

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 26-55-202 BY ADDING
9 THERETO A DEFINITION (14) FOR THE TERM _TERMINAL_ AND A
10 DEFINITION (15) FOR THE TERM _BILL OF LADING_; TO AMEND
11 ARKANSAS CODE SECTION 26-55-234 TO REQUIRE CERTAIN REPORTS
12 FROM TERMINALS HANDLING MOTOR FUEL (GASOLINE) TO BE FILED
13 WITH THE DIRECTOR OF THE DEPARTMENT OF FINANCE AND
14 ADMINISTRATION EACH MONTH; TO AMEND ARKANSAS CODE SECTION
15 26-55-235 TO REQUIRE CERTAIN REPORTS FROM PIPELINE
16 COMPANIES TRANSPORTING MOTOR FUEL (GASOLINE) TO BE FILED
17 WITH THE DIRECTOR OF THE DEPARTMENT OF FINANCE AND
18 ADMINISTRATION EACH MONTH; TO AMEND ARKANSAS CODE SECTION
19 26-56-102 BY ADDING THERETO A DEFINITION (22) FOR THE TERM
20 _TERMINAL_ AND A DEFINITION (23) FOR THE TERM _BILL OF
21 LADING_; TO AMEND ARKANSAS CODE SECTION 26-56-208 (e) TO
22 REQUIRE MORE EXPLICIT REPORTS FROM PIPELINE COMPANIES
23 TRANSPORTING DISTILLATE SPECIAL FUELS (DIESEL) TO BE FILED
24 WITH THE DIRECTOR OF THE DEPARTMENT OF FINANCE AND
25 ADMINISTRATION EACH MONTH; TO AMEND ARKANSAS CODE SECTION
26 26-56-208 BY ADDING AN ADDITIONAL SUBSECTION (f) THERETO
27 TO REQUIRE CERTAIN REPORTS FROM TERMINALS HANDLING
28 DISTILLATE SPECIAL FUELS (DIESEL) TO BE FILED WITH THE
29 DIRECTOR OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION
30 EACH MONTH, ALL FOR THE PURPOSES OF REQUIRING TERMINALS
31 AND PIPELINE COMPANIES TO MORE EXPLICITLY REPORT THEIR
32 ACTIVITIES RELATIVE TO GASOLINE AND DIESEL TRANSACTIONS;
33 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

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Subtitle

"AN ACT TO REQUIRE MORE EXPLICIT REPORTS FROM TERMINALS
AND PIPELINE COMPANIES RELATIVE TO DIESEL AND GASOLINE
TRANSACTIONS."

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

SECTION 1. Arkansas Code Section 26-55-202 is hereby amended by adding
a definition (14) and a definition (15) thereto to read as follows:

"(14) Terminal means and includes every person in the business of
withdrawing or removing motor fuel from any pipeline outlet in this state and
then storing such motor fuel in any type of storage container.

(15) Bill of lading means and includes any serially numbered document
which shall clearly indicate the following:

- (A) The seller's distributor license number;
- (B) The origin of the transport trip;
- (C) The approximate destination or destinations of the transport
trip;
- (D) The type or types of motor fuel being transported and
quantity or quantities of motor fuel to be delivered to each destination;
- (E) The person or persons responsible for the payment of the
motor fuel tax; and
- (F) Such other information or forms as the director by regulation
may adopt or require to implement the intent of this subchapter."

SECTION 2. Arkansas Code Section 26-55-234 is hereby amended to read as
follows:

"26-55-234. Statements and reports from persons not distributors.

(a) Every person or terminal purchasing or otherwise acquiring motor
fuel by pipeline, tank car, tank truck, or cargo lots and selling, using, or
otherwise disposing of the motor fuel for delivery in Arkansas not required by
the provisions of this subchapter, to be licensed as a distributor in motor
fuel shall file a statement setting forth the name under which the person is
transacting business within the State of Arkansas, the location with street

1 number address of that person_s principal office or place of business within
2 the state, the name and address of the owner or the names and addresses of the
3 partners if the person is a partnership, or the names and addresses of the
4 principal officers if the person is a corporation or association.

5 (b) (1) On or before the twenty-fifth day of each calendar month, the
6 person shall, on forms prescribed by the Director of the Department of Finance
7 and Administration, report to the director all purchases or other acquisitions
8 and sales or other disposition of motor fuel during the next preceding
9 calendar month, giving a record of each tank car, tank truck, or cargo lot
10 delivered to a point within the state and of all motor fuel otherwise
11 delivered to him.

12 (2) The report shall set forth from whom each tank car or cargo
13 lot was purchased or otherwise acquired, point of shipment, to whom sold or
14 shipped, point of delivery, date of shipment, the name of the carrier, the
15 initials and number of the car, and the number of gallons contained in the
16 tank car if shipped by rail, and the name and owner of the boat, barge, or
17 vessel, and the number of gallons contained therein, if shipped by water, and
18 shall contain any other additional information the director may require
19 relative to the motor fuel.

20 (c) On or before the twenty-fifth day of each calendar month, the
21 terminal shall, on forms prescribed by the Director of the Department of
22 Finance and Administration, report to the director all purchases or other
23 acquisitions and sales or other disposition or motor fuel during the next
24 preceding calendar month which report shall include the following:

- 25 (1) Beginning inventories in gallons of motor fuel in storage;
26 (2) Ending inventories in gallons of motor fuel in storage;
27 (3) Withdrawals of motor fuel in gallons from the pipeline outlet
28 resulting in additions of motor fuel to storage, including the name of the
29 distributor licensed as an importer who requested the placement of such motor
30 fuel into storage;
31 (4) Removals of motor fuel from storage, specifically including:
32 (A) bill of lading numbers which represent physical
33 movements of the motor fuel;
34 (B) the date of each removal;
35 (C) the quantity in gallons of motor fuel so removed;

1 (D) the person who had the motor fuel available for that
2 particular removal; and

3 (E) the person possessing a license from the Director of
4 the Department of Finance and Administration who requested the removal of such
5 motor fuel from that storage.

6 (d) When any person or terminal not required by the provisions of this
7 subchapter to register as a distributor in motor fuel, purchasing or otherwise
8 acquiring motor fuel by pipeline, or in tank car, tank truck, or cargo lots
9 and selling or otherwise disposing of the motor fuel for delivery in Arkansas,
10 fails to submit his monthly report to the director by the twenty-fifth day of
11 each calendar month or, when the person or terminal fails to submit in the
12 monthly report the data required by this subchapter, the person or terminal
13 shall be guilty of a misdemeanor and shall be fined an amount not greater than
14 one hundred dollars (\$100) for the first offense and shall be fined an amount
15 not less than one hundred dollars (\$100) nor more than one thousand dollars
16 (\$1,000) for each subsequent offense."

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18 SECTION 3. Arkansas Code Section 26-55-235 is hereby amended to read as
19 follows:

20 "26-55-235. Reports from carriers transporting motor fuel.

21 (a) Every railroad company; every street, suburban, or interurban
22 railroad company; every pipeline company; every water transportation company;
23 and every common carrier transporting motor fuel, kerosene, or other
24 hydrocarbon products, either in interstate or in intrastate commerce to points
25 within Arkansas; and every person transporting motor fuel, or kerosene, by
26 whatever manner to a point within the state from any point outside of the
27 state shall report under oath to the Director of the Department of Finance and
28 Administration on forms prescribed by him, all deliveries of motor fuel,
29 kerosene, or other hydrocarbon products, so made to points within Arkansas.

30 (b) The reports shall cover monthly periods and shall be submitted
31 within twenty-five (25) days after the close of the month covered by the
32 report and shall show:

33 (1) The name and address of the person to whom the deliveries of
34 motor fuel have in fact been made;

35 (2) The name and address of the originally names consignee if

1 motor fuel has been delivered to any other than the originally named
2 consignee;

3 (3) The point of origin, the point of delivery, the date of
4 delivery, and the number and initials of each tank car and the number of
5 gallons contained therein if shipped by rail;

6 (4) The name of the boat, barge, or vessel and the number of
7 gallons contained therein if shipped by water;

8 (5) The license number of each tank truck, the number of gallons
9 contained therein, and the bill of lading number, if transported by motor
10 truck;

11 (6) The point of origin, the name and address of the person or
12 terminal to whom the delivery was made, the date of the delivery, and the
13 quantity of motor fuel delivered, if shipped by pipeline company; and

14 (7) The manner and quantities, if delivered by other means, in
15 which the delivery is made.

16 (c) The reports shall also show such additional information relative to
17 shipments of motor fuel as the director may require."

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19 SECTION 4. Arkansas Code Section 26-56-102 is hereby amended by adding
20 a definition (22) and a definition (23) thereto to read as follows:

21 "(22) _Terminal_ means and includes every person in the business of
22 withdrawing or removing distillate special fuels from any pipeline outlet in
23 this state and then storing such distillate special fuels in any type of
24 storage container.

25 (23) _Bill of lading_ means and includes any serially numbered document
26 which shall clearly indicate the following:

27 (A) The seller_s supplier license number;

28 (B) The origin of the transport trip;

29 (C) The approximate destination or destinations of the transport
30 trip;

31 (D) The type or types of distillate special fuels being
32 transported and quantity or quantities of distillate special fuels to be
33 delivered to each destination;

34 (E) The person or persons responsible for the payment of the
35 distillate special fuels tax; and

1 (F) Such other information or forms as the director by regulation
2 may adopt or require to implement the intent of this subchapter."

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4 SECTION 5. Subsection (e) of Arkansas Code Section 26-56-208 is hereby
5 amended to read as follows:

6 "(e) (1) Every pipeline company, water transportation company, and
7 common carrier transporting distillate special fuels to points within Arkansas
8 shall report under oath to the director, on forms prescribed by him, all
9 deliveries of distillate special fuels so made to points within Arkansas.

10 (2) (A) The reports shall cover monthly periods and shall be
11 submitted within twenty-five (25) days after the close of the month covered by
12 the report.

13 (B) The report shall show:

14 (i) The name and address of each person to whom
15 deliveries of fuel have actually been made;

16 (ii) The name and address of each originally named
17 consignee if fuel has been delivered to anyone other than the originally named
18 consignee;

19 (iii) The point of origin, point of delivery, and
20 date of delivery, as well as the name of the boat, barge, or vessel;

21 (iv) The number of gallons contained in the vessel if
22 shipped by water;

23 (v) The license number of each tank truck;

24 (vi) The number of gallons contained in the tank if
25 transported by motor truck;

26 (vii) The point of origin, the name and address of
27 the person or terminal to whom the delivery was made, the date of the
28 delivery, and the quantity of distillate special fuels delivered, if shipped
29 by pipeline company; and

30 (viii) The manner and quantities, if delivered by
31 other means, in which such delivery is made.

32 (C) The reports shall also show such additional information
33 relative to shipments of distillate special fuels as the director may
34 require."

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1 SECTION 6. Arkansas Code Section 26-56-208 is hereby amended by adding
2 a subsection (f) thereto to read as follows:

3 "(f) (1) Every terminal purchasing or otherwise acquiring distillate
4 special fuels by pipeline and selling, using, or otherwise disposing of the
5 distillate special fuels for delivery in Arkansas not required by the
6 provisions of this subchapter to be licensed as a supplier in distillate
7 special fuels shall file a statement setting forth the name under which the
8 terminal is transacting business within the State of Arkansas, the location
9 with street number address of that terminal's principal office or place of
10 business within the state, the name and address of the owner or the names and
11 addresses of the partners if the terminal is a partnership, or the names and
12 addresses of the principal officers if the terminal is a corporation or
13 association.

14 (2) On or before the twenty-fifth day of each calendar month, the
15 terminal shall, on forms prescribed by the Director of the Department of
16 Finance and Administration, report to the director all purchases or other
17 acquisitions and sales or other disposition of distillate special fuels during
18 the next preceding calendar month which report shall include the following:

19 (A) Beginning inventories in gallons of distillate special fuels
20 in storage;

21 (B) Ending inventories in gallons of distillate special fuels in
22 storage;

23 (C) Withdrawals of distillate special fuels in gallons from the
24 pipeline outlet resulting in additions of distillate special fuels to storage,
25 including the name of the supplier licensed as an importer who requested the
26 placement of such distillate special fuels into storage;

27 (D) Removals of distillate special fuels from storage,
28 specifically including:

29 (i) bill of lading numbers which represent physical
30 movements of the distillate special fuels;

31 (ii) the date of each removal;

32 (iii) the quantity in gallons of distillate special fuels
33 so removed;

34 (iv) the person who had the distillate special fuels
35 available for that particular removal; and

1 (v) the person possessing a license from the Director of
2 the Department of Finance and Administration who requested the removal of such
3 distillate special fuels from that storage.

4 (3) When any terminal not required by the provisions of this subchapter
5 to register as a supplier in distillate special fuels, purchasing or otherwise
6 acquiring distillate special fuels by pipeline and selling or otherwise
7 disposing of the distillate special fuels for delivery in Arkansas, fails to
8 submit his monthly report to the director by the twenty-fifth day of each
9 calendar month or, when the terminal fails to submit in the monthly report the
10 data required by this subchapter, the terminal shall be guilty of a
11 misdemeanor and shall be fined an amount not greater than one hundred dollars
12 (\$100) for the first offense and shall be fined an amount not less than one
13 hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each
14 subsequent offense."

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16 SECTION 7. The Director of the Department of Finance and Administration
17 is hereby directed, with the advise and concurrence of the Director of
18 Highways and Transportation, or his designee, to make and promulgate all rules
19 and regulations deemed necessary or desirable by such Directors in order that
20 the amendments contained in this Act be effectuated by July 1, 1993.

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22 SECTION 8. All provisions of this act of a 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 9. If any provision of this act or the application thereof to
27 any person or circumstance is held invalid, such invalidity shall not affect
28 other provisions or applications of the act which can be given effect without
29 the invalid provision or application, and to this end the provisions of this
30 act are declared to be severable.

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32 SECTION 10. All laws and parts of laws in conflict with this act are
33 hereby repealed.

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35 SECTION 11. EMERGENCY CLAUSE. It is hereby found and determined by the

1 Seventy-Ninth General Assembly that current laws do not require explicit
2 monthly reports from terminals or pipeline companies regarding their
3 activities relative to gasoline and diesel transactions and as a consequence
4 the State may be experiencing a loss of fuel tax revenues since certain of
5 such transactions may result in the evasion of such taxes; that such tax
6 revenues are greatly needed by the State for highway, road, and street
7 purposes; and that only by the effectiveness of the amendments contained in
8 this act as expeditiously as possible may the aforementioned problems be
9 solved. Therefore, an emergency is hereby declared to exist and this act
10 being necessary for the immediate preservation of the public peace, health and
11 safety shall be in full force and effect on and after July 1, 1993.

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