

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representatives Cunningham and Calhoun**

A Bill

ACT 777 OF 1995
HOUSE BILL 1376

For An Act To Be Entitled

8 "AN ACT TO REPEAL THE LICENSING AND BONDING REQUIREMENTS
9 FOR MOTOR FUEL AND DISTILLATE SPECIAL FUEL DEALERS; TO
10 REPEAL THE ANNUAL DECAL AND FEE FOR MOTOR VEHICLES USING
11 LIQUEFIED PETROLEUM GAS; TO IMPOSE MOTOR FUEL TAX ON
12 LIQUEFIED PETROLEUM GAS AT THE TIME OF PURCHASE; AND, TO
13 REPEAL THE REFUND OF MOTOR FUEL TAXES PAID ON GASOLINE
14 USED FOR AGRICULTURAL PURPOSES; AND FOR OTHER PURPOSES."

Subtitle

16 "MISCELLANEOUS MOTOR FUEL TECHNICAL
17 CORRECTIONS."
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code 26-55-228 is repealed.

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24 SECTION 2. Arkansas Code §§26-55-501 through 26-55-511 are repealed.

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26 SECTION 3. Arkansas Code 26-55-710 (a) (2) is amended to read as
27 follows:

28 "(2) The number of gallons of motor fuel upon which the tax has been
29 paid by an interstate user shall be determined from the form obtained by the
30 interstate user from a licensed dealer or licensed bulk distributor within the
31 state. These forms must contain the information required by §26-56-209."
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33 SECTION 4. Arkansas Code 26-56-204(a) (1) is amended to read as follows:

34 "(1) No person shall commence operations as a supplier, user, or off-
35 road consumer of distillate special fuels without first procuring a license
36 for that purpose from the director. The license shall be issued and remain in

1 effect until revoked as provided in this section. Any person holding or
2 applying for a supplier's license after August 1, 1987, shall make an election
3 to operate either as a pipeline importer, first receiver, or second receiver.
4 Once having made an election in writing filed with the director, the election
5 will remain in force until such time as the supplier makes another written
6 election to change his status. The election and any change therein shall take
7 effect on the first month following filing of the election."

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9 SECTION 5. Arkansas Code 26-56-204(b) is amended to read as follows:

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

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

18 (B) A taxable use of distillate special fuels purchased tax-free by an
19 applicant for an annual registration as a user or off-road consumer, in
20 addition to the penal provisions prescribed in this subchapter, shall, at the
21 discretion of the director, forfeit the right of the applicant to purchase
22 distillate special fuels tax-free."

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24 SECTION 6. Arkansas Code 26-56-204(k) (2) is amended to read as follows:

25 "(2) Should his license be revoked, any supplier or user may bring an
26 action against the director in the chancery court of the county of his
27 domicile within fifteen (15) days of the date of revocation to determine
28 whether or not the supplier or user has in fact violated any of the provisions
29 of this chapter. If the court determines that the provisions of the law have
30 been violated by the supplier or user, it shall affirm the director's action
31 in revoking the license."

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33 SECTION 7. Arkansas Code 26-56-205 and Arkansas Code 26-56-207 are
34 repealed in their entirety.

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1 SECTION 8. Arkansas Code 26-56-214(e) (1) is hereby amended to read as
2 follows:

3 "(1) For the purpose of determining whether a distillate special fuel
4 user owes tax or is entitled to a credit or refund, the distillate special
5 fuel user shall determine the average miles per gallon of fuel used. The
6 average miles per gallon shall be determined by dividing total miles traveled
7 in all jurisdictions by the total gallons of fuel used in all jurisdictions.
8 The distillate special fuel user shall then determine the total amount of fuel
9 used within the State of Arkansas by dividing the total number of miles
10 traveled within the State of Arkansas by the average miles per gallon. The
11 number of gallons of distillate special fuels upon which the tax has been paid
12 by an interstate user shall be determined from the form obtained by the
13 interstate user from a dealer or licensed bulk supplier on forms containing
14 information prescribed by §26-56-209."
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16 SECTION 9. The provisions of Arkansas Code 26-55-301 through and
17 including Arkansas Code 26-55-321 are hereby repealed.
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19 SECTION 10. All provisions of this act of a general and permanent
20 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
21 Code Revision Commission shall incorporate the same in the Code.
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23 SECTION 11. If any provision of this act or the application thereof to
24 any person or circumstance is held invalid, such invalidity shall not affect
25 other provisions or applications of the act which can be given effect without
26 the invalid provision or application, and to this end the provisions of this
27 act are declared to be severable.
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29 SECTION 12. All laws and parts of laws in conflict with this act are
30 hereby repealed.
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32 SECTION 13. EMERGENCY CLAUSE. It is found and determined by the
33 Eightieth General Assembly of the State of Arkansas that current laws allowing
34 for a refund of tax paid on gasoline used for agricultural purposes is an
35 inefficient and impractical method of providing tax relief to farmers; that

1 current laws collecting motor fuel tax on liquefied petroleum gas based upon a
2 flat fee is inequitable and imposes an undue burden on some taxpayers in this
3 State; that current licensing and bonding requirements on motor fuel and
4 distillate special fuel dealers are unnecessary and contrary to federal law;
5 that this bill is designed to correct each of these deficiencies in current
6 law and this Act should be effective on July 1, 1995. Therefore, an emergency
7 is hereby declared to exist and this Act being necessary for the immediate
8 preservation of the public peace, health, and safety shall be in full force
9 and effect on and after July 1, 1995.

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/s/Rep. Cunningham, et al

APPROVED: 3-24-95

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