

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 481 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

# A Bill

SENATE BILL 407

4  
5 By: Senator Madison  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO MAKE VARIOUS CORRECTIONS TO TITLE 15 OF  
10 THE ARKANSAS CODE OF 1987 ANNOTATED; AND FOR  
11 OTHER PURPOSES.  
12

## Subtitle

13  
14 AN ACT TO MAKE VARIOUS CORRECTIONS TO  
15 TITLE 15 OF THE ARKANSAS CODE OF 1987  
16 ANNOTATED.  
17

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 15-4-313(5)(C) and (D) are amended and a  
22 new subdivision created to clarify references as follows:

23 (C) ~~An American Indian~~ A Native American; ~~or~~

24 (D) ~~An Asian a Pacific Islander~~ Asian American; or

25 (E) A Pacific Islander;  
26

27 SECTION 2. Arkansas Code § 15-4-3305(a) is amended to read as follows  
28 to add a reference for clarification:

29 (a) A person ~~who~~ or company that purchases an equity interest in a  
30 qualified business under § 15-4-3303(a) in any of the calendar years 2007 –  
31 2019 is entitled to a credit against any state income tax liability that may  
32 be imposed on the person or company for any tax year commencing on or after  
33 the date of the purchase.  
34

35 SECTION 3. Arkansas Code § 15-4-3305(e)(1) is amended to read as



1 follows to clarify a reference:

2 (e)(1) For the purpose of ascertaining the gain or loss from the sale  
3 or other disposition of an equity interest in a business, the owner of the  
4 equity interest shall reduce ~~his or her~~ the owner's basis in the equity  
5 interest by the amount of the tax credits previously deducted under this  
6 section.

7

8 SECTION 4. Arkansas Code § 15-5-1605(d) is amended to read as follows  
9 to remove unneeded language:

10 (d) The trustees of the Venture Capital Investment Trust will  
11 establish separate accounting and tracking and will be responsible for  
12 administering the moneys in ~~each of~~ the Enterprise Development Account and  
13 the Technology Validation Account of the Arkansas Risk Capital Matching Fund.  
14

15 SECTION 5. Arkansas Code § 15-20-1302(21) is amended to read as  
16 follows to add necessary language and avoid confusion:

17 (21) "Wetlands" means land that:

18 (A) Has a predominance of hydric soils;

19 (B) Is inundated or saturated by surface water or ground  
20 water at a frequency and duration sufficient to support a prevalence of  
21 hydrophytic vegetation typically adapted for life in saturated soil  
22 conditions; and

23 (C) Under normal circumstances supports a prevalence of  
24 the hydrophytic vegetation typically adapted for life in saturated soil  
25 conditions.

26

27 SECTION 6. Arkansas Code § 15-20-1311 is amended to read as follows to  
28 correct a fund name:

29 (a)(1) On or before the commencement of each fiscal year, the Chief  
30 Fiscal Officer of the State shall determine the estimated amount required for  
31 payment of all or a part of the debt service on the bonds issued under this  
32 subchapter during the fiscal year and deduct from the estimated moneys to be  
33 available to the Arkansas Natural Resources Commission from other sources to  
34 determine what amount of general revenues of the state will be required.

35 (2) The Chief Fiscal Officer of the State shall certify the  
36 estimated amount to the Treasurer of State.

1           (3) The Treasurer of State shall then make monthly transfers  
 2 from the State Apportionment Fund to the ~~Bond Fund~~ Water, Waste Disposal, and  
 3 Pollution Abatement Facilities Financing Act of 2007 Bond Fund of the amount  
 4 of general revenues of the state required to pay the maturing debt service on  
 5 bonds issued under this subchapter.

6           (b)(1) The obligation to make monthly transfers of general revenues of  
 7 the state from the State Apportionment Fund to the ~~Bond Fund~~ Water, Waste  
 8 Disposal, and Pollution Abatement Facilities Financing Act of 2007 Bond Fund  
 9 shall constitute a first charge against the general revenues of the state  
 10 prior to all other uses to which the general revenues of the state are  
 11 devoted, either under present law or under any laws that may be enacted in  
 12 the future.

13           (2) However, to the extent other general obligation bonds of the  
 14 state have been issued or may subsequently be issued, all general obligation  
 15 bonds shall rank on a parity of security with respect to payment from general  
 16 revenues of the state.

17           (c) Moneys credited to the ~~Bond Fund~~ Water, Waste Disposal, and  
 18 Pollution Abatement Facilities Financing Act of 2007 Bond Fund shall be used  
 19 only to pay debt service on the bonds, either at maturity or upon redemption  
 20 prior to maturity, and for such purposes the Treasurer of State is designated  
 21 ~~Disbursing Officer~~ disbursing officer to administer such funds in accordance  
 22 with this subchapter.

23           (d) Moneys in the ~~Bond Fund~~ Water, Waste Disposal, and Pollution  
 24 Abatement Facilities Financing Act of 2007 Bond Fund over and above the  
 25 amount necessary to ensure the prompt payment of debt service on the bonds,  
 26 and the establishment and maintenance of a reserve fund, if any, may be used  
 27 for the redemption of bonds prior to maturity under the provisions pertaining  
 28 to redemption prior to maturity, as set forth in the resolution or trust  
 29 indenture authorizing or securing the bonds.

30  
 31           SECTION 7. Arkansas Code § 15-55-402(2) is amended to read as follows  
 32 to separate material in a list for clarity and to conform the subdivision to  
 33 the style conventions of the Arkansas Code: :

34           (2) ~~Lignite could potentially be used in a variety of ways~~  
 35 ~~including blending with fuel products to augment imported coal that is~~  
 36 ~~currently used to generate electricity in Arkansas power plants; as a primary~~

1 ~~fuel source for newly constructed electric power generating plants; and as a~~  
2 ~~primary fuel source for the generation of synthetic natural gas, gasoline,~~  
3 ~~and other economically important by products;~~

4 (2) Lignite could be used in a variety of ways, including:

5 (A) Blending it with fuel products to augment imported  
6 coal that is currently used to generate electricity in Arkansas power plants;

7 (B) Using it as a primary fuel source for newly  
8 constructed electric power generating plants; and

9 (C) Using it as a primary fuel source for the generation  
10 of synthetic natural gas, gasoline, and other economically important by-  
11 products;

12  
13 SECTION 8. Arkansas Code § 15-72-219(e) is amended to read as follows  
14 to include the date the section became effective:

15 (e) ~~The provisions of this section shall only take effect upon the~~  
16 ~~final adoption of rules and regulations governing the remediation of spills~~  
17 ~~of crude oil or produced water and are applicable to spills of crude oil and~~  
18 ~~produced water that occur after the effective date thereof. This section~~  
19 shall become effective on September 17, 2007, and will apply to spills of  
20 crude oil and spills of produced water that occur after that date.

21  
22 SECTION 9. Arkansas Code § 15-75-112 is amended to read as follows to  
23 correct a technical error and to conform to the style conventions of the  
24 Arkansas Code:

25 15-75-112. Affirmative defense.

26 (a) As used in this section:

27 (1) "Liquefied petroleum gas equipment" means any appliance,  
28 equipment, or piping system that uses, stores, or transports liquefied  
29 petroleum gas; and

30 (2) "Liquefied petroleum gas provider" means any person or  
31 entity engaged in the business of supplying, handling, transporting, or  
32 selling liquefied petroleum gas.

33 (b) A liquefied petroleum gas provider shall have an affirmative  
34 defense to any action for civil liability for damage or injury caused by:

35 (1) An alteration or modification of liquefied petroleum gas  
36 equipment that ~~was~~ is not reasonably foreseeable by the provider and ~~caused~~

1 causes the liquefied petroleum gas equipment to be unsafe for use in its  
2 altered or modified form; or

3 (2) The end-user's use of liquefied petroleum gas equipment if:

4 (A) ~~Was~~ It is outside ~~of~~ the manner or purpose that could  
5 reasonably ~~have been~~ be intended to be used or ~~rendered~~ renders the liquefied  
6 petroleum gas equipment unsafe; and

7 (B) The ~~liquified~~ liquefied petroleum gas provider or the  
8 ~~equipment's~~ manufacturer of the liquefied petroleum gas equipment ~~provided~~  
9 provides a reasonable warning about the consequences of misusing the  
10 liquefied petroleum gas equipment.

11  
12 SECTION 10. Arkansas Code § 15-75-304 is amended to read as follows to  
13 conform the list to the style conventions of the Arkansas Code.

14 (a) To be entitled to a "certificate of competency", a person ~~must~~  
15 shall have:

16 (1) ~~Satisfactory~~ Have satisfactory experience in the liquefied  
17 petroleum gas business or must give proof of previous on-the-job training in  
18 the liquefied petroleum gas business satisfactory to the Liquefied Petroleum  
19 Gas Board as prescribed by its rules and regulations;

20 (2) ~~Had~~ Have not less than thirty (30) days' experience in the  
21 liquefied petroleum gas installation or transportation business; and

22 (3) ~~Passed~~ Pass a written or oral examination as prescribed by  
23 the board.

24 (b) ~~All A~~ A new class one ~~employees~~ employee ~~must~~ shall attend a forty-  
25 hour basic course in liquefied petroleum gas, as prescribed by the board,  
26 within the first year of ~~their~~ his or her employment, or ~~their~~ his or her  
27 certification certificate will be suspended until the course has been  
28 completed.

29 (c) ~~All A~~ A class one ~~employees who change~~ employee who changes from one  
30 class one employer to another class one employer who has not previously had  
31 the forty-hour basic training course, as prescribed by the board, ~~must~~ shall  
32 do so within one (1) year of the transfer date of employment, or ~~their~~ his or  
33 her certification certificate will be suspended until the course has been  
34 completed.

35 (d)(1) The board may accept as its own a reciprocal state's  
36 transportation and delivery examination for ~~transport drivers only that~~

1 ~~contains a transport driver only if it contains~~ substantially equivalent  
 2 requirements as those required by the board. ~~Substantial uniformity shall be~~  
 3 ~~demonstrated by a letter from the issuing authority of the state or a copy of~~  
 4 ~~a current and valid card issued by the reciprocal state. All applicable fees~~  
 5 ~~shall be paid to the board prior to issuance of the certification card.~~

6 (2) Substantial uniformity shall be demonstrated by a letter  
 7 from the issuing authority of the state or a copy of a current and valid card  
 8 issued by the reciprocal state.

9 (3) All applicable fees shall be paid to the board before the  
 10 issuance of the certification card.

11  
 12  
 13 SECTION 11. Arkansas Code § 15-75-307(b)(5) is amended to read as  
 14 follows to conform to the style conventions of the Arkansas Code.

15 ~~(5)(A) Shall provide a bulk storage capacity of not less than~~  
 16 ~~thirty thousand (30,000) water gallons at the principal location of the~~  
 17 ~~permitted facility, the location of which must be approved by the board in~~  
 18 ~~advance of the application and which must be maintained by the applicant in~~  
 19 ~~safe working condition throughout the duration of the permit applied for~~  
 20 ~~under penalty of permit forfeiture by action of the board.~~

21 ~~(B) Storage containers being used in connection with~~  
 22 ~~cotton gins, rice dryers, manufacturing plants, or any other type commercial~~  
 23 ~~use, regardless of size, will not be accepted as bulk storage and cannot be~~  
 24 ~~included in the requirements for the thirty thousand gallons (30,000 gals.)~~  
 25 ~~storage.~~

26 ~~(C)(i) Shall maintain one (1) place of business within the~~  
 27 ~~state that shall be the principal working location for the employees of the~~  
 28 ~~permitted facility; and~~

29 ~~(ii) Shall maintain a posted twenty four hour~~  
 30 ~~emergency telephone number;~~

31 (5)(A)(i) Shall provide a bulk storage capacity of not  
 32 less than thirty thousand (30,000) water gallons at the principal location of  
 33 the permitted facility.

34 (ii) The principal location must be approved by the  
 35 board in advance of the application.

36 (iii) The principal location must be maintained by

1 the applicant in safe working condition throughout the duration of the permit  
2 under penalty of permit forfeiture by action of the board.

3 (B) Storage containers being used in connection with  
4 cotton gins, rice dryers, manufacturing plants, or any other type of  
5 commercial use, regardless of size, will not be accepted as bulk storage and  
6 cannot be included in the requirements for the thirty-thousand-gallon  
7 storage.

8 (C)(i) One (1) place of business that shall be the  
9 principal working location for the employees of the permitted facility shall  
10 be maintained within the state.

11 (ii) A twenty-four-hour emergency telephone number  
12 shall be posted and maintained;

13  
14 SECTION 12. The enactment and adoption of this act shall not repeal,  
15 expressly or impliedly, the acts passed at the regular session of the 87th  
16 General Assembly. All such acts shall have full effect and, so far as those  
17 acts intentionally vary from or conflict with any provision contained in this  
18 act, those acts shall have the effect of subsequent acts and as amending or  
19 repealing the appropriate parts of the Arkansas Code of 1987.

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21 **APPROVED: 3/19/2009**  
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