

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

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE SECTION 26-56-102; TO AMEND
9 ARKANSAS CODE SECTION 26-56-204(j); TO AMEND ARKANSAS CODE
10 SECTION 26-56-208(d); AND TO AMEND ARKANSAS CODE SECTION
11 26-56-209(a), ALL FOR THE PURPOSES OF CLARIFYING THE
12 INTENT OF THE _SPECIAL MOTOR FUELS TAX LAW_ THAT ONCE A
13 SUPPLIER OF DISTILLATE SPECIAL FUELS (DIESEL) DELIVERS
14 SUCH FUELS INTO A STORAGE FACILITY AT A RETAIL OUTLET OF
15 SUCH FUELS OWNED BY THAT SUPPLIER OR INTO ANY STORAGE
16 FACILITY AT ANY OTHER RETAIL OUTLET OF SUCH FUELS, SUCH
17 FUELS AT THE TIME OF SUCH DELIVERY SHALL BE CONSIDERED AND
18 DEEMED A SALE OF SUCH FUELS THUS TAXABLE AT THAT TIME OF
19 DELIVERY FOR SPECIAL MOTOR FUELS TAX PURPOSES, UNLESS SUCH
20 FUELS WERE DELIVERED BY THAT SUPPLIER INTO STORAGE
21 FACILITIES CLEARLY MARKED IN ACCORDANCE WITH THE _SPECIAL
22 MOTOR FUELS TAX LAW_ AS _NOT FOR MOTOR VEHICLE USE_; TO
23 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

26 "CLARIFYING THE INTENT OF THE _SPECIAL MOTOR FUELS TAX
27 LAW_ WITH REGARD TO STORAGE FACILITIES."

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

31 SECTION 1. Arkansas Code Section 26-56-102 is hereby amended by adding
32 an additional definition (22) thereto to read as follows:

33 "(22) _Bulk storage facility_ means an above-ground or below-ground
34 storage tank connected to a fueling rack customarily used for making wholesale
35 sales but shall not mean nor include any storage tanks or facilities located

1 at any retail outlet of distillate special fuels owned by that supplier nor
2 any storage tanks or facilities located at any other retail outlet of such
3 fuels."

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5 SECTION 2. Subsection (j) of Arkansas Code Section 26-56-204 is hereby
6 amended to read as follows:

7 "(j) (1) A supplier may operate under his supplier's license as a dealer
8 or as a user without securing a separate license, but he shall be subject to
9 all other conditions, requirements, and liabilities imposed by this subchapter
10 upon a dealer or a user.

11 (2) A licensed supplier, but not a dealer, may use distillate special
12 fuels in motor vehicles owned or operated by him without securing a separate
13 license as a user, subject to all conditions, requirements, and liabilities
14 imposed herein upon a user.

15 (3) A licensed supplier shall only include distillate special fuels in
16 bulk storage facilities of the supplier as a part of beginning or ending
17 inventories required to be reported by such supplier in accordance with § 26-
18 56-208(d) (1) (B) ."

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20 SECTION 3. Subsection (d) of Arkansas Code Section 26-56-208 is hereby
21 amended to read as follows:

22 "(d) (1) When filing the report and paying the tax to the director as
23 required in this section, the supplier shall be entitled to deduct from the
24 total number of gallons upon which the tax levied hereunder is due, the number
25 of gallons:

26 (A) Purchased during the preceding calendar month from another licensed
27 supplier and upon which the tax levied hereunder was paid at the time of that
28 purchase;

29 (B) Received and placed in a tank at bulk storage facilities, but which
30 had not been withdrawn therefrom at the close of the next-preceding calendar
31 month;

32 (C) Lost due to fire, flood, storm, theft, or other cause beyond the
33 supplier's control, other than through evaporation.

34 (2) The deduction for the loss may be included in the report filed for
35 the month in which such loss occurred or in any subsequent report filed within

1 a period of one (1) year."

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3 SECTION 4. Subsection (a) of Arkansas Code Section 26-56-209 is hereby
4 amended to read as follows:

5 "(a) Every person required by law to secure a license under any motor
6 fuel or distillate special fuel tax law shall keep records in the time and
7 manner and subject to inspection and audit as required by § 26-18-101 et seq.
8 for each place of business or place of storage in Arkansas, including a
9 complete record of all distillate special fuels purchased or received and
10 sold, delivered, or used by him showing for each purchase, receipt, sale,
11 delivery, or use:

12 (1) The date;

13 (2) The name and address of the seller or of the persons from whom
14 received, and if sold or delivered in bulk quantities, the name and address of
15 the purchaser or recipient;

16 (3) An accurate record of the number of gallons of each product used for
17 taxable purposes with quantities measured by a meter; and

18 (4) Inventories of distillate special fuels on hand at the end of each
19 month at bulk storage facilities."

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21 SECTION 5. The Director of the Department of Finance and Administration
22 is hereby authorized to make and promulgate all rules and regulations deemed
23 necessary or desirable by that Director in order that the amendments contained
24 in this act be effectuated as soon as practicable following the passage and
25 approval of this act.

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27 SECTION 6. All provisions of this act of a general and permanent nature
28 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
29 Revision Commission shall incorporate the same in the Code.

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31 SECTION 7. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 act are declared to be severable.

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SECTION 8. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 9. EMERGENCY. It is hereby found and determined by the General Assembly that confusion exists among wholesalers of diesel fuel with respect to the reporting of inventories of diesel fuel for taxation purposes pursuant to the "Special Motor Fuels Tax Law" and as a consequence diesel fuel tax revenues may be due the state at an earlier date than some wholesalers are remitting them. It is also found that such fuel tax revenues are greatly needed by the state in a timely manner as contemplated by the current diesel fuel tax laws in order that improvements may be expeditiously made to the State Highway System, the county roads, and the municipal streets. it is further found that the amendments contained in this act clarifying the "Special Motor Fuels Tax Law" are necessary to correct the aforementioned problems. Therefore, an emergency is hereby declared to exist, and this act being immediately 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.

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