

State of Arkansas

76th General Assembly

Second Extraordinary Session, 1987

HOUSE BILL 1007

By: Representative Beatty

"AN ACT TO LEVY A HIGHWAY USE TAX OF ONE CENT (1\_) PER MILE ON EACH VEHICLE OPERATED ON THE HIGHWAYS, ROADS AND STREETS OF THIS STATE AND HAVING A DECLARED GROSS WEIGHT IN EXCESS OF 73,280 POUNDS; TO PRESCRIBE THE PROCEDURE FOR QUALIFYING TRUCKS FOR GROSS WEIGHTS IN EXCESS OF 73,280 POUNDS; TO PRESCRIBE THE PROCEDURE FOR PAYMENT OF THE HIGHWAY USE TAX LEVIED HEREIN; TO REPEAL SECTIONS 1, 2 AND 3 OF ACT 685 OF 1983; AND FOR OTHER PURPOSES."

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

SECTION 1. As used in this Act:

(a) "Arkansas Registered Vehicle" or "Arkansas Registered Truck" means a vehicle registered in Arkansas by a user who is an Arkansas resident, and bearing an Arkansas license plate;

(b) "Declared Gross Weight" means the maximum gross weight at which a vehicle is authorized to operate, as shown on the vehicle license registration;

(c) "Department" means the Arkansas State Highway and Transportation Department;

(d) "Gross weight" means the actual weight of the truck or truck-tractor, plus the actual weight of the heaviest semi-trailer or trailer or combinations thereof with which it is to be operated in combination plus the actual weight of the heaviest load to be carried thereon;

(e) "Highway" includes all highways, roads, and streets of this State generally open to the use of the public as a way for vehicular traffic;

(f) "Motor Vehicle" means all cargo vehicles required to be registered for use upon the public highways of this State, designed, used or maintained primarily for the transportation of property and having a declared gross

weight of 73,281 pounds or more. Truck-tractors, single unit trucks, semi-trailers and trailers operated in combination thereof shall constitute a single vehicle. The person having the use or control, or the right to the use or control of the part of such a vehicle furnishing the motive power is the highway user with respect to the entire vehicle and is accordingly subject as such to the provisions of this Act;

(g) "Truck" includes the terms "truck" or "truck-tractor" and "semi-trailer" or "trailer" when operated in combination with a truck or truck-tractor;

(h) "User" means any person or entity having the use and control, or the right to the use and control, of any motor vehicle. Use and control of a motor vehicle includes vehicles under a long-term lease and not vehicles under a trip lease.

SECTION 2. Any motor vehicle registered in Arkansas at the maximum registration fee for 68,001 to 73,280 pounds, as provided in Subsection (7) of Subsection (C) of Section 24 of Act 65 of 1929, as amended, including any motor vehicle registered under the International Registration Plan at the maximum fee for its Arkansas apportioned mileage or any motor vehicle registered in any non-IRP state to carry in excess of 73,280 pounds, shall be authorized to operate in this State with a gross loaded weight of up to 80,000 pounds, in accordance with Act 7 of 1983, provided said vehicle complies with the appropriate provisions of this Act and the laws of this State concerning motor vehicle registration and licensing.

SECTION 3. There is hereby imposed upon all users of motor vehicles, as herein defined, in compensation for the use of the highways of this State a tax at the rate of one cent (1\_) per mile each such motor vehicle is operated on the highways of this State, to be paid in the manner hereinafter prescribed. Such tax shall be in addition to all other taxes and fees now required to be paid on such vehicles. The tax levied in this Act shall not apply to any motor vehicle the declared gross weight of which is 73,280 pounds or less, nor to vehicles licensed exclusively for hauling unfinished and unprocessed farm products, forest products, and clay minerals and ores, from the point of production, harvesting or severance to the point at which the same shall first undergo any processing, preparation for processing, conver-

sion or transformation from their raw, natural or severed state, nor to vehicles used exclusively for hauling animal feed by owners of livestock or poultry for consumption by livestock or poultry owned by them, nor to any vehicle owned and operated by the United States of America or the State of Arkansas, or any political subdivision thereof; nor to any motor vehicle used on an interstate trip with an origin or destination within 10 miles of the geographic boundaries of this State, provided the one-way travel distance in this State is not over 10 miles.

SECTION 4. The user of every vehicle subject to this Act, before operating such vehicle over the highways of this State, shall annually qualify such vehicle with the Department. Qualifications shall be made by filing application to the Department on forms to be provided by the Department. Each application shall be accompanied by a filing fee of Fifteen Dollars (\$15.00) and a tax payment as hereinafter prescribed. The Department may accept applications from owners of leasing and rental companies that lease vehicles under long term leases to customer lessees.

Upon receipt of such application and fee and payment of the tax as hereinafter prescribed, the Department shall make appropriate record of the vehicle qualified and certify such qualification on the applicant's tax cab card, one of which is to be carried in the cab of the vehicle at all times. The Department shall also issue a decal to the user, which shall be affixed by the user to the cab of such vehicle.

Any user qualifying a motor vehicle within his fleet shall be responsible for the removal of the decal and cab card when that vehicle is terminated from the user's fleet; failure to remove such decal and cab card, which shall be retained by the user as proof of removal, shall result in a penalty of twenty dollars (\$20.00) per month for the remaining months of the qualification period after the vehicle was terminated from that user's fleet.

SECTION 5. The tax hereby imposed on all users of motor vehicles, as defined herein shall, for the period July 1, 1987 to June 30, 1988, be applicable to all motor vehicles qualified for that period after the effective date of this Act. All users who, prior to the effective date of this Act, have qualified vehicles pursuant to Act 685 of 1983 and have paid taxes for the qualification year beginning July 1, 1987 and ending June 30, 1988 on such

vehicles pursuant to that Act shall be allowed to operate on the highways, roads and streets of this State until July 1, 1988 without payment of the additional taxes on those previously qualified vehicles that would otherwise be due pursuant to this Act. All other users of motor vehicles as defined herein shall be subject to the taxes levied in this Act for the 1987-88 year.

SECTION 6. The additional tax of one cent per mile levied in this Act shall be collected by the Department as follows: At the time of making the annual application for qualification of each vehicle hereunder, the user shall estimate the number of miles such vehicle will be operated and remit with such application a tax prepayment as follows:

Estimated Mileage	Amount
Up to 10,000	\$100.00
10,000 - 20,000	200.00
20,000 - 30,000	300.00
30,000 - 40,000	400.00
40,000 - 50,000	500.00
50,000 - 60,000	600.00
60,000 - 70,000	700.00
70,000 - 80,000	800.00
80,000 - 90,000	900.00
90,000 - 100,000	1,000.00

At the end of each qualification period, the user shall report the actual taxable miles each qualified vehicle was operated during the qualification period. If the vehicle was operated fewer than the number of miles estimated at the time of qualification the user shall be entitled to a rebate of a portion of the tax prepayment equal to one cent (1\_) for each mile travelled fewer than the estimated mileage. If the vehicle was operated more miles than the number of miles estimated the user shall remit with such report an additional amount equal to eight cents (8\_) per mile for each mile operated over the estimated mileage. Any user qualifying a motor vehicle with the Department shall, at the end of the qualification period, submit to the Department such records as the Department deems appropriate according to regulations promulgated by the Department indicating the total number of miles traveled through the State by the user's vehicle or vehicles. Such summary records submitted by the user shall be supported by source documents retained

by the user. In all cases specific records shall be maintained by the user indicating the above information for every trip, pursuant to rules and regulations to be promulgated by the Department. Such mileage reports and records shall be subject to inspection and audit by the Department in the same manner as other books, records and documents of the user are subject to inspection and audit as provided by this Act. Any claims made by the user on the applications and the initial acceptance by the Department of those claims, for registration purposes, does not preclude a later decision by the Department based on specific audit findings during an audit of the user. Any user who falsifies any records required by this Act shall be guilty of a Class A misdemeanor.

SECTION 7. (a) The Department may collect those taxes and fees imposed by this Act upon all users subject to the provisions of this Act, to make timely deposits into the State Treasury of all such monies and to administer this Act, including the right to inspect and audit at reasonable times, at any place, without prior notice, the books, records and documents of any user or other qualifying person required to pay the tax hereby imposed. On any audits conducted by the Department, the user shall provide the requested records at a location within the State of Arkansas or pay the expenses for a Departmental auditor to travel to the location of such requested records, provided, such expenses shall be charged only when the audit results in the assessment of additional taxes.

(b) No assessment shall be made under this Act upon any user after the expiration of three years from the date the user's application for qualification was made, provided, in those cases where such an application is deemed to have been fraudulently made, an assessment may be made for any prior qualification period.

SECTION 8. The user of any motor vehicle subject to this Act, may, in lieu of qualification in accordance with this Act, pay a trip permit fee, provided, no Arkansas registered vehicle shall be allowed to utilize such a trip permit. If the user elects to utilize a trip permit, such trip permit for trucks with a declared gross weight of 73,281 pounds through 80,000 pounds shall be issued at a fee of eight dollars (\$8.00) for each 100 miles of travel, rounded to the nearest 100 miles. Said permits shall be issued by the

Department on such forms as it deems appropriate and shall be retained by the user for a period of three (3) years as proof of payment of any liability determined through audit.

SECTION 9. The tax provided for in this Act shall be paid by the users of all applicable vehicles using the highways of this State, and no reciprocal agreement or agreement of any nature heretofore or hereafter entered into between officials of this State and those of any other State may exempt any user of such vehicles using the highways of this State from this Act and payment of the tax levied by this Act.

SECTION 10. Any user, or other qualifying person, of any vehicle subject to this Act found operating over the highways of this State without complying with this Act or without having available in or on the cab thereof the appropriate cab card and decal or trip permit required by this Act, shall be guilty of a misdemeanor and upon conviction thereof shall each be punished by a fine of no less than two hundred dollars (\$200.00) and not more than five hundred dollars (\$500.00) for the first offense and of no less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) for each subsequent offense.

SECTION 11. All fees, taxes, penalties and interest collected under this Act shall be classified as "special revenues" and shall be deposited in the State Treasury, and the State Treasurer shall, after deducting therefrom the amount to be credited to the Constitutional Officers Fund and to the State Central Services Fund, as provided by the Revenue Stabilization Law, transfer on the last business day of each month: 15% of the amount thereof, to the County Aid Fund; 15% of the amount thereof, to the Municipal Aid Fund; and 70% of the amount thereof, to the State Highway Department Fund, such funds to be further disbursed in the same manner and used for the same purposes as set out in the "Arkansas Highway Revenue Distribution Law".

SECTION 12. Any Arkansas registered vehicle user who desires to haul in excess of 73,280 pounds shall notify the Arkansas Department of Finance and Administration at the time of license registration. The Arkansas Department of Finance and Administration shall then record the maximum declared gross

weight on the vehicle license registration and notify the Arkansas State Highway and Transportation Department, in writing, of those vehicles registered in excess of 73,280 pounds.

SECTION 13. The Director of the Department shall immediately promulgate reasonable rules and regulations and take all appropriate action the Director deems necessary in order to ensure that this Act may be effectuated as soon as practicable.

SECTION 14. The taxes, imposed by this Act, shall be exempt from the provisions of the Arkansas Tax Procedure Act, Act 401 of 1979, as amended. The Director of the Department shall appoint a hearing officer to review all written protests of tax assessments, hold hearings and make written findings of tax assessments. Hearings and appeals shall be governed by the Arkansas Administrative Procedure Act, Act 434 of 1967, as amended.

SECTION 15. Sections 1, 2 and 3 of Act 685 of 1983 are hereby repealed and all laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 16. It is hereby found and determined by the General Assembly that the increased weight limits enacted by the 74th General Assembly has jeopardized the investment in the State's highways necessitating the annual expenditure of additional monies to negate such damage; and that only by the immediate passage of this Act may highway-user taxes and fees be adjusted to more equitably equalize the allocation of highway costs among the various funds to solve the aforementioned problems. 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 its passage and approval.

