

1 **State of Arkansas**

2 **78th General Assembly**

3 **Regular Session, 1991**

A Bill

HOUSE BILL 1233

4 **By: Representatives McJunkin, Argue, Baker, Barclay, Blair, Brownlee, Bryan, Calhoun,**
5 **Carter, Collier, Cunningham, Davis, Day, Dietz, Dowd, Fairchild, Flanagan, Forgey, Foster,**
6 **Gibson, Gilbert, Goodwin, Hendrix, Henry, Hinshaw, Hogue, Holland, Horn, Hunton,**
7 **Hutchinson, Jones, Jordan, King, Landers, Lipton, Maddox, Mahony, McCoy, McCuiston,**
8 **McGee, McGinnis, McKissack, J. Miller, O. Miller, S. Miller, Mitchell, Mitchum, Murphy,**
9 **Newman, Northcutt, Pollan, Porter, Pryor, Rice, D.E. Roberts, J.J. Roberts, Rorie, Sanson,**
10 **Schexnayder, Shaver, Smith, Steele, Stephens, Stewart, Teague, Thurman, Turner, Walker,**
11 **Watts, Whorton, Wilkins, Willems, J. Wilson, M. Wilson, B. Wood, D. Wood, K. Wood,**
12 **Wooldridge, and Wyrick.**

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14

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For An Act To Be Entitled

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"AN ACT TO REPLACE THE WEIGHT-DISTANCE TRUCK TAX BY

17

AMENDING ARKANSAS CODE §27-14-601 (a) (3) (G) TO ESTABLISH A

18

REGISTRATION FEE OF ONE THOUSAND THREE HUNDRED AND FIFTY

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DOLLARS (\$1,350) ON CERTAIN VEHICLES WHICH OPERATE ON THE

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PUBLIC STREETS AND HIGHWAYS OF THIS STATE HAVING A

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DECLARED GROSS WEIGHT BETWEEN 73,281 POUNDS AND 80,000

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POUNDS; BY AMENDING ARKANSAS CODE §27-14-601 (a) (3) (I) (i)

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TO INCREASE THE ANNUAL REGISTRATION FEES ON CERTAIN

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SEMITRAILERS FROM THIRTEEN DOLLARS (\$13.00) TO TWENTY

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DOLLARS (\$20.00); BY LEVYING AN ADDITIONAL EXCISE TAX OF

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FOUR CENTS (\$.04) PER GALLON ON DISTILLATE SPECIAL FUELS;

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BY AMENDING ARKANSAS CODE § 26-56-214 TO INSURE THE

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ADDITIONAL TAX ON SPECIAL DISTILLATE FUELS IS IMPOSED ON

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BONDED AND UNBONDED INTERSTATE USERS OF DISTILLATE *SPECIAL*

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FUEL; BY AMENDING ARKANSAS CODE § 27-35-210 (e) TO

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INCREASE THE PERMIT FEES ISSUED FOR VEHICLES OR

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COMBINATIONS OF VEHICLES IN EXCESS OF THE LAWFUL WEIGHT

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LIMITS; AND BY AMENDING ARKANSAS CODE § 27-35-202 TO

34

PROVIDE FOR INCREASED PENALTIES ON OPERATORS OF OVERWEIGHT

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VEHICLES; TO PRESCRIBE THE PURPOSES FOR WHICH THESE

1 ADDITIONAL REVENUES SHALL BE USED; TO *REPEAL ARKANSAS CODE*
2 § 27-35-204, § 27-35-205, AND § 27-35-212 LEVYING THE
3 WEIGHT-DISTANCE TRUCK TAX; TO DECLARE AN EMERGENCY; AND
4 FOR OTHER PURPOSES."

5
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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8 SECTION 1. Subdivision (a)(3)(G) of Arkansas Code § 27-14-601 is hereby
9 amended to read as follows:

10 "(G) Class Seven - (i) On all such vehicles with a gross loaded weight
11 between sixty-eight thousand one pounds (68,001 lbs.) and seventy-three
12 thousand, two hundred eighty pounds (73,280 lbs.), the fee to be charged shall
13 be at the rate of fourteen dollars and thirty cents (\$14.30) per thousand
14 pounds of gross loaded weight of the vehicles;

15 (ii) On all such vehicles with a gross loaded weight between
16 seventy-three thousand, two hundred eighty one pounds (73,281 lbs.) and eighty
17 thousand pounds (80,000 lbs.), the fee to be charged shall be one thousand,
18 three hundred fifty dollars (\$1,350.00).

19 (iii) Any truck in Class Two, Class Three, Class Four, Class
20 Five, Class Six, or Class Seven for which the annual registration and
21 licensing fee is one hundred thirty dollars (\$130) or more may be registered
22 and licensed for the first six (6) months of the licensing period, upon
23 application therefor and the payment of one-half (1/2) of the annual license
24 fee prescribed in this section for such truck, plus an additional fee of six
25 dollars and fifty cents (\$6.50) to defray the administrative cost of issuing a
26 half-year license.

27 (iv) Any truck in Class Seven may be registered and licensed for
28 the first three (3) months of the licensing period, upon application therefor
29 and the payment of one-fourth (1/4) of the annual license fee prescribed
30 herein for such truck, plus an additional fee of six dollars and fifty cents
31 (\$6.50) to defray the administrative cost of issuing a quarter-year license.

32 (v) The Director of the Department of Finance and Administration
33 shall cause distinctive license plates to be prepared to evidence the six (6)
34 month and three (3) month registration of vehicles under this subsection and
35 shall make such rules and regulations as he shall deem necessary to properly

1 carry out and enforce the provisions of this subdivision."

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3 SECTION 2. Subdivision (a) (3) (I) (i) of Arkansas Code §27-14-601 is
4 hereby amended to read as follows:

5 "(I) Class Nine - (i) (a) For the purpose of evidencing registration of
6 trailers, semitrailers, and full trailers, there shall be issued special
7 license plates, and annual registration fees charged and collected according
8 to the following schedule:

9 (1) All trailers drawn by automobiles and Class One trucks, a fee
10 of seven dollars (\$7.00);

11 (2) All semitrailers used in combination with Classes Two through
12 Eight trucks, a fee of twenty dollars (\$20.00). Provided, however, the owner
13 of any semitrailer used in combination with Classes Two through Eight trucks
14 may, at his option, pay a fee of sixty-five dollars (\$65.00) for issuance of a
15 permanent registration that shall remain valid, without annual renewal, until
16 he sells or otherwise disposes of the semitrailer for which such registration
17 is issued. Permanent registrations issued under this subdivision shall not be
18 transferred to other owners or other vehicles, and shall not be replaced under
19 27-14-602 (b) (6);

20 (3) Full trailers operated in the transportation of farm products
21 and other natural resources described as Class Eight, a fee of eight dollars
22 (\$8.00); and

23 (4) For all other full trailers there shall be charged an annual
24 license fee computed on the gross loaded weight of the vehicle at the
25 appropriate rate provided by Classes Two through Seven of subsection (a) (3) of
26 this section.

27 (b) For the purpose of evidencing registration of trailers classified
28 under subsection (a) (3) (I) (i) (a) (1), there shall be charged and collected a
29 biennial fee based upon the annual fee set forth therein. Unless a trailer
30 license issued under this provision is renewed on or before the fifteenth
31 (15th) day following its expiration, it shall lapse and shall no longer be of
32 any force or effect unless renewed in the manner prescribed by law.

33 (c) For the purpose of evidencing registration of a combination of
34 truck-tractor and semitrailer classified by subsection (a) (3) (I) (i) (a) (2), the
35 license fee for the gross weight of the combination shall be computed at the

1 appropriate rate provided by Classes Two through Eight of subsection (a) (3) of
2 this section and shall be applied to the registration of the truck tractor."

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4 SECTION 3. On and after the effective date of this act, in addition to
5 the taxes levied on distillate special fuels in Arkansas Code §§ 26-56-201 and
6 26-56-502, there is hereby levied an additional excise tax of four cents
7 (\$.04) per gallon upon all distillate special fuels subject to the taxes
8 levied in those Code sections. This additional excise tax shall be levied,
9 collected, reported, and paid in the same manner and at the same time as is
10 prescribed by law for the levying, collection, reporting, and payment of the
11 other distillate special fuels taxes under Arkansas law.

12
13 SECTION 4. Arkansas Code § 26-56-214 is hereby amended to read as
14 follows:

15 "26-56-214. Interstate users - Reports - Computation of tax and
16 refunds.

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

25 (b) (1) For the purpose of determining whether an interstate distillate
26 special fuels user owes special motor fuel tax or is entitled to a credit or
27 refund, the licensed interstate distillate special fuels user shall file a
28 quarterly report on or before the last day of the month following the end of
29 each calendar quarter.

30 (2) If it shall be determined by the quarterly report that the
31 interstate user has used distillate special fuels in this state in excess of
32 the number of gallons of the fuel upon which the Arkansas tax had been paid,
33 the interstate user shall remit to the director, at the time of filing the
34 report, an excise tax of sixteen and one-half (16 1/2¢) per gallon of the
35 excess gallonage used.

1 (3) If it shall be determined that the interstate user has
 2 purchased more gallons of distillate special fuels in this state than he has
 3 used in this state, then the user shall be entitled to a credit or refund of
 4 sixteen and one-half cents (16 1/2¢) per gallon of the excess gallonage
 5 purchased in the state.

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

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

16 (2) If it shall be determined by the quarterly report filed with
 17 the director that the distillate special fuel user has used more gallons of
 18 special motor fuel in this state than the special motor fuel tax due thereon
 19 has been paid, the distillate special fuel user shall remit to the director an
 20 excise tax of sixteen and one-half cents (16 1/2¢) per gallon of special motor
 21 fuel.

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

24 (e)(1) For the purpose of determining whether a distillate special fuel
 25 user owes tax or is entitled to a credit or refund, the distillate special
 26 fuel user shall determine the average miles per gallon of fuel used. The
 27 average miles per gallon shall be determined by dividing total miles traveled
 28 in all jurisdictions by the total gallons of fuel used in all jurisdictions.

29 The distillate special fuel user shall then determine the total amount of fuel
 30 used within the State of Arkansas by dividing the total number of miles
 31 traveled within the State of Arkansas by the average miles per gallon.

32 (2) The taxpayer's tax liability shall be calculated by
 33 multiplying the number of gallons of fuel used within the State of Arkansas by
 34 sixteen and one-half cents (16 1/2¢) per gallon. A taxpayer shall be entitled
 35 to credits against his tax liability for tax-paid fuel purchased within the

1 State of Arkansas.

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

10 (2) For the purposes of this section:

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

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

16 (C) All other vehicles, except buses, with a factory rating
17 in excess of twenty-two thousand five hundred pounds (22,500 lbs.), or whose
18 total gross loaded weight exceeds twenty-two thousand five hundred pounds
19 (22,500 lbs.) shall be deemed to be Class C vehicles; and

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

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

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

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

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

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

27 (4) These mileage factors shall be utilized in conjunction with
28 the Arkansas mileage as determined through an audit and based upon the best
29 records available regardless of source.

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

34 (h)(1) If a quarterly report of a distillate special fuel user results
35 in a net credit, the distillate special fuel user may elect to have the credit

1 carried forward and applied against the special motor fuel tax due for the
2 succeeding eight (8) quarters or until the credit is completely used,
3 whichever occurs first. In the alternative, a taxpayer who is entitled to a
4 net credit on his quarterly fuel use tax report may elect to have the amount
5 of credit refunded to him.

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

12 (i) The director shall prescribe the appropriate forms
13 necessary for the administration of this subchapter. The director may make
14 appropriate rules and regulations necessary to insure the accurate reporting
15 of the special motor fuel tax."

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17 SECTION 5. Subsection (e) of Arkansas Code § 27-35-210 is hereby
18 amended to read as follows:

19 "(e) A charge of twelve dollars (\$12.00) shall be made for each special
20 permit. In addition, for each ton or major fraction thereof to be hauled in
21 excess of the lawful weight and load for that vehicle, or combination of
22 vehicles, charges shall be made for such as follows:

	On Each Ton, Per Ton Or Fraction Thereof
23 Mileage to Be Traveled is:	
24 Not more than 100 miles	\$ 8.00
25 101 miles to 150 miles, inclusive	\$ 10.00
26 151 miles to 200 miles, inclusive	\$ 12.00
27 201 miles to 250 miles, inclusive	\$ 14.00
28 Over 251 miles.	\$ 16.00"

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34 SECTION 6. (a) (1) All of the additional taxes, fees, penalties, and
35 interest collected under Sections 1 through 4 of this act, and any sections of

1 Arkansas Code which they amend, shall be classified as special revenues and
2 shall be deposited in the State Treasury. After deducting the amount to be
3 credited to the Constitutional Officers Fund and the State Central Services
4 Fund as provided under the Revenue Stabilization Law, Arkansas Code §§ 19-5-
5 101 et seq., the State Treasurer shall transfer on the last business day of
6 each month:

7 (A) Fifteen percent (15%) of the amount thereof to the
8 County Aid Fund:

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

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

13 (2) The funds shall be further disbursed in the same manner and
14 used for the same purposes as set out in the Arkansas Highway Revenue
15 Distribution Law, Arkansas Code §§ 27-70-201 et seq.

16 (b) The permit fees and penalties collected pursuant to Sections 5 and
17 6 of this act, and the sections of Arkansas Code which they amend, shall be
18 collected and deposited pursuant to the laws those sections are amending which
19 provide that such fees and penalties be credited to the State Highway and
20 Transportation Department Fund.

21

22 SECTION 7. All provisions of this act of general and permanent nature
23 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
24 Revision Commission shall incorporate the same in the Code.

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26 SECTION 8. If any provisions of this act or the application thereof to
27 any person or circumstance is held invalid, the invalidity shall not affect
28 other provisions or applications of the act which can be given effect without
29 the invalid provisions or application, and to this end the provisions of this
30 act are declared to be severable.

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32 SECTION 9. (a) Arkansas Code § 27-35-204, § 27-35-205 and § 27-35-212
33 are hereby repealed.

34 (b) All other laws and parts of laws in conflict with this act are
35 hereby repealed. Provided, nothing in this act shall be construed to amend,

1 abrogate, modify, or repeal any of the provisions of the "Petroleum Storage
2 Tank Trust Fund Act", Arkansas Code §§ 8-7-901 et seq., and the fees levied by
3 that act on each gallon of motor fuel or distillate special fuels shall
4 continue to be collected as provided by those Code sections in addition to all
5 taxes and fees imposed by other sections of the Code on such fuel or fuels as
6 well as those additional taxes and fees imposed by this act.

7

8 *SECTION 10. Emergency. It is hereby found and determined by the*
9 *General Assembly that many of the highways, roads and streets in this state*
10 *are operationally inadequate and immediate steps must be taken to provide*
11 *additional funds for the maintenance, construction and reconstruction of such*
12 *highways, roads and streets; that proper maintenance, construction and*
13 *reconstruction of such highways, roads and streets is essential to the public*
14 *health, welfare and safety of the people of this state and that only by the*
15 *immediate passage of this act may such vitally needed additional funds be*
16 *provided to solve the aforementioned problems. Therefore, an emergency is*
17 *hereby declared to exist and this act being necessary for the immediate*
18 *preservation of the public peace, health and safety shall be in full force and*
19 *effect on and after the first day of the first month immediately following its*
20 *passage and approval.*

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/s/Louis McJunkin, et al

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