

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 219 OF 1991
HOUSE BILL 1233

4 **By: Representatives McJunkin, Argue, Baker, Barclay, Blair, Brownlee, Bryan, Calhoun,**
5 **Carter, Collier, Cunningham, Davis, Day, Dietz, Dowd, Fairchild, Flanagan, Forgey, Foster,**
6 **Gibson, Gilbert, Goodwin, Hendrix, Henry, Hinshaw, Hogue, Holland, Horn, Hunton,**
7 **Hutchinson, Jones, Jordan, King, Landers, Lipton, Maddox, Mahony, McCoy, McCuiston,**
8 **McGee, McGinnis, McKissack, J. Miller, O. Miller, S. Miller, Mitchell, Mitchum, Murphy,**
9 **Newman, Northcutt, Pollan, Porter, Pryor, Rice, D.E. Roberts, J.J. Roberts, Rorie, Sanson,**
10 **Schexnayder, Shaver, Smith, Steele, Stephens, Stewart, Teague, Thurman, Turner, Walker,**
11 **Watts, Whorton, Wilkins, Willems, J. Wilson, M. Wilson, B. Wood, D. Wood, K. Wood,**
12 **Wooldridge, and Wyrick.**

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15 **For An Act To Be Entitled**

16 "AN ACT TO REPLACE THE WEIGHT-DISTANCE TRUCK TAX BY
17 AMENDING ARKANSAS CODE §27-14-601 (a) (3) (G) TO ESTABLISH A
18 REGISTRATION FEE OF ONE THOUSAND THREE HUNDRED AND FIFTY
19 DOLLARS (\$1,350) ON CERTAIN VEHICLES WHICH OPERATE ON THE
20 PUBLIC STREETS AND HIGHWAYS OF THIS STATE HAVING A
21 DECLARED GROSS WEIGHT BETWEEN 73,281 POUNDS AND 80,000
22 POUNDS; BY AMENDING ARKANSAS CODE §27-14-601(a) (3) (I) (i)
23 TO INCREASE THE ANNUAL REGISTRATION FEES ON CERTAIN
24 SEMITRAILERS FROM THIRTEEN DOLLARS (\$13.00) TO TWENTY
25 DOLLARS (\$20.00); BY LEVYING AN ADDITIONAL EXCISE TAX OF
26 FOUR CENTS (\$.04) PER GALLON ON DISTILLATE SPECIAL FUELS;
27 BY AMENDING ARKANSAS CODE § 26-56-214 TO INSURE THE
28 ADDITIONAL TAX ON SPECIAL DISTILLATE FUELS IS IMPOSED ON
29 BONDED AND UNBONDED INTERSTATE USERS OF DISTILLATE SPECIAL
30 FUEL; BY AMENDING ARKANSAS CODE § 27-35-210 (e) TO
31 INCREASE THE PERMIT FEES ISSUED FOR VEHICLES OR
32 COMBINATIONS OF VEHICLES IN EXCESS OF THE LAWFUL WEIGHT
33 LIMITS; AND BY AMENDING ARKANSAS CODE § 27-35-202 TO
34 PROVIDE FOR INCREASED PENALTIES ON OPERATORS OF OVERWEIGHT
35 VEHICLES; TO PRESCRIBE THE PURPOSES FOR WHICH THESE
36 ADDITIONAL REVENUES SHALL BE USED; TO REPEAL ARKANSAS CODE

1 § 27-35-204, § 27-35-205, AND § 27-35-212 LEVYING THE
2 WEIGHT-DISTANCE TRUCK TAX; TO DECLARE AN EMERGENCY; AND
3 FOR OTHER PURPOSES."
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5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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7 SECTION 1. Subdivision (a)(3)(G) of Arkansas Code § 27-14-601 is hereby
8 amended to read as follows:

9 "(G) Class Seven - (i) On all such vehicles with a gross loaded weight
10 between sixty-eight thousand one pounds (68,001 lbs.) and seventy-three
11 thousand, two hundred eighty pounds (73,280 lbs.), the fee to be charged shall
12 be at the rate of fourteen dollars and thirty cents (\$14.30) per thousand
13 pounds of gross loaded weight of the vehicles;

14 (ii) On all such vehicles with a gross loaded weight between
15 seventy-three thousand, two hundred eighty one pounds (73,281 lbs.) and eighty
16 thousand pounds (80,000 lbs.), the fee to be charged shall be one thousand,
17 three hundred fifty dollars (\$1,350.00).

18 (iii) Any truck in Class Two, Class Three, Class Four, Class
19 Five, Class Six, or Class Seven for which the annual registration and
20 licensing fee is one hundred thirty dollars (\$130) or more may be registered
21 and licensed for the first six (6) months of the licensing period, upon
22 application therefor and the payment of one-half (1/2) of the annual license
23 fee prescribed in this section for such truck, plus an additional fee of six
24 dollars and fifty cents (\$6.50) to defray the administrative cost of issuing a
25 half-year license.

26 (iv) Any truck in Class Seven may be registered and licensed for
27 the first three (3) months of the licensing period, upon application therefor
28 and the payment of one-fourth (1/4) of the annual license fee prescribed
29 herein for such truck, plus an additional fee of six dollars and fifty cents
30 (\$6.50) to defray the administrative cost of issuing a quarter-year license.

31 (v) The Director of the Department of Finance and Administration
32 shall cause distinctive license plates to be prepared to evidence the six (6)
33 month and three (3) month registration of vehicles under this subsection and
34 shall make such rules and regulations as he shall deem necessary to properly
35 carry out and enforce the provisions of this subdivision."

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SECTION 2. Subdivision (a) (3) (I) (i) of Arkansas Code §27-14-601 is hereby amended to read as follows:

"(I) Class Nine - (i) (a) For the purpose of evidencing registration of trailers, semitrailers, and full trailers, there shall be issued special license plates, and annual registration fees charged and collected according to the following schedule:

(1) All trailers drawn by automobiles and Class One trucks, a fee of seven dollars (\$7.00);

(2) All semitrailers used in combination with Classes Two through Eight trucks, a fee of twenty dollars (\$20.00). Provided, however, the owner of any semitrailer used in combination with Classes Two through Eight trucks may, at his option, pay a fee of sixty-five dollars (\$65.00) for issuance of a permanent registration that shall remain valid, without annual renewal, until he sells or otherwise disposes of the semitrailer for which such registration is issued. Permanent registrations issued under this subdivision shall not be transferred to other owners or other vehicles, and shall not be replaced under 27-14-602 (b) (6);

(3) Full trailers operated in the transportation of farm products and other natural resources described as Class Eight, a fee of eight dollars (\$8.00); and

(4) For all other full trailers there shall be charged an annual license fee computed on the gross loaded weight of the vehicle at the appropriate rate provided by Classes Two through Seven of subsection (a) (3) of this section.

(b) For the purpose of evidencing registration of trailers classified under subsection (a) (3) (I) (i) (a) (1), there shall be charged and collected a biennial fee based upon the annual fee set forth therein. Unless a trailer license issued under this provision is renewed on or before the fifteenth (15th) day following its expiration, it shall lapse and shall no longer be of any force or effect unless renewed in the manner prescribed by law.

(c) For the purpose of evidencing registration of a combination of truck-tractor and semitrailer classified by subsection (a) (3) (I) (i) (a) (2), the license fee for the gross weight of the combination shall be computed at the appropriate rate provided by Classes Two through Eight of subsection (a) (3) of

1 *this section and shall be applied to the registration of the truck tractor."*

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3 SECTION 3. On and after the effective date of this act, in addition to
4 the taxes levied on distillate special fuels in Arkansas Code §§ 26-56-201 and
5 26-56-502, there is hereby levied an additional excise tax of four cents
6 (\$.04) per gallon upon all distillate special fuels subject to the taxes
7 levied in those Code sections. This additional excise tax shall be levied,
8 collected, reported, and paid in the same manner and at the same time as is
9 prescribed by law for the levying, collection, reporting, and payment of the
10 other distillate special fuels taxes under Arkansas law.

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12 SECTION 4. Arkansas Code § 26-56-214 is hereby amended to read as
13 follows:

14 "26-56-214. Interstate users - Reports - Computation of tax and
15 refunds.

16 (a) Whenever an interstate user of distillate special fuels who is a
17 bonded user of such fuels in all states in which he operates has exportations
18 in excess of importations of tax-paid distillate special fuels in the fuel
19 supply tanks of motor vehicles which fuels were delivered by a supplier into
20 bulk storage facilities of the user within the State of Arkansas, the supplier
21 may make a refund or allow a credit for the amount of the tax upon such excess
22 upon approval by the director of a statement from the user to the effect that
23 the tax-paid fuel was exported.

24 (b) (1) For the purpose of determining whether an interstate distillate
25 special fuels user owes special motor fuel tax or is entitled to a credit or
26 refund, the licensed interstate distillate special fuels user shall file a
27 quarterly report on or before the last day of the month following the end of
28 each calendar quarter.

29 (2) If it shall be determined by the quarterly report that the
30 interstate user has used distillate special fuels in this state in excess of
31 the number of gallons of the fuel upon which the Arkansas tax had been paid,
32 the interstate user shall remit to the director, at the time of filing the
33 report, an excise tax of sixteen and one-half (16 1/2¢) per gallon of the
34 excess gallonage used.

35 (3) If it shall be determined that the interstate user has

1 purchased more gallons of distillate special fuels in this state than he has
 2 used in this state, then the user shall be entitled to a credit or refund of
 3 sixteen and one-half cents (16 1/2¢) per gallon of the excess gallonage
 4 purchased in the state.

5 (c) The quarterly report required by this subchapter shall be filed on
 6 or before the last day of the month following the end of each calendar quarter
 7 and shall be made on forms prescribed by the director and shall include such
 8 information as the director may require.

9 (d) (1) For the purpose of determining whether a distillate special fuel
 10 user owes tax or is entitled to a credit or refund as provided in subsection
 11 (b) of this section, the distillate special fuel user shall file with the
 12 director a report showing the quantities of special motor fuels used in this
 13 state during the preceding calendar quarter. This report shall be due on or
 14 before the last day of the month following the end of each calendar quarter.

15 (2) If it shall be determined by the quarterly report filed with
 16 the director that the distillate special fuel user has used more gallons of
 17 special motor fuel in this state than the special motor fuel tax due thereon
 18 has been paid, the distillate special fuel user shall remit to the director an
 19 excise tax of sixteen and one-half cents (16 1/2¢) per gallon of special motor
 20 fuel.

21 (3) Distillate special fuel users may not take credit on reports
 22 at a tax rate in excess of that actually paid.

23 (e) (1) For the purpose of determining whether a distillate special fuel
 24 user owes tax or is entitled to a credit or refund, the distillate special
 25 fuel user shall determine the average miles per gallon of fuel used. The
 26 average miles per gallon shall be determined by dividing total miles traveled
 27 in all jurisdictions by the total gallons of fuel used in all jurisdictions.
 28 The distillate special fuel user shall then determine the total amount of fuel
 29 used within the State of Arkansas by dividing the total number of miles
 30 traveled within the State of Arkansas by the average miles per gallon.

31 (2) The taxpayer's tax liability shall be calculated by
 32 multiplying the number of gallons of fuel used within the State of Arkansas by
 33 sixteen and one-half cents (16 1/2¢) per gallon. A taxpayer shall be entitled
 34 to credits against his tax liability for tax-paid fuel purchased within the
 35 State of Arkansas.

1 (f) (1) Any licensed interstate user who fails to maintain adequate
 2 mileage or fuel records, for the purpose of determining the amount the
 3 interstate user owes the State of Arkansas for tax on distillate special fuel
 4 used in this state as provided in this section, the number of gallons of
 5 distillate special fuel used in this state shall be determined by an
 6 assessment based on the following mileage factors per gallon of distillate
 7 special fuel as compared to the appropriate class of vehicle set out in
 8 subdivision (2) of this subsection.

9 (2) For the purposes of this section:

10 (A) All automobiles, except buses, with a capacity of less
 11 than eight (8) passengers shall be deemed to be Class A vehicles;

12 (B) All truck-type vehicles, except buses, with a factory
 13 rating and gross loaded weight of less than twenty-two thousand five hundred
 14 pounds (22,500 lbs.), shall be deemed to be Class B vehicles;

15 (C) All other vehicles, except buses, with a factory rating
 16 in excess of twenty-two thousand five hundred pounds (22,500 lbs.), or whose
 17 total gross loaded weight exceeds twenty-two thousand five hundred pounds
 18 (22,500 lbs.) shall be deemed to be Class C vehicles; and

19 (D) All buses rated and licensed as such shall be deemed to
 20 be Class D vehicles.

21 (3) The mileage factor per gallon of distillate special fuel for:

22 (A) Class A vehicles shall be twelve (12) miles;

23 (B) Class B vehicles shall be eight (8) miles;

24 (C) Class C vehicles shall be five (5) miles; and

25 (D) Class D vehicles shall be six (6) miles.

26 (4) These mileage factors shall be utilized in conjunction with
 27 the Arkansas mileage as determined through an audit and based upon the best
 28 records available regardless of source.

29 (g) For the purposes of determining the amount any unlicensed or
 30 unbonded user owes the State of Arkansas for tax on distillate special fuel
 31 used in this state, only the above mileage factors per gallon of distillate
 32 special fuel for the applicable vehicles shall be utilized.

33 (h) (1) If a quarterly report of a distillate special fuel user results
 34 in a net credit, the distillate special fuel user may elect to have the credit
 35 carried forward and applied against the special motor fuel tax due for the

1 succeeding eight (8) quarters or until the credit is completely used,
2 whichever occurs first. In the alternative, a taxpayer who is entitled to a
3 net credit on his quarterly fuel use tax report may elect to have the amount
4 of credit refunded to him.

5 (2) A distillate special fuel user who has a total tax liability
6 for special motor fuel tax during the previous calendar year of less than one
7 hundred dollars (\$100) may, upon application to the director, obtain
8 permission to report his motor fuel tax liability on an annual basis. The
9 annual report shall be due on or before the last day of the month following
10 the end of each fiscal year.

11 (i) The director shall prescribe the appropriate forms
12 necessary for the administration of this subchapter. The director may make
13 appropriate rules and regulations necessary to insure the accurate reporting
14 of the special motor fuel tax."

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16 SECTION 5. Subsection (e) of Arkansas Code § 27-35-210 is hereby
17 amended to read as follows:

18 "(e) A charge of twelve dollars (\$12.00) shall be made for each special
19 permit. In addition, for each ton or major fraction thereof to be hauled in
20 excess of the lawful weight and load for that vehicle, or combination of
21 vehicles, charges shall be made for such as follows:

	On Each Ton, Per Ton Or Fraction Thereof
22 Mileage to Be Traveled is:	
23 Not more than 100 miles	\$ 8.00
24 101 miles to 150 miles, inclusive	\$ 10.00
25 151 miles to 200 miles, inclusive	\$ 12.00
26 201 miles to 250 miles, inclusive	\$ 14.00
27 Over 251 miles.	\$ 16.00"

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29 SECTION 6. (a)(1) All of the additional taxes, fees, penalties, and
30 interest collected under Sections 1 through 4 of this act, and any sections of
31 Arkansas Code which they amend, shall be classified as special revenues and
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1 shall be deposited in the State Treasury. After deducting the amount to be
2 credited to the Constitutional Officers Fund and the State Central Services
3 Fund as provided under the Revenue Stabilization Law, Arkansas Code §§ 19-5-
4 101 et seq., the State Treasurer shall transfer on the last business day of
5 each month:

6 (A) Fifteen percent (15%) of the amount thereof to the
7 County Aid Fund:

8 (B) Fifteen percent (15%) of the amount thereof to the
9 Municipal Aid Fund; and

10 (C) Seventy percent (70%) of the amount thereof to the
11 State Highway and Transportation Department Fund.

12 (2) The funds shall be further disbursed in the same manner and
13 used for the same purposes as set out in the Arkansas Highway Revenue
14 Distribution Law, Arkansas Code §§ 27-70-201 et seq.

15 (b) The permit fees and penalties collected pursuant to Sections 5 and
16 6 of this act, and the sections of Arkansas Code which they amend, shall be
17 collected and deposited pursuant to the laws those sections are amending which
18 provide that such fees and penalties be credited to the State Highway and
19 Transportation Department Fund.

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21 SECTION 7. All provisions of this act of 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 8. If any provisions of this act or the application thereof to
26 any person or circumstance is held invalid, the invalidity shall not affect
27 other provisions or applications of the act which can be given effect without
28 the invalid provisions or application, and to this end the provisions of this
29 act are declared to be severable.

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31 SECTION 9. (a) Arkansas Code § 27-35-204, § 27-35-205 and § 27-35-212
32 are hereby repealed.

33 (b) All other laws and parts of laws in conflict with this act are
34 hereby repealed. Provided, nothing in this act shall be construed to amend,
35 abrogate, modify, or repeal any of the provisions of the "Petroleum Storage

