

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**

**A BILL ACT 364 OF 1991**  
**HOUSE BILL 1200**

4 **By: Representatives Foster, Allen, Carter, Dietz, Dowd, Gibson, Hogue,**  
5 **Jordan, Maddox, Mahony, McGee, McJunkin, J. Miller, S. Miller, Mullenix,**  
6 **Murphy, Newman, Parkerson, D. E. Roberts, Rorie, Schernayder, Shaver,**  
7 **Whorton, M. Wilson and B. Wood.**

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**For An Act To Be Entitled**

11

"AN ACT TO LEVY ADDITIONAL TAXES ON MOTOR FUEL, DISTILLATE  
12 SPECIAL FUELS, AND LIQUEFIED GAS SPECIAL FUELS; TO AMEND  
13 ARKANSAS CODE §26-55-710 AND TO AMEND ARKANSAS CODE §26-  
14 56-214 TO INSURE THAT THE ADDITIONAL TAXES LEVIED BY THIS  
15 ACT ARE IMPOSED ON BONDED AND UNBONDED INTERSTATE MOTOR  
16 FUEL USERS AND BONDED AND UNBONDED INTERSTATE DISTILLATE  
17 SPECIAL FUEL USERS; TO AMEND ARKANSAS CODE §26-56-304 TO  
18 COMBINE ALL CURRENT ANNUAL FEES FOR AND TO INCLUDE IN SUCH  
19 ANNUAL FEES IMPOSED ON LIQUEFIED GAS SPECIAL FUEL USERS A  
20 PROPORTIONATE INCREASE IN THE ANNUAL FEES FOR VEHICLES  
21 USING LIQUEFIED PETROLEUM GAS TO APPROXIMATE THE PER  
22 GALLON ADDITIONAL TAXES IMPOSED BY THIS ACT ON LIQUEFIED  
23 GAS SPECIAL FUELS; TO REPEAL ARKANSAS CODE §§26-56-503 AND  
24 26-55-1003; TO PRESCRIBE THE PURPOSES FOR WHICH THE  
25 ADDITIONAL REVENUES DERIVED FROM THE TAXES AND FEES LEVIED  
26 HEREIN SHALL BE USED; TO DECLARE AN EMERGENCY; AND FOR  
27 OTHER PURPOSES."

28

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

30

31 SECTION 1. (a) On and after the effective date of this act, in  
32 addition to the taxes levied upon motor fuel in Arkansas Code §§26-55-205 and  
33 26-55-1002 and upon distillate special fuels in Arkansas Code §§26-56-201 and  
34 26-56-502 and upon liquefied gas special fuels in Arkansas Code §§26-56-301  
35 and 26-56-502, and in addition to any other taxes levied on such fuel or fuels  
36 during the Seventy-Eighth Regular Session of the General Assembly, there is

1 hereby levied an excise tax of *five cents (\$.05) per gallon upon all motor*  
2 *fuel and liquefied gas special fuels and an excise tax of two cents (\$.02) per*  
3 *gallon upon all distillate special fuels subject to the taxes levied in those*  
4 *code sections, and such additional taxes shall be collected, reported and paid*  
5 *in the same manner and at the same time as is prescribed by law for the*  
6 *collection, reporting, and payment of other motor fuel taxes, distillate*  
7 *special fuels taxes, and liquefied gas special fuels taxes.*

8

9 SECTION 2. Arkansas Code §26-55-710 is hereby amended to read as  
10 follows:

11 "26-55-710. Quarterly mileage reports - Tax computation.

12 (a) (1) Every person, firm, or corporation licensed under this  
13 subchapter shall, on or before the last day of the month following the end of  
14 each calendar quarter, file with the Director of the Department of Finance and  
15 Administration, on forms prescribed by him, a report showing the quantities of  
16 gasoline purchased and used in this state during the preceding calendar  
17 quarter, together with payment of the tax due thereon.

18 (2) The number of gallons of motor fuel upon which the tax has been paid  
19 by an interstate user shall be determined from the form obtained by the  
20 interstate user from a licensed dealer or licensed bulk distributor within the  
21 state.

22 (b) If it shall be determined by the quarterly reports filed with the  
23 director that the interstate user has used more gallons of gasoline in this  
24 state than the gasoline tax due thereon has been paid, the interstate user  
25 shall remit to the director an excise tax of eighteen and *one-half cents*  
26  *(\$.185) per gallon on the gasoline.*

27 (c) Interstate users may not take credit on reports at a tax rate in  
28 excess of that actually paid.

29 (d) (1) For the purpose of determining whether a licensed interstate  
30 user owes tax or is entitled to a credit or refund, the licensed interstate  
31 user shall determine the average miles per gallon of fuel used. The average  
32 miles per gallon shall be determined by dividing the total miles traveled in  
33 all jurisdictions by the total gallons of fuel used in all jurisdictions.

34 (2) The licensed interstate user shall then determine the total amount  
35 of fuel used within the State of Arkansas by dividing the total number of

1 miles traveled within the State of Arkansas by the average miles per gallon.

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3 (3) The taxpayer's tax liability shall be calculated by multiplying the  
 4 number of gallons of fuel used within the State of Arkansas by *eighteen and*  
 5 *one-half cents (\$.185) per gallon. A taxpayer shall be entitled to credits*  
 6 against his tax liability for tax-paid fuel purchased within the State of  
 7 Arkansas.

8 (e) For any licensed interstate user who fails to maintain adequate  
 9 mileage or fuel records, as required by §26-55-719, for the purpose of  
 10 determining the amount the interstate user owes the State of Arkansas for tax  
 11 on motor fuel used in this state as provided in this section, the number of  
 12 gallons of motor fuel used in this state shall be determined by an assessment  
 13 based on the following mileage factors per gallon of motor fuel as compared to  
 14 the appropriate class of vehicle set out in subsection (f) of this section.

15 (f) (1) For the purposes of this section:

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

18 (B) All truck-type vehicles, except buses, with a factory rating and  
 19 gross loaded weight of less than twenty-two thousand five hundred pounds  
 20 (22,500 lbs.), shall be deemed to be Class B vehicles;

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

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

27 (2) The mileage factor per gallon of motor fuel for:

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

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

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

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

32 (3) These mileage factors shall be utilized in conjunction with the  
 33 Arkansas mileage as determined through an audit and based upon the best  
 34 records available regardless of source.

35 (g) (1) For the purposes of determining the amount any unlicensed or

1 unbonded user owes the State of Arkansas for tax on motor fuel used in this  
2 state, only the above mileage factors per gallon of motor fuel for the  
3 applicable vehicle shall be utilized.

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

10 (3) An interstate user who had a total tax liability for motor fuel  
11 taxes during the previous calendar year of less than one hundred dollars  
12 (\$100) may, upon application to the director, obtain permission to report his  
13 motor fuel tax liability on an annual basis. The annual report shall be due on  
14 or before the last day of the month following the end of each fiscal year.

15 (h) The director shall prescribe the appropriate forms necessary for  
16 the administration of this subchapter. The director may make appropriate rules  
17 and regulations necessary to insure the accurate reporting of mileage traveled  
18 and gallons used and purchased by the licensed interstate users."  
19

20 SECTION 3. Arkansas Code §26-56-214 is hereby amended to read as  
21 follows:

22 "26-56-214. Interstate users - Reports - Computation of tax and refunds.

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

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

1           (2) If it shall be determined by the quarterly report that the  
 2 interstate user has used distillate special fuels in this state in excess of  
 3 the number of gallons of the fuel upon which the Arkansas tax had been paid,  
 4 the interstate user shall remit to the director, at the time of *filing the*  
 5 *report, an excise tax of eighteen and one-half cents (\$.185)* per gallon of the  
 6 excess gallonage used.

7           (3) If it shall be determined that the interstate user has purchased  
 8 more gallons of distillate special fuels in this state than he has used in  
 9 this state, then the user shall be entitled to a credit or *refund of eighteen*  
 10 *and one-half cents (\$.185) per gallon of the excess* gallonage purchased in the  
 11 state.

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

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

23           (2) If it shall be determined by the quarterly report filed with the  
 24 director that the distillate special fuel user has used more gallons of  
 25 special motor fuel in this state than the special motor fuel tax due thereon  
 26 has been paid, the distillate special fuel user shall remit to *the director an*  
 27 *excise tax of eighteen and one-half cents (\$.185) per gallon of special motor*  
 28 fuel.

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

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

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

4 (2) The taxpayer's tax liability shall be calculated by multiplying the  
 5 number of gallons of fuel used within the State of *Arkansas by eighteen and*  
 6 *one-half cents (\$.185) per gallon.* A taxpayer shall be entitled to credits  
 7 against his tax liability for tax-paid fuel purchased within the State of  
 8 Arkansas.

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

17 (2) For the purposes of this section:

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

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

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

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

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

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

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

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

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

34 (4) These mileage factors shall be utilized in conjunction with the  
 35 Arkansas mileage as determined through an audit and based upon the best

1 records available regardless of source.

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

6 (h) (1) If a quarterly report of a distillate special fuel user results  
7 in a net credit, the distillate special fuel user may elect to have the credit  
8 carried forward and applied against the special motor fuel tax due for the  
9 succeeding eight (8) quarters or until the credit is completely used,  
10 whichever occurs first. In the alternative, a taxpayer who is entitled to a  
11 net credit on his quarterly fuel use tax report may elect to have the amount  
12 of credit refunded to him.

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

19 (i) The director shall prescribe the appropriate forms necessary for  
20 the administration of this subchapter. The director may make appropriate rules  
21 and regulations necessary to insure the accurate reporting of the special  
22 motor fuel tax."

23

24 SECTION 4. Subsection (d) of Arkansas Code §26-56-304 is hereby amended  
25 to read as follows:

26 "(d) (1) At the time of applying for such permit and prior to the  
27 registration and issuance of a motor vehicle license for the vehicle, each  
28 applicant, except licensed liquefied gas special fuel suppliers, shall remit  
29 to the director, in addition to the regular fee prescribed by law for the  
30 registration and licensing of the vehicle, an additional fee in an amount  
31 which is determined by the General Assembly, based upon information available  
32 from statistical studies of the motor vehicular use of liquefied gas special  
33 fuels by various classes of users, as follows:

34

35 NON-FARM VEHICLES

	Annual Additional Fee
1 Passenger cars and motor homes .....	\$ 164.00
2 Pickup trucks, one-half (1/2) and three-quarter (3/4) ton .....	195.00
3 Pickup trucks, one (1) ton .....	251.00
4 Trucks, maximum gross loaded weight in excess of one ton	
5 but not exceeding 22,500 pounds .....	520.00
6 Passenger buses except school buses manufactured and	
7 licensed as such .....	520.00
8 School buses manufactured and licensed as such.....	260.00
9 Trucks, maximum gross loaded weight in excess of 22,500	
10 pounds .....	609.00

FARM VEHICLES

15 In order to aid in the production of farm products and to eliminate  
16 apparent inequities in liquefied gas special fuel fees which are in lieu of  
17 the gallonage tax on such fuel used in vehicles operated primarily on farms  
18 and not on the main highway system of this state, a special classification is  
19 created for farm vehicles using liquefied gas special fuel and entitled to be  
20 registered and licensed as natural resources farm vehicles. The flat fee in  
21 lieu of the gallonage tax on the fuel used in such vehicle shall be as  
22 follows:

24 Pickup trucks, one-half (1/2) and three-quarter (3/4) ton ....	\$ 130.00
25 Pickup trucks, one (1) ton .....	156.00
26 Trucks, maximum gross loaded weight in excess of one ton	
27 but not exceeding 22,500 pounds .....	178.00
28 Trucks, maximum gross loaded weight in excess of 22,500	
29 pounds .....	260.00

30 (2) If the director determines that the flat fee provided herein in  
31 lieu of the gallonage tax on liquefied gas special fuel is, in the case of  
32 common or contract carriers or other vehicles for hire, inadequate to  
33 compensate for the gallonage tax, the director may require such common or  
34 contract carriers or owners of other vehicles for hire to pay a fee based upon  
35 the actual mileage of the common or contract carrier or vehicle for hire for

1 the previous year, the current year, or any other reasonable basis.

2 (3) The director shall establish regulations for computing the fees and  
3 for the enforcement of the collection thereof.

4 (4) If any new liquefied gas special fuel vehicle is placed in  
5 operation or any other vehicle shall be converted to a liquefied gas special  
6 fuel vehicle during the registration year, the owner shall be permitted to pay  
7 a proportionate part of the special fuel user's permit fee for such vehicle  
8 for the remainder of the current registration year based upon one-twelfth  
9 (1/12) of the annual fee for such vehicle for each calendar month or fraction  
10 thereof remaining in the current registration year."

11

12 SECTION 5. (1) All of the additional taxes, fees, penalties and  
13 interest collected under the provisions of this act shall be classified as  
14 special revenues and shall be deposited in the state treasury. After  
15 deducting therefrom the amount to be credited to the Constitutional Officers  
16 Fund and the State Central Services Fund as provided in the Revenue  
17 Stabilization Law, §19-5-101, et seq., the treasurer shall transfer on the  
18 last business day of each month:

19 (A) Fifteen percent (15%) of the amount thereof to the County Aid  
20 Fund;

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

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

25 (2) The funds shall be further disbursed in the same manner and used  
26 for the same purposes as set out in the Arkansas Highway Revenue Distribution  
27 Law, §27-70-201, et seq. Provided, keeping with the spirit of Section 105 of  
28 Public Law 97-424 and the Arkansas State Highway and Transportation  
29 Department's goals for encouraging the participation of Disadvantaged Business  
30 Enterprises into entering and performing contracts with the Department,  
31 including the purchasing of supplies and equipment by the Department and for  
32 the construction, reconstruction, and maintenance of highways and bridges in  
33 the State Highway System, the Arkansas State Highway and Transportation  
34 Department is authorized to expend up to ten percent (10%) of the total  
35 revenues disbursed to the Department pursuant to this act for the purposes of

1 achieving those goals.

2

3 SECTION 6. Arkansas Code §§26-56-503 and 26-55-1003 are hereby  
4 specifically repealed. All other laws and parts of laws in conflict with this  
5 act are also hereby repealed. Provided, nothing in this act shall be  
6 construed to amend, abrogate, modify, or repeal any of the provisions of the  
7 "Petroleum Storage Tank Trust Fund Act", Arkansas Code §§8-7-901, et seq., and  
8 all fees on each gallon of motor fuel or distillate special fuels shall  
9 continue to be collected as provided by those code sections in addition to all  
10 taxes and fees imposed by other sections of the code on such fuel or fuels as  
11 well as those additional taxes and fees imposed by this act.

12

13 SECTION 7. The provisions of this act are hereby declared to be  
14 severable. If any provision of this act shall be declared to be invalid or to  
15 be inapplicable to any person or circumstance, such determination shall not  
16 affect the validity or applicability of the other provisions of this act.

17

18 SECTION 8. All provisions of this act of a general and permanent nature  
19 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
20 Revision Commission shall incorporate the same in the Code.

21

22 SECTION 9. EMERGENCY. It is hereby found and determined by the General  
23 Assembly that many of the highways, roads and streets in this state are  
24 operationally inadequate and immediate steps must be taken to provide  
25 additional funds for the maintenance, construction and reconstruction of such  
26 highways, roads and streets; that proper maintenance, construction, and  
27 reconstruction of such highways, roads and streets is essential to the public  
28 health, welfare and safety of the people of this state and that only by the  
29 immediate passage of this act may such vitally needed additional funds be  
30 provided to solve the aforementioned problems. Therefore, an emergency is  
31 hereby declared to exist and this act being necessary for the preservation of  
32 the public peace, health and safety shall be in full force and effect on and  
33 after the first day of the first month immediately following its passage and  
34 approval.

35

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/s/W. F. Foster, et al

APPROVED: 3-6-91]