways and bridges in  
34 the State Highway System, the Arkansas State Highway and Transportation  
35 Department is authorized to expend up to ten percent (10%) of the total

1 revenues disbursed to the Department pursuant to this act for the purposes of  
2 achieving those goals.

3

4 SECTION 6. Arkansas Code §§26-56-503 and 26-55-1003 are hereby  
5 specifically repealed. All other laws and parts of laws in conflict with this  
6 act are also hereby repealed. Provided, nothing in this act shall be  
7 construed to amend, abrogate, modify, or repeal any of the provisions of the  
8 "Petroleum Storage Tank Trust Fund Act", Arkansas Code §§8-7-901, et seq., and  
9 all fees on each gallon of motor fuel or distillate special fuels shall  
10 continue to be collected as provided by those code sections in addition to all  
11 taxes and fees imposed by other sections of the code on such fuel or fuels as  
12 well as those additional taxes and fees imposed by this act.

13

14 SECTION 7. The provisions of this act are hereby declared to be  
15 severable. If any provision of this act shall be declared to be invalid or to  
16 be inapplicable to any person or circumstance, such determination shall not  
17 affect the validity or applicability of the other provisions of this act.

18

19 SECTION 8. All provisions of this act of a general and permanent nature  
20 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
21 Revision Commission shall incorporate the same in the Code.

22

23 SECTION 9. EMERGENCY. It is hereby found and determined by the General  
24 Assembly that many of the highways, roads and streets in this state are  
25 operationally inadequate and immediate steps must be taken to provide  
26 additional funds for the maintenance, construction and reconstruction of such  
27 highways, roads and streets; that proper maintenance, construction, and  
28 reconstruction of such highways, roads and streets is essential to the public  
29 health, welfare and safety of the people of this state and that only by the  
30 immediate passage of this act may such vitally needed additional funds be  
31 provided to solve the aforementioned problems. Therefore, an emergency is  
32 hereby declared to exist and this act being necessary for the preservation of  
33 the public peace, health and safety shall be in full force and effect on and  
34 after the first day of the first month immediately following its passage and  
35 approval.

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/s/W. F. Foster, et al