

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Representative Lipton

HOUSE BILL 1598

"AN ACT TO REQUIRE THE DYEING OF UNTAXED DISTILLATE SPECIAL
FUELS (DIESEL) BY LICENSED MOTOR FUEL SUPPLIERS; AND FOR
OTHER PURPOSES."

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

SECTION 1. (A) From and after the effective date of this Act, all "suppliers" of "distillate special fuels", as such terms are defined in the "Special Motor Fuels Tax Law", as amended, shall add a distinctive coloring, in a proportion and in a manner prescribed by rules and regulations promulgated by the Director of Highways and Transportation, to all "distillate special fuels" sold by such "suppliers" for non-highway use. Said dye shall be added at the time of delivery by the "supplier" when such fuel is delivered into any storage tank marked "Not For Motor Vehicle Use" or otherwise marked in a manner indicating that such fuel is not to be utilized for use upon the public highways. Provided, it shall not be necessary for said "suppliers" to dye such fuels when delivered into a storage tank with a capacity of less than fifty (50) gallons.

(B) (1) It shall be the responsibility of the "supplier" of "distillate special fuels" to determine at the time of sale or delivery whether the fuel is for use upon the public highways or whether the fuel is for non-highway use. Any and all undyed "distillate special fuels" shall be considered for use upon the public highways, therefore subject to all taxes on "distillate special fuels" that are imposed by the General Assembly. It shall be a violation of this Act and a Class B misdemeanor offense for a "supplier" of "distillate special fuels" to fail to dye such fuels as required to be dyed by this Act; such a "supplier" shall be assessed a penalty equivalent to the "distillate special fuels" taxes that would have been due the State if the storage tank was filled to maximum capacity, plus an amount equivalent to 20

percent of the "distillate special fuels" taxes that would be due the State if the storage tank was filled to maximum capacity with such fuels.

(2) It shall be a violation of this Act and a Class B misdemeanor offense for a "supplier", "dealer", or "user" of "distillate special fuels", as such terms are defined in the "Special Motor Fuels Tax Law", as amended, to place dyed untaxed fuel into the supply tank of a "motor vehicle", as such term is defined in the "Special Motor Fuels Tax Law", as amended; such "supplier", "dealer", or "user" shall be assessed a penalty equivalent to the "distillate special fuels" taxes that would have been due the State if the storage tank was filled to maximum capacity, plus an amount equivalent to the 20 percent of the "distillate special fuels" taxes that would be due the State if the storage tank was filled to maximum capacity with such fuels.

(3) (i) It shall be a violation of this Act and a Class B misdemeanor offense for any person to utilized "distillate special fuels", dyed pursuant to this Act, in a "motor vehicle" upon the highways, roads or streets of this State; such person shall be assessed a penalty equivalent to the "distillate special fuels" taxes that would have been due the State if the "motor vehicle's" storage tank was filled to maximum capacity, plus an amount equivalent to 20 percent of the "distillate special fuels" taxes that would be due the State if the storage tank was filled to maximum capacity with such fuels.

(3) (ii) Such "motor vehicle" shall not be moved further on such highways, roads or streets until a civil payment bond equivalent to the "distillate special fuels" taxes that would have been due the State if the storage tank of such vehicle was filled to maximum capacity with such fuels, plus an amount equivalent to 20 percent of the "distillate special fuels" taxes that would be due the State if the storage tank was filled to maximum capacity with such fuels, has been posted by such person with the Commissioner of Revenues, or his designee, or such penalties have been collected by said Commissioner or his designee. Upon the payment of such penalties, or upon posting such civil penalty bond, the Commissioner, or his designee, may release the vehicle pending any hearing requested by such person pursuant to the "Arkansas Tax Procedure Act".

(C) All fines and penalties imposed pursuant to this Act shall be in addition to any and all penalties imposed pursuant to the "Arkansas Tax Procedure Act".

(D) Nothing in this Act shall be construed as affecting the provisions

of Section 2 of Act 591 of 1979.

(E) All taxes and penalties collected as a result of this Act shall be deposited with the State Treasurer as "special revenues" to be disbursed in the same manner and used for the same purposes as is set out in the "Arkansas Highway Revenue Distribution Law".

(F) The Director of Highways and Transportation shall have the authority to prescribe and promulgate appropriate rules and regulations for the proper enforcement of this Act, including the usage of dye. The Arkansas State Highway and Transportation Department shall be responsible for all enforcement provisions of this Act, including, but not limited to, making arrests and stopping and detaining "motor vehicles".

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. It is hereby found and determined by the Seventy-Sixth General Assembly that abuses of the "Special Motor Fuels Tax Law", as amended, exist which result in a substantial loss of revenues to the State and that only by the immediate effectiveness of this Act may such abuses be curtailed. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1987.

