

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 483 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S3/4/09

A Bill

SENATE BILL 409

5 By: Senator Madison
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO MAKE VARIOUS CORRECTIONS TO TITLE 27 OF
10 THE ARKANSAS CODE OF 1987 ANNOTATED; AND FOR
11 OTHER PURPOSES.
12

13 **Subtitle**

14 AN ACT TO MAKE VARIOUS CORRECTIONS TO
15 TITLE 27 OF THE ARKANSAS CODE OF 1987
16 ANNOTATED.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 27-14-2302(c)(2)(B)(iii) is amended to read
22 as follows to conform to Code style:

23 (iii) ~~No~~ A court of this state shall not have
24 jurisdiction to change or modify the designation or finding of another state
25 issuing a certificate of title or the junking certificate.
26

27 SECTION 2. Arkansas Code § 27-16-801(a)(1) is amended to read as
28 follows to reorganize in conformity with Code style:

29 ~~(a)(1) In a manner prescribed by the Commissioner of Motor Vehicles,~~
30 ~~the Office of Motor Vehicle shall issue:~~

31 ~~(A) A Class D license or a Class M license to each~~
32 ~~applicant qualified therefor, for a period of four (4) years, upon payment of~~
33 ~~twelve dollars (\$12.00);~~

34 ~~(B) A Class MD license to each applicant qualified~~
35 ~~therefor, for a period of not more than two (2) years, upon payment of two~~



1 dollars (\$2.00);

2 (C) ~~Every applicant for a Class D, Class M, or Class MD~~
3 ~~license under §§ 27-16-704, 27-16-807, or 27-20-108 shall pay an examination~~
4 ~~fee of five dollars (\$5.00) for the first examination and a fee of five~~
5 ~~dollars (\$5.00) for each subsequent examination, except that for each~~
6 ~~examination after the third examination there shall be no charge if the~~
7 ~~applicant produces receipts for having paid the fees for the previous~~
8 ~~examinations. The examination fee shall be remitted in a manner prescribed by~~
9 ~~the commissioner.~~

10 (a)(1) In a manner prescribed by the Commissioner of Motor Vehicles:

11 (A) The Office of Motor Vehicle shall issue a Class D
12 license or a Class M license to each qualified applicant for a period of four
13 (4) years upon payment of twelve dollars (\$12.00);

14 (B) The office shall issue a Class MD license to each
15 qualified applicant for a period of not more than two (2) years upon payment
16 of two dollars (\$2.00); and

17 (C)(i) Every applicant for a Class D license, Class M
18 license, or Class MD license under § 27-16-704, § 27-16-807, or § 27-20-108
19 shall pay an examination fee of five dollars (\$5.00) for the first
20 examination and a fee of five dollars (\$5.00) for each subsequent
21 examination, but there shall be no charge after the third examination if the
22 applicant produces receipts for fees paid for previous examinations.

23 (ii) The examination fee shall be remitted in a
24 manner prescribed by the commissioner.

25
26 SECTION 3. Arkansas Code § 27-24-206(c) is amended to read as follows
27 in light of the prior repeal of subdivisions (c)(1)(A) - (E):

28 (c)(1) ~~An eligible applicant, including a surviving spouse under § 27-~~
29 ~~24-208, for the issuance or renewal of any one (1) of the following special~~
30 ~~license plates that existed before April 13, 2005, may obtain one (1)~~
31 ~~additional special license plate under this subchapter upon payment of the~~
32 ~~fee for licensing a motor vehicle as provided under § 27-14-601:~~

33 (A) ~~[Repealed]~~

34 (B) ~~[Repealed]~~

35 (C) ~~[Repealed]~~

36 (D) ~~[Repealed]~~

1 ~~(E)~~—[Repealed]

2 ~~(2)~~—The Adjutant General of the State of Arkansas or the
3 Director of the Department of Veterans Affairs may submit a written request
4 to the Director of the Department of Finance and Administration to allow a
5 qualified applicant for a special license plate not stated in subdivision
6 ~~(c)(1)~~ of this section to obtain one ~~(1)~~ additional special license plate
7 upon payment of the fee for licensing a motor vehicle as provided under ~~§ 27-~~
8 ~~14-601.~~

9 ~~(3)~~(c) An eligible applicant for the issuance or renewal of any
10 of the following special ~~licenses plate~~ license plates may obtain one (1)
11 additional special license plate under this subchapter upon payment of a fee
12 not to exceed one dollar (\$1.00):

13 ~~(A)~~(1) Ex-prisoner of War;

14 ~~(B)~~(2) Pearl Harbor Survivor;

15 ~~(C)~~(3) Medal of Honor Recipient;

16 ~~(D)~~(4) Disabled Veteran;

17 ~~(E)~~(5) Disabled Veteran – World War I; or

18 ~~(F)~~(6) Purple Heart Recipient.

19

20 SECTION 4. Arkansas Code § 27-50-1208(e) is amended to read as follows
21 to conform to Code style and structure:

22 ~~(e)~~(1) The notice shall contain the following information:

23 ~~(1)~~(A) The year, make, model, and vehicle identification number
24 of the vehicle towed;

25 ~~(2)~~(B) The name, address, and telephone number of the storage
26 facility;

27 ~~(3)~~(C) That the vehicle is in the possession of that towing and
28 storage firm under police order, describing the general circumstances of any
29 law enforcement or other official hold on the vehicle;

30 ~~(4)~~(D) That towing, storage, and administrative costs are
31 accruing as a legal liability of the owner;

32 ~~(5)~~(E) That the towing and storage firm claims a first priority
33 possessory lien on the vehicle and its contents for all such charges;

34 ~~(6)~~(F) That unless claimed within forty-five (45) days, the
35 vehicle and its contents will be dismantled, destroyed, or sold at public
36 sale to the highest bidder;

1 ~~(7)~~(G) That the failure to exercise ~~their~~ the right to reclaim
2 the vehicle and its contents within the time prescribed by this section
3 constitutes a waiver by the ~~owners and lienholders~~ owner and lienholder of
4 all right, title, and interest in the vehicle and its contents and
5 constitutes ~~their~~ consent to the sale, dismantling, or destruction of the
6 vehicle and its contents;

7 ~~(8)~~(H) That the owner or lienholder may retake possession at any
8 time during business hours by appearing, proving ownership, and releasing the
9 law enforcement or other official hold, if any, and by paying all charges or
10 by other written arrangement between the owner or lienholder and the towing
11 and storage firm;

12 ~~(9)~~(I) That should the owner consider that the original taking
13 was not legally justified, he or she has a right for thirty (30) days to
14 contest the original taking as ~~defined~~ described by § 27-50-1207; and

15 ~~(10)~~(J) That the owner of the vehicle or operator or his or her
16 authorized representative may recover without charge ~~possession of~~ any item
17 described in subdivision (a)(2)(B) of this section by providing within forty-
18 five (45) days to the towing and storage firm proof that the claimant is the
19 registered owner of the vehicle or has been authorized by the registered
20 owner of the vehicle to take possession of the items; ~~and.~~

21 ~~(11)~~(2) ~~Notices to owners of vehicles deemed abandoned on the~~
22 ~~premises of automobile repair facilities~~ A notice to an owner of a vehicle
23 deemed abandoned on the premises of an automobile repair facility pursuant to
24 under § 27-50-1101 shall also advise that the automobile repair person holds
25 an absolute lien on the vehicle ~~pursuant to~~ under § 18-45-201 et seq.

26
27 SECTION 5. Arkansas Code § 27-51-310(a)(1) is amended to read as
28 follows to clarify a reference:

29 (a)(1) If an authorized emergency response vehicle or a law
30 enforcement vehicle is parked or stopped at the scene of an emergency or
31 other traffic stop and is displaying a flashing, revolving, or rotating blue,
32 red, or amber and red light, an approaching motor vehicle operator shall move
33 when possible into the farthest lane from the emergency response vehicle or
34 law enforcement vehicle and remain in that lane until past the emergency
35 response vehicle or law enforcement vehicle and any other vehicle involved in
36 the emergency or other traffic stop.

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SECTION 6. Arkansas Code § 27-64-405(b) is amended to read as follows to conform to Code style and structure and cite statutory references in the notice form:

(b) The notice of election shall state that the election is to be held ~~for the purpose of submitting to submit~~ to the people the following proposition, in substantially the form set forth ~~herein~~ in this subsection:

“Authorizing the State Highway Commission to issue State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds (the “Bonds”) from time to time provided that the total principal amount outstanding from the issuance of such bonds, ~~together~~ with the total principal amount outstanding from the issuance of bonds ~~pursuant to~~ under the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq., shall ~~not, at any time, exceed~~ not at any time exceed five hundred seventy-five million dollars (\$575,000,000). If approved, the bonds will be issued in one (1) or more series of various principal amounts, with the last series being issued no later than December 31, 2013. The bonds shall be issued ~~for the purpose of paying to pay~~ the cost of constructing and renovating improvements to interstate highways and related facilities in the State of Arkansas.

The bonds shall be general obligations of the State of Arkansas, payable from certain designated revenues and also secured by the full faith and credit of the State of Arkansas, including its general revenues. ~~Pursuant to~~ Under the Arkansas Interstate Highway Financing Act of 2007 (the “Bond Act”), the bonds will be repaid first from: ~~(1)~~ revenues derived from federal highway assistance funding allocated to the State of Arkansas designated as federal highway interstate maintenance funds, ~~and (2) and,~~ secondly, revenue derived from the increase in the excise tax levied on distillate special fuels (diesel) ~~pursuant to~~ under section 2 of the “Arkansas Distillate Special Fuel Excise Tax Act of 1999” and the “Motor Fuel Excise Tax Act of 1999” and transferred to the State Highway and Transportation Department Fund ~~pursuant to~~ under § 27-70-207(c) in accordance with section 4(a) of the “Arkansas Distillate Special Fuel Excise Tax Act of 1999” and the “Motor Fuel Excise Tax Act of 1999”. To the extent that designated revenues are insufficient to make timely payment of debt service on the bonds, ~~such~~ the payment shall be made from the general revenues of the State of Arkansas. The bonds shall be issued ~~pursuant to~~ under the authority

1 of and the terms set forth in the Bond Act.

2 Pursuant to Under the Bond Act, the highway improvements to be financed
3 are limited to the restoration and improvements to all of the interstate
4 highway system within the state, including roadways, bridges, or rights-of-
5 way under jurisdiction of the State Highway Commission, which shall also
6 include the acquisition, construction, reconstruction, and renovation of such
7 interstate highway system and facilities appurtenant or pertaining thereto.

8 Pursuant to Under the Bond Act, “designated revenues” ~~are defined as:~~
9 ~~(1) that portion designated by the commission of all funds received or to be~~
10 ~~received from the federal government as federal highway interstate~~
11 ~~maintenance funds, and (2) revenues derived from the increase in taxes levied~~
12 ~~on distillate special fuels pursuant to section 2 of the “Arkansas Distillate~~
13 ~~Special Fuel Excise Tax Act of 1999” and the “Motor Fuel Excise Tax Act of~~
14 ~~1999” and transferred to the State Highway and Transportation Department Fund~~
15 ~~pursuant to Arkansas Code § 27-70-207(c) in accordance with section 4(a) of~~
16 ~~the “Arkansas Distillate Special Fuel Excise Tax Act of 1999” and the “Motor~~
17 ~~Fuel Excise Tax Act of 1999.” Designated revenues shall not include the~~
18 ~~revenues derived from the increase in tax on motor fuel (gasoline) resulting~~
19 ~~from the “Arkansas Distillate Special Fuel Excise Tax Act of 1999” and the~~
20 ~~“Motor Fuel Excise Tax Act of 1999”. The bonds are further secured by the~~
21 ~~full faith and credit of the State of Arkansas, and to the extent “designated~~
22 ~~revenues” are insufficient to make timely payment of debt service on the~~
23 ~~bonds, the general revenues of the state shall be used to pay debt service on~~
24 ~~the bonds. are defined as:~~

25 That portion designated by the commission of all funds received or to
26 be received from the federal government as federal highway interstate
27 maintenance funds; and

28 Revenues derived from the increase in taxes levied on distillate
29 special fuels under section 2 of the Arkansas Distillate Special Fuel Excise
30 Tax Act of 1999, § 26-56-201(e), and the Motor Fuel Excise Tax Act of 1999, §
31 26-55-1005, § 26-55-1006, § 26-56-201(e), and § 27-72-305(a), and transferred
32 to the State Highway and Transportation Department Fund under § 27-70-207(c)
33 in accordance with section 4(a) of the Arkansas Distillate Special Fuel
34 Excise Tax Act of 1999, § 26-55-1006(d), and the Motor Fuel Excise Tax Act of
35 1999, § 26-55-1006(d).

36 Designated revenues do not include the revenues derived from the

1 increase in tax on gasoline resulting from the Arkansas Distillate Special
2 Fuel Excise Tax Act of 1999, § 26-55-1005, § 26-55-1006, § 26-56-201(e), and
3 § 27-72-305(a), and the Motor Fuel Excise Tax Act of 1999, § 26-55-1005, §
4 26-55-1006, § 26-56-201(e), and § 27-72-305(a).

5 The bonds are further secured by the full faith and credit of the State
6 of Arkansas, and to the extent designated revenues are insufficient to make
7 timely payment of debt service on the bonds, the general revenues of the
8 state shall be used to pay debt service on the bonds".

9
10 SECTION 7. Arkansas Code § 27-66-501(c) is amended to read as follows
11 to conform to Code style and to add language found elsewhere in the section
12 which is intended to be covered by the section:

13 (c)(1) It ~~shall be~~ is unlawful for a person to drive, operate, or move
14 a motor vehicle, an object, or a contrivance or for an owner of a motor
15 vehicle, object, or contrivance to cause or permit the motor vehicle, object,
16 or contrivance of a size or weight exceeding the posted weight limit to be
17 driven, operated, or moved, ~~of a size or weight exceeding the posted weight~~
18 ~~limit.~~

19 (2) A person or an owner operating a motor vehicle, object, or
20 contrivance under an overweight permit issued by the Arkansas State Highway
21 and Transportation Department is exempt from penalty under subdivision (c)(1)
22 of this section.

23
24 SECTION 8. Arkansas Code § 27-67-222 is amended to read as follows to
25 clarify references and to conform to Code style:

26 (a)(1) "State police officer" means any employee of the Department of
27 Arkansas State Police who holds the rank of state trooper or higher rank, ~~and~~
28 ~~it shall include the director~~ including the Director of the Department of
29 Arkansas State Police.

30 (2) The term "state police officer" ~~shall not include any~~
31 ~~civilian employee of the department, nor shall it include any person who is~~
32 ~~temporarily employed as a state trooper for an emergency,~~ does not include
33 any:

34 (A) Civilian employee of the department; or

35 (B) Person who is temporarily employed as a state trooper
36 during an emergency.

1 (b) A state police officer who has been killed on active duty within
2 the State of Arkansas shall have a one-mile portion of a highway dedicated to
3 him or her at or near the location of his or her death.

4 (c) The Arkansas State Highway and Transportation Department shall
5 designate a one-mile portion of a highway as the Trooper _____ Memorial
6 Highway by placing and maintaining appropriate identifying signs with a blue
7 background and reflective silver lettering on the highway.

8
9 SECTION 9. Arkansas Code § 27-67-322(f) is amended to read as follows
10 for clarification and to conform to Code style:

11 (f)(1) The ~~disposition~~ transfer of surplus rail and other railroad
12 track material purchased in part with federal Transportation Enhancement
13 funds and granted to the State Parks, Recreation, and Travel Commission or
14 the Department of Parks and Tourism, or both, by the State Highway Commission
15 shall not be subject to the procedures set forth ~~above~~ in subsections (a)-(e)
16 of this section.

17 (2) Surplus rail and other track material described under this
18 subsection may be ~~disposed of~~ transferred by gift or contract to a regional
19 intermodal facilities authority, a metropolitan port authority, or a planning
20 and development district.

21 (3) The purposes of this section shall be ~~deemed to be~~ satisfied
22 upon:

23 (A) The adoption of a resolution by the State Highway
24 Commission that ~~such the~~ transfer will promote the continuation of rail
25 service, economic development, or industrial growth; and

26 (B) A transfer document executed by the State Parks,
27 Recreation, and Travel Commission or the Department of Parks and Tourism, or
28 both.

29
30 SECTION 10. Arkansas Code § 27-76-103(11)(B) is amended to read as
31 follows to clarify a reference:

32 (B) ~~Any~~ Toll facility project costs also shall include any
33 obligation, expense, or expenditure incurred or made by the regional mobility
34 authority for matters pertaining to a toll facility project, including
35 without limitation:

36 (i) Feasibility studies;

- 1 (ii) Traffic surveys;
- 2 (iii) Borings;
- 3 (iv) Preparation of plans and specifications;
- 4 (v) Engineering services; and
- 5 (vi) Cost, expenditure, or any other expense that is
- 6 regarded as part of the costs of a toll facility project and that may be
- 7 reimbursed to the State Highway Commission or other agency or department of
- 8 the state out of the proceeds of revenue bonds or out of any other available
- 9 funds of the commission;

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SECTION 11. The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the 87th General Assembly. All such acts shall have full effect and, so far as those acts intentionally vary from or conflict with any provision contained in this act, those acts shall have the effect of subsequent acts and as amending or repealing the appropriate parts of the Arkansas Code of 1987.

/s/ Madison

APPROVED: 3/19/2009