

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL

4 **By: Representatives Wingfield and Willems**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE TITLE 26, CHAPTER 56 TO ADD
9 A SUBCHAPTER 7 DEALING WITH THE TAXATION OF ALTERNATIVE-
10 FUEL FOR USE IN ALTERNATIVE-FUEL VEHICLES; AND FOR OTHER
11 PURPOSES."

12

13

Subtitle

14 "DEALING WITH THE TAXATION OF ALTERNATIVE-FUEL FOR USE IN
15 ALTERNATIVE-FUEL VEHICLES."

16

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

18

19 SECTION 1. Arkansas Code Title 26, Chapter 56 is amended by adding a
20 new subchapter 7 as follows:

21 "SUBCHAPTER 7 - ALTERNATIVE-FUELS.

22 26-56-701. DEFINITIONS.

23 For purposes of this subchapter the following words and terms shall have
24 the following meanings unless the context clearly indicates a different
25 meaning:

26 (1) Alternative-fuel means any fuel used to propel a motor vehicle,
27 other than gasoline or distillate special fuels, which is certified to the
28 Director by the Arkansas Alternative Fuels Commission as an alternative-fuel.

29 (2) Alternative-fuel Vehicle means a motor vehicle (as defined in
30 §26-56-102(7)) propelled by an alternative-fuel.

31 (3) Dealer means any person (as defined in §26-56-102(8)) who sells
32 and delivers alternative-fuel to the public at retail for use in alternative-
33 fuel vehicles.

34 (4) Director means the Director of the Department of Finance and
35 Administration or his duly authorized agents.

1 (5) Gallon Equivalent means a quantity of alternative-fuel which is
2 the equivalent of one (1) U.S. gallon of gasoline.

3 (6) Supplier means a person who sells and delivers alternative-fuel
4 to a dealer or private user for use or delivery by such dealer or private user
5 in alternative-fuel vehicles.

6 (7) Private User means any person who receives alternative-fuel from
7 a supplier and, using equipment not utilized by members of the general public
8 at a retail location, causes such alternative-fuel to be delivered into the
9 fuel tank (or other storage compartment) of an alternative-fuel vehicle.

10 (8) Use has the same meaning contained in §26-56-102(12).

11

12 26-56-702. Levy and imposition of tax; adjustments.

13 (a) There is levied and imposed an excise tax, at the rate set forth in
14 (b), upon the use of all alternative-fuels within this state. Such use of
15 alternative-fuels shall constitute and is declared to be the taxable incident
16 of this levy. The tax levied by this act shall be collected on a gallon
17 equivalent basis by a licensed supplier at the point at which the alternative-
18 fuel is delivered to the meter (or other delivery point as the director may
19 determine) of a licensed dealer or licensed private user, and shall be
20 remitted by the licensed supplier to the director as required in 26-56-706(c).

21 (b) The tax rate for each gallon equivalent shall be in accordance with
22 the following table:

23	No. of Alternative-	34	
24	Fuel Vehicles Licensed	35	Tax Rate
25	In Arkansas	36	Per equivalent Gallon
26	(for each type of	37	(for each type of
27	alternative-fuel)	38	alternative-fuel)
28	0 - 1,000	39	\$ 0.02
29	1,001 - 2,000	40	0.04
30	2,001 - 3,000	41	0.06
31	3,001 - 4,000	42	0.08
32	4,001 - 5,000	43	0.10
33	Over 5,000	44	0.165

45 (c) (1) The tax rate set forth in subsection (b) for each type of
46 alternative-fuel shall be adjusted, if necessary, by the director to be

1 effective on July 1st of each year based upon the number of alternative-fuel
2 vehicles (by each type of alternative-fuel) licensed in this state as of
3 December 31st of the preceding calendar year. If a change in the tax rate in
4 subsection (b) for any type of alternative-fuel is required, the director
5 shall include this in the report required by 26-56-703(e), and the director
6 shall also notify each dealer and supplier of such type of alternative-fuel of
7 the new tax rate not later than ten (10) days prior to the effective date of
8 such change.

9 (2) Beginning with July 1st following the first calendar year
10 when the number of alternative-fuel vehicles licensed in this state for any
11 type of alternative-fuel exceeds five thousand (5,000), the applicable tax
12 rate in subsection (b) for that particular alternative-fuel shall apply even
13 if in a subsequent year fewer than five thousand (5,000) vehicles are licensed
14 in this state for that type of alternative-fuel.

15 (3) Notwithstanding any other provision of this subchapter, in
16 determining the number of alternative-fuel vehicles licensed in this state by
17 each type of alternative-fuel in order to determine the tax rate per
18 equivalent gallon, there shall not be taken into account any alternative-fuel
19 vehicles owned, licensed or used by the United States Government, or any
20 agency or instrumentality thereof.

21 (d) (1) In determining the equivalent gallon of each type of
22 alternative-fuel, the director shall consult with the Arkansas Alternative
23 Fuels Commission. The director shall, to the maximum extent possible, ensure
24 that the gallon equivalent for each type of alternative-fuel does not
25 discriminate against, or favor, any particular alternative-fuel over any other
26 alternative-fuel.

27 (2) It is the intent of the tax set forth in this section to tax
28 each particular type of alternative-fuel depending upon the number of
29 alternative-fuel vehicles using the particular type of alternative-fuel.

30

31 26-56-703. Annual vehicle permit - annual report by director.

32 (a) Each person, including suppliers and dealers of alternative-fuel,
33 who uses alternative-fuels in vehicles owned by such person, shall make
34 application for and secure an alternative-fuel vehicle permit for each
35 alternative-fuel vehicle.

1 (b) The application must be made on a form prescribed by the director,
2 showing the name, address and user license number or supplier or dealer
3 license number of the applicant, the make, model and motor number of the
4 vehicle involved and such other pertinent information as the director may
5 require.

6 (c) The permit required to be obtained by this section shall be
7 obtained annually before the director shall register and issue a motor vehicle
8 license for the alternative-fuel vehicle. There shall be issued annually a
9 permit not to exceed ten dollars (\$10.00).

10 (d) In lieu of the foregoing, the director is authorized to develop a
11 procedure pursuant to which the alternative-fuel type is noted on the
12 certificate of title and/or certificate of registration of such vehicle. It
13 is the intention of this section 26-56-703 to develop a system for the
14 director, the Arkansas Alternative Fuels Commission, and other officials of
15 the State of Arkansas to know the number of alternative vehicles licensed in
16 this state, both in the aggregate and by the type of alternative-fuel
17 propelling such vehicle.

18 (e) Not later than March 1, 1994 and the 1st day of March each year
19 thereafter, the director shall file a written report with the Director of the
20 Arkansas Highway and Transportation Department and the Director of the
21 Arkansas Alternative Fuels Commission setting forth the number of alternative-
22 fuel vehicles licensed in this state as of the end of the preceding calendar
23 year (both in the aggregate and by type of alternative-fuel) and the amount of
24 tax revenue received by the State of Arkansas on the tax levied by this act.
25 The written report shall also state the tax rate, if any, for the next twelve
26 (12) months commencing as of the first day of July of such year for each type
27 of alternative-fuel.

28

29 26-56-704. Licenses.

30 (a) No person shall be a supplier or dealer of any alternative-fuel
31 unless such person shall have first filed an application for, and obtained
32 from the director, an alternative-fuel supplier_s or dealer_s license.

33 (b) (1) Applications for licenses shall be filed on a form prescribed
34 by the director, and verified by affidavit, and shall show the name, address
35 and kind of business of the applicant, a designation of the applicant_s

1 principal place of business, and such other information as the director may
2 require. At time of filing application, supplier or dealer shall be bonded a
3 minimum amount of one thousand dollars (\$1,000) and present proof thereof.

4 (2) The application must also contain, as a condition to the
5 issuance of the license, an agreement under oath by the applicant to comply
6 with the requirements of this subchapter and the rules and regulations of the
7 director.

8 (3) Simultaneous with the application, each dealer applicant
9 shall certify to the director that a separate meter (or other measuring device
10 approved by the director) has been installed by a licensed supplier at the
11 facility or location contained in the application, and that such meter will
12 measure the alternative-fuel delivered or used by such dealer. The
13 certification shall be attested to by a duly authorized representative of the
14 licensed supplier installing the meter or other measuring device.

15 (c) Upon approval of the application, the director shall issue to the
16 applicant a nontransferable alternative-fuel supplier_s license or dealer_s
17 license, as the case may be, bearing a distinctive number, and specifying the
18 type of alternative-fuel covered by such license.

19 (d) The license shall remain in full force until surrendered,
20 suspended, revoked, or canceled in the manner provided in this subchapter.

21 (e) (1) Each dealer shall make application for and secure a duplicate
22 of his license for each location or facility operated by such dealer at which
23 alternative-fuel is sold or used.

24 (2) The application shall be made on a form prescribed by the
25 director showing the name, address, and the dealer license number of the
26 applicant, the address of the location or facility for which the duplicate is
27 applied, and such other pertinent information as the director may require.

28 (3) Upon approval of the application, the director shall issue to
29 the applicant a nontransferable duplicate of the alternative-fuel dealer_s
30 license.

31 (f) There shall be displayed, in a conspicuous place at each location
32 or facility where alternative-fuel is sold or used, the original or duplicate
33 alternative-fuel dealer_s license under which the location or facility is
34 operated.

35

1 26-56-705. Reports and payment of tax by suppliers.

2 (a) On or before the twenty-fifth day of each calendar month next
3 following the calendar month on which the report is made, each supplier shall
4 report to the director:

5 (1) The total gallon equivalent of each type of alternative-fuel
6 sold or delivered to each type of alternative-fuel dealer or private user, the
7 name and address and license number of each dealer or permit number of private
8 user, and the tax collected thereon;

9 (2) The total gallon equivalent of each type of alternative-fuel
10 used by such supplier for his own purposes, and the quantity thereof subject
11 to the tax levied; and

12 (3) Such other information as the director may by regulation
13 require.

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

15 (c) Each supplier shall, at the time of filing the monthly report
16 required by this section, remit to the director any and all taxes due on each
17 type of alternative-fuel covered by the report.

18

19 26-56-706. Surrender of license or permit - Discontinuance of business.

20 (a) Whenever any person to whom an alternative-fuel supplier_s license,
21 dealer_s license, or private user_s permit has been issued, discontinues to
22 supply, sell, or use alternative-fuel within the state, such person shall
23 notify the director in writing of that fact within thirty (30) days thereafter
24 and surrender his license to the director.

25 (b) No person surrendering any such license shall be entitled to any
26 refund of any of the fees previously paid.

27

28 26-56-707. Revocation of supplier_s or dealer_s license.

29 (a) If a licensed supplier or dealer fails to file any report required
30 by this subchapter, or falsely or fraudulently files a report, or fails to pay
31 the full amount of the tax or fee levied by this subchapter, the director may
32 give notice to the licensee of an intention to revoke his license.

33 (b) The licensee shall be entitled to a period of ten (10) days after
34 the mailing of the notice within which to apply for a hearing on the question
35 of having his license revoked, and the director shall designate a time and

1 place for the hearing, giving the licensee five (5) days_ notice thereof.

2 (c) After the hearing at which the licensee shall be entitled to
3 present evidence and be represented by counsel, the director shall determine
4 whether the licensee_s license shall be revoked.

5 (d) (1) Upon the issuance of an order revoking the license, the
6 licensee shall be entitled to appeal to the chancery court in any county in
7 which he may do business where the question shall be tried de novo, but the
8 director_s order shall be affirmed if supported by substantial evidence.

9 (2) An appeal may be had from the judgment of the chancery court
10 as in other cases as provided by law.

11 (e) If the licensee fails to apply for a hearing within the prescribed
12 time, the director may immediately revoke the license of the licensee and
13 notify the licensee by registered mail, addressed to the last known address of
14 the licensee appearing in the files of the director.

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16 26-56-708. Nonresident users.

17 If the director deems it necessary for the proper enforcement and
18 collection of the tax on alternative-fuels used in this state against
19 nonresident users, other than occasional nonresident users, he may require the
20 nonresident users to obtain a permit and report and remit the tax in the same
21 manner as is required in this subchapter of alternative-fuel suppliers.

22

23 26-56-709. Conversion of vehicles for use of alternative-fuels.

24 (a) (1) Any alternative-fuel dealer, private user, garage, mechanic,
25 owner, or operator of a motor vehicle who converts or causes a vehicle to be
26 converted to enable the vehicle to be operated on any type of alternative-fuel
27 shall report the conversion to the director, on forms prescribed by the
28 director, within ten (10) business days after the conversion.

29 (2) If any owner or operator fails to report a conversion to the
30 director within the time prescribed above, such person shall be assessed a
31 penalty of fifty dollars (\$50.00) which shall be in addition to any criminal
32 penalty provided in this chapter.

33 (b) No person shall convert or equip any motor vehicle for the use of
34 any type of alternative-fuel unless the person is licensed to do so by the
35 director and has also made application for and obtained a license as an

1 alternative-fuel converter from the director and posted a bond in an amount
2 determined by the director conditioned that the person will report to the
3 director all vehicles so converted as required by this section.

4 (c) It shall be unlawful for any person to operate any vehicle which
5 has been converted or equipped to use any type of alternative-fuel unless the
6 vehicle has been reported to the director and an alternative-fuel vehicle
7 permit has been obtained therefor as required.

8 26-56-710. Exemptions.

9 The tax levied by this subchapter shall not be applicable to the sale of
10 alternative-fuels to official United States Government agencies for use in
11 official United States Government vehicles."

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13 SECTION 2. All provisions of this act of a general and permanent nature
14 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
15 Revision Commission shall incorporate the same in the Code.

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17 SECTION 3. If any provision of this act or the application thereof to
18 any person or circumstance is held invalid, such invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provision or application, and to this end the provisions of this
21 act are declared to be severable.

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23 SECTION 4. All laws and parts of laws in conflict with this act are
24 hereby repealed.

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