

As Engrossed: 3/15/93

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Calhoun**

A Bill

HOUSE BILL 1380

For An Act To Be Entitled

8 "AN ACT TO REPEAL THE LIQUEFIED GAS SPECIAL FUEL USER'S
9 PERMIT AND FEE; TO PROVIDE THAT LIQUEFIED GAS SPECIAL FUEL
10 USED OR SOLD FOR USE IN MOTOR VEHICLES IS SUBJECT TO TAX;
11 AND FOR OTHER PURPOSES."

Subtitle

14 "TO PROVIDE THAT LIQUEFIED GAS SPECIAL FUEL USED OR SOLD
15 FOR USE IN MOTOR VEHICLES IS SUBJECT TO TAX."

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

19 SECTION 1. The following sections of the Arkansas Code of 1987
20 Annotated are repealed: §§26-56-304; 26-56-305; 26-56-306; 26-56-312; 26-56-
21 313; 26-56-314 and 26-56-315.

23 SECTION 2. Ark. Code Ann. §26-56-102(6) is amended to read as follows:

24 "(6) Interstate user means any person who imports or exports
25 distillate special fuels or liquefied gas special fuels into or out of this
26 state in the fuel supply tanks of motor vehicles owned or operated by him;"

28 SECTION 3: Ark. Code Ann. §26-56-301 is amended to read as follows:

29 "§26-56-301. Levy.

30 (a) There is levied and imposed an excise tax of *seven and one-half*
31 *cents (7.5¢)* per gallon on all liquefied gas special fuels that are sold, used
32 or consumed in this state for the operation of motor vehicles licensed or
33 required to be licensed for use upon the public highways. This tax is in
34 addition to the tax levied by Ark. Code Ann. §§26-55-1201 and 26-56-502.

35 (b) The tax shall be reported and paid in the manner prescribed

1 by Ark. Code Ann. §§26-56-307 - 309."

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3 SECTION 4. Ark. Code Ann. §26-56-308 is amended to read as follows:

4 "§26-56-308. Reports and payment of tax by suppliers.

5 (a) On or before the twenty-fifth day of each calendar month next
6 following the calendar month for which the report is made, each liquefied gas
7 special fuel supplier shall report to the director:

8 (1) The total gallons of liquefied gas special fuel sold or
9 delivered to each liquefied gas special fuel dealer, the name and address and
10 dealer license number of each dealer, and the tax collected thereon;

11 (2) The number of gallons of liquefied gas special fuel sold or
12 delivered to liquefied gas special fuel users other than dealers and the tax
13 collected thereon; and

14 (3) The number of gallons of such fuel used by such supplier for
15 his own purposes, and the quantity thereof subject to the tax levied; and

16 (4) Such other information as the director may by regulation
17 require.

18 (b) The report shall be made even though no tax is due.

19 (c) Each liquefied gas special supplier shall, at the time of filing
20 the monthly report required by this section, remit to the director any and all
21 taxes due on liquefied gas special fuel covered by the report."

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23 SECTION 5. Ark. Code Ann. §26-56-309 is amended to read as follows:

24 "§26-56-309. Reports by dealers. Every liquefied gas special fuel
25 dealer shall monthly, on or before the twenty-fifth day of the month, file a
26 report with the director for the preceding calendar month, showing all
27 liquefied gas special fuel sold, delivered, or used by such dealer, whether
28 the fuel is sold or delivered for a taxable or nontaxable use."

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30 SECTION 6. Ark. Code Ann. §26-56-310(a) is amended as follows:

31 "(a) Whenever any person to whom a liquefied gas special fuel
32 supplier's license or dealer's license has been issued, discontinues to
33 supply, sell, or use liquefied gas special fuel within the state, such person
34 shall notify the director in writing of that fact within thirty (30) days
35 thereafter and surrender his license or permit to the director."

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SECTION 7. Ark. Code Ann. §26-56-311 is amended to read as follows:

"§26-56-311. Revocation of suppliers or dealer_s license. If a licensed liquefied gas special fuel supplier or dealer fails to file any report required by this subchapter, or falsely or fraudulently files a report, or fails to pay the full amount of the tax levied by this subchapter, or if at any time the surety on such licensee's bond becomes unsatisfactory or inaccessible to the director or the bond is discharged or cancelled, and a new bond is not furnished by the licensee within five (5) days after the demand of the director, the director may give notice to the licensee of an intention to revoke his license. The provisions of Ark. Code Ann. §26-18-601 shall govern the revocation of the license."

SECTION 8. Subchapter 3, Chapter 56 of Title 26 of the Arkansas Code of 1987 Annotated, is amended by adding a new section to read as follows:

"26-56-316. (a)(1) All users, except suppliers of liquefied gas special fuels who maintain their own storage tanks in the state, are required to have a separate storage tank for taxable liquefied gas special fuels, which tanks are to be physically separate and apart from any other tanks or fueling units, and to indicate it by placing thereon in a conspicuous place the words TAX-PAID FUELS in letters not less than five inches (5") high.

(2) Suppliers are required to collect the tax on all liquefied gas special fuels delivered into those tanks.

(b)(1) All users who have facilities for storing liquefied gas special fuels intended for other than highway use and which facilities are suitable to fuel motor vehicles using liquefied gas special fuels, except those facilities used for residential purposes, shall mark the storage facilities with the words NOT FOR MOTOR VEHICLE USE in letters not less than five inches (5") high, and suppliers may deliver into such storage without collecting the tax levied in this subchapter.

(2) If users do not provide such tanks, then all liquefied gas special fuels delivered by a supplier into storage tanks suitable for fueling motor vehicles become taxable, provided, however, that any city or county using a computerized fuel dispensing system that will automatically record each transaction as to pump operator and specific vehicle to which the fuel is

1 dispensed may have taxable and nontaxable liquefied gas special fuels
2 delivered into the same tank. The distributor shall collect the tax on the
3 taxable portion of each purchase based upon the sworn statement of the
4 purchaser as to the amount of taxable fuel purchased. Each city or county
5 shall file a report with the Director of the Department of Finance and
6 Administration accounting for the taxable and nontaxable fuel used and miles
7 driven by each vehicle which requires taxable fuel in such a manner, at such
8 time, and on such forms as shall be prescribed by the director. The director
9 may promulgate regulations to establish a system to periodically reconcile the
10 taxable fuel purchased and actual taxable fuel used by the city or county.

11 (3) However, where a user has one (1) or more storage tanks used
12 for the storage of liquefied gas special fuels within the meaning of this
13 chapter, and the user does not own, possess, lease, or otherwise operate a
14 motor vehicle licensed or required to be licensed for use upon the public
15 highway and capable of using said fuel, the requirement for marking such
16 storage facilities _NOT FOR MOTOR FUEL USE_ shall be waived.

17 (c) Nothing in this section shall be construed to amend or change the
18 meaning of any other section of this chapter."
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20 SECTION 9. All provisions of this act of a general and permanent nature
21 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
22 Revision Commission shall incorporate the same in the Code.
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24 SECTION 10. If any provision of this act or the application thereof to
25 any person or circumstance is held invalid, such invalidity shall not affect
26 other provisions or applications of the act which can be given effect without
27 the invalid provision or application, and to this end the provisions of this
28 act are declared to be severable.
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30 SECTION 11. All laws and parts of laws in conflict with this act are
31 hereby repealed.
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33 SECTION 12. EMERGENCY. It is hereby found and determined by the
34 General Assembly that this act should go into effect at the beginning of the
35 next fiscal year and that unless this emergency clause is adopted, it will not

1 go into effect until after the beginning of the next fiscal year. Therefore,
2 an emergency is hereby declared to exist and this act being necessary for the
3 immediate preservation of the public peace, health and safety shall be in full
4 force and effect from and after July 1, 1993.

5 /s/V. O. Calhoun