

# Hall of the House of Representatives

86th General Assembly - Regular Session, 2007

## Amendment Form

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### Subtitle of House Bill No. 1202

"TO EXEMPT DYED DISTILLATE SPECIAL FUEL FROM SALES AND USE TAX; TO IMPOSE A GALLONAGE TAX ON DYED DISTILLATE SPECIAL FUEL; TO EXCLUDE BIODIESEL FUEL FROM THE GALLONAGE TAX."

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### Amendment No. 1 to House Bill No. 1202.

Amend House Bill No. 1202 as originally introduced:

Add Representatives Green, Pace, Ragland, Maloch, Patterson, Hoyt, Stewart, Pate, Reynolds, Abernathy, Rogers, Pierce, Garner, E. Brown, Lowery, Dunn, Saunders, Dobbins, George, Hardwick, Lamont, Baker, Medley, Pennartz, Cash, Anderson, Roebuck, Moore, D. Evans, J. Johnson, Cook, Brown, Lowery, Dunn, Saunders, Reep, Bookout, and Cooper as co-sponsors of the bill

AND

Page 1, delete lines 11 through 15 and substitute the following:  
"AN ACT TO EXEMPT DYED DISTILLATE SPECIAL FUEL FROM THE SALES AND USE TAX; TO IMPOSE A GALLONAGE TAX ON DYED DISTILLATE SPECIAL FUEL; TO EXCLUDE BIODIESEL FUEL FROM THE GALLONAGE TAX AND THE SALES AND USE TAX; AND FOR OTHER PURPOSES."

AND

Page 1, delete lines 18 through 22 and substitute the following:  
"TO EXEMPT DYED DISTILLATE SPECIAL FUEL FROM SALES AND USE TAX; TO IMPOSE A GALLONAGE TAX ON DYED DISTILLATE SPECIAL FUEL; TO EXCLUDE BIODIESEL FUEL FROM THE GALLONAGE TAX AND THE SALES AND USE TAX."

AND

Delete Section 1 in its entirety and substitute the following:  
"SECTION 1. Arkansas Code § 26-52-401(11)(A), concerning exemptions from tax, is amended to read as follows:

(11)(A) Gross receipts or gross proceeds derived from the sale of:

(i) Gasoline or motor vehicle fuel on which the motor vehicle fuel or gasoline tax has been paid to the State of Arkansas; ~~and~~



(ii) Special fuel or petroleum products sold for consumption by vessels, barges, and other commercial watercraft and railroads;

(iii) Dyed distillate special fuel on which the tax levied by § 26-56-224 has been paid; and

(iv)(a) Biodiesel fuel.

(b) As used in this subdivision (11)(A)(iv) "biodiesel fuel" means a diesel fuel substitute produced from nonpetroleum renewable resources."

"SECTION 2. Arkansas Code § 26-56-224 is amended to read as follows:  
26-56-224. ~~Fuel used for off road purposes.~~ Fuel used for off-road purposes - Imposition of tax on dyed distillate special fuel.

(a) All distillate special fuel sold, used, or utilized in this state for off-road purposes, and not for the purpose of fueling motor vehicles, shall be dyed by the person or entity authorized to dye such fuels in accordance and in conformance with P.L. 103-66 and the Internal Revenue Service Regulation made and promulgated pursuant to P.L. 103-66 which are in effect on April 6, 1995.

(b)(1) There is levied an excise tax at the rate of six cents (6¢) per gallon on all dyed distillate special fuel sold, used, or utilized in this state.

(2)(A) If the dyed distillate special fuel contains biodiesel fuel, the excise tax in this subsection is levied only on the portion of the fuel that is not biodiesel fuel.

(B) As used in this subdivision (b)(2), "biodiesel fuel" means a diesel fuel substitute produced from nonpetroleum renewable resources.

(c) The excise tax levied in subsection (b) of this section shall be deposited as follows:

(1) Seventy-six and six-tenths percent (76.6%) shall be deposited as general revenues;

(2) Eight and one-half percent (8.5%) shall be deposited into the Property Tax Relief Trust Fund; and

(3) Fourteen and nine-tenths percent (14.9%) shall be deposited into the Educational Adequacy Fund.

(d)(1) The excise taxes levied by subsection (b) of this section shall be collected and remitted by suppliers of dyed distillate special fuel that are required to be licensed pursuant to § 26-56-204.

(2) The excise tax levied by subsection (b) of this section shall be paid by any person that uses dyed distillate special fuel on which the excise tax levied by subsection (b) of this section has not been paid.

(e) The excise taxes levied by subsection (b) of this section shall not apply to dyed distillate special fuel sold for consumption by:

(1) Vessels, barges, and other commercial watercraft;

(2) Railroads;

(3) Municipal buses as described in § 26-52-417; or

(4) To fuel sold to the United States Government.

(f) The excise taxes levied by subsection (b) of this section shall be reported and paid on or before the twentieth day of each month by electronic funds transfer as authorized pursuant to § 26-19-101 et seq., on forms to be prescribed by the Director of the Department of Finance and Administration.

~~(b)~~(g) All distillate special fuel which has not been dyed in accordance with subsection (a) of this section and which is sold, used, or utilized in this state for any purpose or purposes shall be taxable at the total per-gallon tax rates as set out in this chapter.

~~(e)~~(h) Off-road consumers purchasing dyed distillate special fuel shall not be required to obtain the annual off-road consumer permits required by § 26-56-204(a), and bulk sales of such dyed distillate special fuel may be made to such off-road consumers notwithstanding the provisions of § 26-56-218.”

“SECTION 3. Arkansas Code § 26-56-109 is amended to read as follows:  
26-56-109. Distribution of revenues.

Except as provided in § 26-56-224(b) – (f), all All taxes, penalties, and other amounts collected under the provisions of this chapter shall be classified as special revenues, and the net amount shall be distributed as provided by the Arkansas Highway Revenue Distribution Law, §§ 27-70-201 - 27-70-203, 27-70-206, and 27-70-207.”

“SECTION 4. Arkansas Code § 26-56-230 is amended to read as follows:  
26-56-230. Disposition of taxes, fees, and other revenues.

Except as provided in § 26-56-224(b) – (f), all All taxes, fees, penalties, and other amounts collected under the provisions of §§ 26-56-223 - 26-56-231 shall be classified as special revenues, and the net amount shall be distributed as provided by the Arkansas Highway Revenue Distribution Law, §§ 27-70-201 - 27-70-203, 27-70-206, and 27-70-207.”

AND

Page 2, line 21, delete “26-56-233” and substitute “26-56-224(b)-(f)”.

AND

Page 3, line 11, delete “26-56-233” and substitute “26-56-224(b)-(f)”.

AND

Page 3, delete Sections 5 and 6 and substitute the following:

“SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly that due to sharp increases in oil prices, traditional fuel taxation has become a large percentage of the cost of production for Arkansas farmers thereby creating burdensome price increases for Arkansas consumers; that a change in the manner in which tax is paid on dyed diesel fuel is necessary to reduce the cost of production for Arkansas farmers; and that this act is necessary in order to provide tax relief as soon as reasonably possible. Therefore, an emergency is declared to exist and this act being necessary for the preservation of public peace, health, and safety shall become effective on July 1, 2007.”

AND

Appropriately renumber the sections of the bill.

The Amendment was read

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By: Representative Thyer  
MMC/RCK - 01-23-2007 08:06  
MMC029

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Chief Clerk

The Amendment was read  
By: Representative Thyer  
MMC/RCK - 01-24-2007 13:56  
MMC035

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Chief Clerk