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1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senators Gibson, Bookout**
5
6

A BILL ACT 382 OF 1991
SENATE BILL 96

7 **For An Act To Be Entitled**

8 "AN ACT TO LEVY ADDITIONAL TAXES ON MOTOR FUEL, DISTILLATE
9 SPECIAL FUELS, AND LIQUEFIED GAS SPECIAL *FUELS*; TO AMEND
10 ARKANSAS CODE §26-55-710 AND TO AMEND ARKANSAS CODE §26-
11 56-214 TO INSURE THAT THE ADDITIONAL TAXES LEVIED BY THIS
12 ACT ARE IMPOSED ON BONDED AND UNBONDED INTERSTATE MOTOR
13 FUEL USERS AND BONDED AND UNBONDED INTERSTATE DISTILLATE
14 SPECIAL FUEL USERS; TO AMEND ARKANSAS CODE §26-56-304 TO
15 COMBINE ALL CURRENT ANNUAL FEES FOR AND TO INCLUDE IN SUCH
16 ANNUAL FEES IMPOSED ON LIQUEFIED GAS SPECIAL FUEL USERS A
17 PROPORTIONATE INCREASE IN THE ANNUAL FEES FOR VEHICLES
18 USING LIQUEFIED PETROLEUM GAS TO APPROXIMATE THE PER
19 GALLON ADDITIONAL TAXES IMPOSED BY THIS ACT ON *LIQUEFIED*
20 *GAS SPECIAL FUELS*; TO REPEAL ARKANSAS CODE §§26-56-503 AND
21 26-55-1003; TO PRESCRIBE THE PURPOSES FOR WHICH THE
22 ADDITIONAL REVENUES DERIVED FROM THE TAXES AND FEES LEVIED
23 HEREIN SHALL BE USED; TO DECLARE AN EMERGENCY; AND FOR
24 OTHER PURPOSES."

25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

27
28 SECTION 1. (a) On and after the effective date of this act, in
29 addition to the taxes levied upon motor fuel in Arkansas Code §§26-55-205 and
30 26-55-1002 and upon distillate special fuels in Arkansas Code §§26-56-201 and
31 26-56-502 and upon liquefied gas special fuels in Arkansas Code §§26-56-301
32 and 26-56-502, and in addition to any other taxes levied on such fuel or fuels
33 during the Seventy-Eighth Regular Session of the General Assembly there is
34 hereby levied an excise tax of five cents (\$.05) per gallon upon all motor
35 fuel and liquefied gas special fuels and an excise tax of two cents (\$.02) per
36 gallon upon all distillate special fuels subject to the taxes levied in those

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1 code sections, and such additional taxes shall be collected, reported and paid
2 in the same manner and at the same time as is prescribed by law for the
3 collection, reporting, and payment of other motor fuel taxes, distillate
4 special fuels taxes, and liquefied gas special fuels taxes.

5

6 SECTION 2. Arkansas Code §26-55-710 is hereby amended to read as
7 follows:

8 "26-55-710. Quarterly mileage reports - Tax computation.

9 (a) (1) Every person, firm, or corporation licensed under this
10 subchapter shall, on or before the last day of the month following the end of
11 each calendar quarter, file with the Director of the Department of Finance and
12 Administration, on forms prescribed by him, a report showing the quantities of
13 gasoline purchased and used in this state during the preceding calendar
14 quarter, together with payment of the tax due thereon.

15 (2) The number of gallons of motor fuel upon which the tax has been paid
16 by an interstate user shall be determined from the form obtained by the
17 interstate user from a licensed dealer or licensed bulk distributor within the
18 state.

19 (b) If it shall be determined by the quarterly reports filed with the
20 director that the interstate user has used more gallons of gasoline in this
21 state than the gasoline tax due thereon has been paid, the interstate user
22 shall remit to the director an excise tax of eighteen and *one-half cents*
23 *(\$.185) per gallon on the gasoline.*

24 (c) Interstate users may not take credit on reports at a tax rate in
25 excess of that actually paid.

26 (d) (1) For the purpose of determining whether a licensed interstate
27 user owes tax or is entitled to a credit or refund, the licensed interstate
28 user shall determine the average miles per gallon of fuel used. The average
29 miles per gallon shall be determined by dividing the total miles traveled in
30 all jurisdictions by the total gallons of fuel used in all jurisdictions.

31 (2) The licensed interstate user shall then determine the total amount
32 of fuel used within the State of Arkansas by dividing the total number of
33 miles traveled within the State of Arkansas by the average miles per gallon.

34

35 (3) The taxpayer's tax liability shall be calculated by multiplying the

1 number of gallons of fuel used within the State of Arkansas by *eighteen and*
 2 *one-half cents (\$.185) per gallon. A taxpayer shall be entitled to credits*
 3 *against his tax liability for tax-paid fuel purchased within the State of*
 4 *Arkansas.*

5 (e) For any licensed interstate user who fails to maintain adequate
 6 mileage or fuel records, as required by §26-55-719, for the purpose of
 7 determining the amount the interstate user owes the State of Arkansas for tax
 8 on motor fuel used in this state as provided in this section, the number of
 9 gallons of motor fuel used in this state shall be determined by an assessment
 10 based on the following mileage factors per gallon of motor fuel as compared to
 11 the appropriate class of vehicle set out in subsection (f) of this section.

12 (f) (1) For the purposes of this section:

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

15 (B) All truck-type vehicles, except buses, with a factory rating and
 16 gross loaded weight of less than twenty-two thousand five hundred pounds
 17 (22,500 lbs.), shall be deemed to be Class B vehicles;

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

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

24 (2) The mileage factor per gallon of motor fuel for:

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

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

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

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

29 (3) These mileage factors shall be utilized in conjunction with the
 30 Arkansas mileage as determined through an audit and based upon the best
 31 records available regardless of source.

32 (g) (1) For the purposes of determining the amount any unlicensed or
 33 unbonded user owes the State of Arkansas for tax on motor fuel used in this
 34 state, only the above mileage factors per gallon of motor fuel for the
 35 applicable vehicle shall be utilized.

1 (2) If a quarterly report of an interstate user results in a net
2 credit, the interstate user may elect to have the credit carried forward and
3 applied against the motor fuel tax due for the succeeding eight (8) quarters
4 or until the credit is completely used, whichever occurs first. In the
5 alternative, a taxpayer who is entitled to a net credit on his quarterly fuel
6 use tax report may elect to have the amount of credit refunded to him.

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

12 (h) The director shall prescribe the appropriate forms necessary for
13 the administration of this subchapter. The director may make appropriate rules
14 and regulations necessary to insure the accurate reporting of mileage traveled
15 and gallons used and purchased by the licensed interstate users."
16

17 SECTION 3. Arkansas Code §26-56-214 is hereby amended to read as
18 follows:

19 "26-56-214. Interstate users - Reports - Computation of tax and refunds.

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

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

33 (2) If it shall be determined by the quarterly report that the
34 interstate user has used distillate special fuels in this state in excess of
35 the number of gallons of the fuel upon which the Arkansas tax had been paid,

1 the interstate user shall remit to the director, at the time of *filing the*
2 *report, an excise tax of eighteen and one-half cents (\$.185) per gallon of the*
3 *excess gallonage used.*

4 (3) If it shall be determined that the interstate user has purchased
5 more gallons of distillate special fuels in this state than he has used in
6 this state, then the user shall be entitled to a credit or *refund of eighteen*
7 *and one-half cents (\$.185) per gallon of the excess gallonage purchased in the*
8 *state.*

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

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

20 (2) If it shall be determined by the quarterly report filed with the
21 director that the distillate special fuel user has used more gallons of
22 special motor fuel in this state than the special motor fuel tax due thereon
23 has been paid, the distillate special fuel user shall remit to *the director an*
24 *excise tax of eighteen and one-half cents (\$.185) per gallon of special motor*
25 *fuel.*

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

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

1 (2) The taxpayer's tax liability shall be calculated by multiplying the
2 number of gallons of fuel used within the State of *Arkansas* by *eighteen and*
3 *one-half cents (\$.185) per gallon*. A taxpayer shall be entitled to credits
4 against his tax liability for tax-paid fuel purchased within the State of
5 Arkansas.

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

14 (2) For the purposes of this section:

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

17 (B) All truck-type vehicles, except buses, with a factory rating and
18 gross loaded weight of less than twenty-two thousand five hundred pounds
19 (22,500 lbs.), shall be deemed to be Class B vehicles;

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

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

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

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

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

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

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

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

34 (g) For the purposes of determining the amount any unlicensed or
35 unbonded user owes the State of Arkansas for tax on distillate special fuel

1 used in this state, only the above mileage factors per gallon of distillate
2 special fuel for the applicable vehicles shall be utilized.

3 (h) (1) If a quarterly report of a distillate special fuel user results
4 in a net credit, the distillate special fuel user may elect to have the credit
5 carried forward and applied against the special motor fuel tax due for the
6 succeeding eight (8) quarters or until the credit is completely used,
7 whichever occurs first. In the alternative, a taxpayer who is entitled to a
8 net credit on his quarterly fuel use tax report may elect to have the amount
9 of credit refunded to him.

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

16 (i) The director shall prescribe the appropriate forms necessary for
17 the administration of this subchapter. The director may make appropriate rules
18 and regulations necessary to insure the accurate reporting of the special
19 motor fuel tax."

20
21 SECTION 4. Subsection (d) of Arkansas Code §26-56-304 is hereby amended
22 to read as follows:

23 "(d) (1) At the time of applying for such permit and prior to the
24 registration and issuance of a motor vehicle license for the vehicle, each
25 applicant, except licensed liquefied gas special fuel suppliers, shall remit
26 to the director, in addition to the regular fee prescribed by law for the
27 registration and licensing of the vehicle, an additional fee in an amount
28 which is determined by the General Assembly, based upon information available
29 from statistical studies of the motor vehicular use of liquefied gas special
30 fuels by various classes of users, as follows:

31	
32	NON-FARM VEHICLES
33	Annual Additional Fee
34	Passenger cars and motor homes\$ 164.00
35	Pickup trucks, one-half (1/2) and three-quarter (3/4) ton 195.00

1	Pickup trucks, one (1) ton	251.00
2	Trucks, maximum gross loaded weight in excess of one ton	
3	but not exceeding 22,500 pounds	520.00
4	Passenger buses except school buses manufactured and	
5	licensed as such	520.00
6	School buses manufactured and licensed as such.....	260.00
7	Trucks, maximum gross loaded weight in excess of 22,500	
8	pounds	609.00

9

10 FARM VEHICLES

11

12 In order to aid in the production of farm products and to eliminate
13 apparent inequities in liquefied gas special fuel fees which are in lieu of
14 the gallonage tax on such fuel used in vehicles operated primarily on farms
15 and not on the main highway system of this state, a special classification is
16 created for farm vehicles using liquefied gas special fuel and entitled to be
17 registered and licensed as natural resources farm vehicles. The flat fee in
18 lieu of the gallonage tax on the fuel used in such vehicle shall be as
19 follows:

20

21	Pickup trucks, one-half (1/2) and three-quarter (3/4) ton\$	130.00
22	Pickup trucks, one (1) ton	156.00
23	Trucks, maximum gross loaded weight in excess of one ton	
24	but not exceeding 22,500 pounds	178.00
25	Trucks, maximum gross loaded weight in excess of 22,500	
26	pounds	260.00 (2)

27 If the director determines that the flat fee provided herein in lieu of the
28 gallonage tax on liquefied gas special fuel is, in the case of common or
29 contract carriers or other vehicles for hire, inadequate to compensate for the
30 gallonage tax, the director may require such common or contract carriers or
31 owners of other vehicles for hire to pay a fee based upon the actual mileage
32 of the common or contract carrier or vehicle for hire for the previous year,
33 the current year, or any other reasonable basis.

34 (3) The director shall establish regulations for computing the fees and
35 for the enforcement of the collection thereof.

1 (4) If any new liquefied gas special fuel vehicle is placed in
2 operation or any other vehicle shall be converted to a liquefied gas special
3 fuel vehicle during the registration year, the owner shall be permitted to pay
4 a proportionate part of the special fuel user's permit fee for such vehicle
5 for the remainder of the current registration year based upon one-twelfth
6 (1/12) of the annual fee for such vehicle for each calendar month or fraction
7 thereof remaining in the current registration year."

8
9 SECTION 5. (1) All of the additional taxes, fees, penalties and
10 interest collected under the provisions of this act shall be classified as
11 special revenues and shall be deposited in the state treasury. After
12 deducting therefrom the amount to be credited to the Constitutional Officers
13 Fund and the State Central Services Fund as provided in the Revenue
14 Stabilization Law, §19-5-101, et seq., the treasurer shall transfer on the
15 last business day of each month:

16 (A) Fifteen percent (15%) of the amount thereof to the County Aid
17 Fund;

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

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

22 (2) The funds shall be further disbursed in the same manner and used
23 for the same purposes as set out in the Arkansas Highway Revenue Distribution
24 Law, §27-70-201, et seq. Provided, keeping with the spirit of Section 105 of
25 Public Law 97-424 and the Arkansas State Highway and Transportation
26 Department's goals for encouraging the participation of Disadvantaged Business
27 Enterprises into entering and performing contracts with the Department,
28 including the purchasing of supplies and
29 equipment by the Department and for the construction, reconstruction, and
30 maintenance of highways and bridges in the State Highway System, the Arkansas
31 State Highway and Transportation Department is authorized to expend up to ten
32 percent (10%) of the total revenues disbursed to the Department pursuant to
33 this act for the purposes of achieving those goals.

34
35 SECTION 6. Arkansas Code §§26-56-503 and 26-55-1003 are hereby

1 specifically repealed. All other laws and parts of laws in conflict with this
2 act are also hereby repealed. Provided, nothing in this act shall be
3 construed to amend, abrogate, modify, or repeal any of the provisions of the
4 "Petroleum Storage Tank Trust Fund Act", Arkansas Code §§8-7-901, et seq., and
5 all fees on each gallon of motor fuel or distillate special fuels shall
6 continue to be collected as provided by those code sections in addition to all
7 taxes and fees imposed by other sections of the code on such fuel or fuels as
8 well as those additional taxes and fees imposed by this act.

9

10 SECTION 7. The provisions of this act are hereby declared to be
11 severable. If any provision of this act shall be declared to be invalid or to
12 be inapplicable to any person or circumstance, such determination shall not
13 affect the validity or applicability of the other provisions of this act.

14

15 SECTION 8. All provisions of this act of a general and permanent nature
16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
17 Revision Commission shall incorporate the same in the Code.

18

19 SECTION 9. EMERGENCY. It is hereby found and determined by the General
20 Assembly that many of the highways, roads and streets in this state are
21 operationally inadequate and immediate steps must be taken to provide
22 additional funds for the maintenance, construction and reconstruction of such
23 highways, roads and streets; that proper maintenance, construction, and
24 reconstruction of such highways, roads and streets is essential to the public
25 health, welfare and safety of the people of this state and that only by the
26 immediate passage of this act may such vitally needed additional funds be
27 provided to solve the aforementioned problems. Therefore, an emergency is
28 hereby declared to exist and this act being necessary for the preservation of
29 the public peace, health and safety shall be in full force and effect on and
30 after the first day of the first month immediately following its passage and
31 approval.

32

33 /s/Gibson, et al

34

35 APPROVED: 3-6-91

