

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

A Bill

ACT 1029 OF 1993
HOUSE BILL 1879

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

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"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
number address of that person's principal office or place of business within

1 the state, the name and address of the owner or the names and addresses of the
2 partners if the person is a partnership, or the names and addresses of the
3 principal officers if the person is a corporation or association.

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

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

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

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

1 particular removal; and

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

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

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

19 "26-55-235. Reports from carriers transporting motor fuel.

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

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

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

34 (2) The name and address of the originally named consignee if
35 motor fuel has been delivered to any other than the originally named

1 consignee;

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

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

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

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

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

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

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

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

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

26 (A) The seller's supplier license number;

27 (B) The origin of the transport trip;

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

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

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

35 (F) Such other information or forms as the director by regulation

1 may adopt or require to implement the intent of this subchapter."

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

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

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

12 (B) The report shall show:

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

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

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

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

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

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

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

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

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

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35 SECTION 6. Arkansas Code Section 26-56-208 is hereby amended by adding

1 a subsection (f) thereto to read as follows:

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

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

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

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

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

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

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

30 (ii) the date of each removal;

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

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

35 (v) the person possessing a license from the Director of

1 the Department of Finance and Administration who requested the removal of such
2 distillate special fuels from that storage.

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

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

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

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

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

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34 SECTION 11. EMERGENCY CLAUSE. It is hereby found and determined by the
35 Seventy-Ninth General Assembly that current laws do not require explicit

1 monthly reports from terminals or pipeline companies regarding their
2 activities relative to gasoline and diesel transactions and as a consequence
3 the State may be experiencing a loss of fuel tax revenues since certain of
4 such transactions may result in the evasion of such taxes; that such tax
5 revenues are greatly needed by the State for highway, road, and street
6 purposes; and that only by the effectiveness of the amendments contained in
7 this act as expeditiously as possible may the aforementioned problems be
8 solved. Therefore, an emergency is hereby declared to exist and this act
9 being necessary for the immediate preservation of the public peace, health and
10 safety shall be in full force and effect on and after July 1, 1993.

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APPROVED: 4/12/93

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