

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

A Bill

ACT 618 OF 1993
HOUSE BILL 1577

4 **By: Representatives Cunningham, J. Wilson, Parkerson, and Schexnayder**

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For An Act To Be Entitled

8 "AN ACT TO AMEND THE DEFINITION OF DISTILLATE SPECIAL FUEL
9 TO INCLUDE BLENDED FUELS AND JET FUEL; TO PROVIDE FOR THE
10 ANNUAL REGISTRATION OF PURCHASES OF TAX FREE DISTILLATE
11 SPECIAL FUEL; TO PROVIDE FOR THE ANNUAL REGISTRATION OF
12 BULK SALES; TO REQUIRE THAT SUPPLIERS OF TAX FREE
13 DISTILLATE SPECIAL FUELS MAINTAIN RECORDS; TO REPEAL THE
14 DIESEL FLAT-FEE PERMIT; TO AMEND THE ARKANSAS CODE TO
15 ESTABLISH A TWENTY-SIX THOUSAND AND ONE POUND THRESHOLD ON
16 TAX, LICENSE, USER DECAL AND ENTRY SLIP REQUIREMENTS FOR
17 MOTOR VEHICLES; TO AMEND ARK. CODE ANN. §19-5-501 TO ADD
18 THE GASOLINE TAX REFUND FUND AND THE INTERSTATE MOTOR FUEL
19 TAX REFUND FUND TO THE FUNDS AUTHORIZED TO RECEIVE LOANS
20 FROM THE BUDGET STABILIZATION TRUST FUND IN ORDER TO MAKE
21 REFUNDS OF THE GASOLINE TAX AND THE INTERSTATE MOTOR FUEL
22 TAX; AND FOR OTHER PURPOSES."

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Subtitle

25 "ADOPTS TECHNICAL AMENDMENTS TO MOTOR FUEL TAX LAWS."

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

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29 SECTION 1. Ark. Code Ann. §26-56-102(9) is amended to read:

30 "(9) 'Distillate special fuel' means and includes all liquids or
31 combination of liquids used or suitable for use in an internal combustion
32 engine or motor for the generation of power for motor vehicles, except fuels
33 subject to the tax levied by the Motor Fuel Tax Law, §26-55-201 et seq., or
34 liquified gas special fuels as defined herein. 'Distillate special fuel'
35 shall include products commonly referred to as diesel, kerosene, jet fuel,
36 heating oil or fuel oil, cutter stock, and light cycle oil."

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SECTION 2. Ark. Code Ann. §26-56-201(a) (1) is amended to read:

"(a) (1) There is levied an excise tax at the rate of nine and one-half cents (9½) per gallon on all distillate special fuels, except fuel utilized in propelling jet aircraft, sold or used in this state, or purchased for sale or use in this state. The additional levies provided in subdivision (a) (2) of this section and §26-56-502 are specifically intended to apply to the taxes levied by this section as amended by this act and shall remain effective."

SECTION 3. Ark. Code Ann. §26-56-201(b) (2) (B) is amended to read:

"(B) The fuel was sold and delivered by the supplier to dealers, users, or off-road consumers who at the time of sale and delivery, except as provided in §26-56-218, had completed an annual registration for purchases of tax free distillate special fuel which entitle the dealers, users, or off-road consumers to purchase fuel tax-free for off-road use;"

SECTION 4. Ark. Code Ann. §26-56-204(a) is amended to read:

"(a) (1) No person shall commence operations as a supplier, dealer, user, or off-road consumer of distillate special fuels without first procuring a license for that purpose from the Director. This license shall be issued and remain in effect until revoked as provided in this section. Any person holding or applying for a supplier's license after August 1, 1987, shall make an election to operate either as a pipeline importer, first receiver, or second receiver. Once having made an election in writing filed with the Director, the election will remain in force until such time as the supplier makes another written election to change his status. The election and any change therein shall take effect on the first month following filing of the election.

(2) Notwithstanding the provisions of (a) (1) herein, the Director shall not be required to issue off-road consumer and off-road dealer permits. Off-road consumers and off-road dealers shall file with their supplier an annual registration for purchase of tax free distillate special fuel. *A copy of the annual registration shall be forwarded by the supplier to the Director of the Department of Finance and Administration.* The Director may promulgate such forms and regulations as may be necessary to ensure uniformity with federal

1 usage of exemption certificates issued for non-highway diesel purchases."
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3 SECTION 5. Ark. Code Ann. §26-56-204(b) is amended to read:

4 "(b) (1) Each application for a license or registration as a supplier,
5 dealer, user or off-road consumer of distillate special fuels, and each
6 license or registration, shall have as a condition that the applicant and
7 holder shall comply with the provisions of this subchapter.

8 (2) (A) Each annual registration as a dealer, user, or off-road
9 consumer, shall have as a further condition that the applicant shall not
10 deliver or permit delivery into the fuel supply tanks of motor vehicles any
11 distillate special fuels which have been purchased tax free by the applicant.

12 (B) A taxable use of distillate special fuels purchased tax free by an
13 applicant for, an annual registration as a dealer, user, or off-road consumer,
14 in addition to the penal provisions prescribed in this subchapter shall, at
15 the discretion of the director forfeit the right of the applicant to purchase
16 distillate special fuels tax free."
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18 SECTION 6. Ark. Code Ann. §26-56-218 is amended to read:

19 "(a) It shall be unlawful to make tax-free bulk sales of distillate
20 special fuels to any user, dealer, or off-road consumer who has not filed with
21 his supplier an annual registration for purchases of tax free distillate
22 special fuel.

23 (1) However, a sale shall be lawful if, at the time of sale and
24 delivery, the supplier obtains from the purchaser a fully executed annual
25 registration for purchases of tax free distillate special fuel; and

26 (2) The supplier maintains the registration form for a period of six
27 (6) years.

28 (b) When a user, dealer, or off-road consumer registration has been
29 revoked and written notice of the revocation has been received by the supplier
30 from the director, it shall be unlawful for the supplier to make bulk sales or
31 deliveries to the user, dealer, or off-road consumer of distillate special
32 fuels on which the tax has not been paid."
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34 SECTION 7. Repeal. Ark. Code Ann. §§26-56-401 through 26-56-404 and
35 §§26-56-406 through 26-56-408, are repealed.

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2 SECTION 8. Arkansas Code §26-55-702 is hereby amended to read as
3 follows:

4 "26-55-702. Liability for tax.

5 Any person, firm, or corporation who operates on the highways of this
6 state any motor carrier, bus, truck, transport, or other motor vehicle, having
7 a gross loaded weight of twenty-six thousand and one pound (26,001 lbs.) or
8 more, and having motor fuel commonly or commercially sold and used as gasoline
9 as defined in §26-55-202(2) in its fuel tank or tank, upon which the Arkansas
10 motor fuel tax has not been paid, shall be liable for a tax at the rate per
11 gallon provided in §26-55-205 on all such gasoline used or consumed in the
12 State of Arkansas, subject to the provisions of §§26-55-710 and 26-55-715."

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14 SECTION 9. Arkansas Code §26-55-705(a) is hereby amended to read as
15 follows:

16 "(a) Before any person, firm, or corporation subject to §26-55-702
17 imports, for use on the highways of this state, gasoline in the fuel supply
18 tanks of any motor vehicle, or in any other container, with a gross loaded
19 weight of twenty-six thousand and one pound (26,001 lbs.) or more, such person
20 shall file application for and obtain a license from the Director of the
21 Department of Finance and Administration."

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23 SECTION 10. Arkansas Code §26-55-708 (a) (1) is hereby amended to read
24 as follows:

25 "(a) (1) Before any motor vehicle with a gross loaded weight of twenty-
26 six thousand and one pounds or more is operated on the public highways of this
27 state, the operation of which is subject to the tax levied by this subchapter,
28 the Director of Finance and Administration shall issue to each permitted
29 gasoline, diesel, and liquefied petroleum gas (LPG) user, a distinctive
30 marking to be prominently displayed on the passenger door of each vehicle
31 traveling the public highways of within this state."

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33 SECTION 11. Arkansas Code §26-55-803(a) is hereby amended to read as
34 follows:

35 "(a) All licensed motor fuel user and distillate special fuel user

1 out-of-state trucks with a gross loaded weight of twenty-six thousand and one
2 pound (26,001 lbs.) or more entering the State of Arkansas shall, at the point
3 of entry, secure a copy of an entry slip from the Director of the Department
4 of Finance and Administration or his authorized agent or employee."

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6 SECTION 12. Ark. Code Ann. §19-5-501(b)(1)(A) is hereby amended to read
7 as follows:

8 "(1)(A) Making temporary loans to those funds and fund accounts as set
9 out in §19-5-401 et seq., to the Department of Correction Farm Fund for farm
10 production purposes, to the Department of Correction Prison Industry Fund, to
11 the Income Tax Refund Fund, to the Gasoline Tax Refund Fund, to the Interstate
12 Motor Fuel Tax Refund Fund and to the various funds established in the Revenue
13 Classification Law of Arkansas, §19-6-101 et seq. The loans made to the funds
14 and fund accounts set out in §19-5-401 et seq. shall be repaid on or before
15 June 30 of the fiscal year in which the loan is made, except as provided
16 elsewhere in this section."

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18 SECTION 13. Ark. Code Ann. §19-5-501(b)(1)(C) is hereby amended to read
19 as follows:

20 "(C) The loans made to the Income Tax Refund Fund, to the Gasoline Tax
21 Refund Fund, to the Interstate Motor Fuel Tax Refund Fund and to those other
22 funds established in the Revenue Classification Law of Arkansas, §19-6-101 et
23 seq., are to be repaid on the last day of the month of which the loan was
24 made. However, loans made to the Department of Human Services Fund during June
25 of any fiscal year for making cash assistance payments to eligible individuals
26 under the Aid to Families With Dependent Children Program for delivery on or
27 about July 1 of the following fiscal year shall be repaid on or before July 31
28 of the fiscal year following the fiscal year in which the loan was made; and
29 for loans made to the Department of Human Services for the Developmental
30 Disabilities Services Fund and the Mental Health Services Fund, in the last
31 month of a fiscal year for federal reimbursement for Medicaid and Medicare
32 eligible services shall be repaid immediately upon receipt of reimbursement
33 but no later than July 31 of the fiscal year following the fiscal year in
34 which the loan was made."

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

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5 SECTION 15. If any provision of this act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 act are declared to be severable.

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11 SECTION 16. All laws and parts of laws in conflict with this act are
12 hereby repealed.

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/s/Rep. Cunningham, et al

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APPROVED: 3/22/93

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