

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1890

By: Representative Shaver

For An Act To Be Entitled

"AN ACT TO AMEND CERTAIN SECTIONS OF THE ARKANSAS CODE TO MAKE CORRECTIONS TO THE CODE, IMPROVE THE CLARITY OF THE CODE, AND IMPROVE THE ORGANIZATION OF THE CODE; AND FOR OTHER PURPOSES."

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

SECTION 1. Amend subsections (b), (c), and (d) of Arkansas Code § 5-2-314 to read as follows:

"(b) When a defendant is acquitted on the ground of mental disease or defect:

(1) If the circuit court finds that the defendant is affected by mental disease or defect and that he presents a risk of danger to himself or the person or property of others, it shall order him to be committed to the custody of the Director of the State Hospital to be placed in an appropriate institution. If within thirty (30) days after the commitment the director determines that the defendant is still affected by mental disease or defect and still presents a risk of danger to himself or the person or property of others, the director shall institute commitment proceedings in probate court in accordance with the procedures set forth in § 20-47-201 et seq., and if the probate judge determines that the defendant is still affected by the mental disease or defect and still presents a risk of danger to himself or the person or property of others, the probate judge shall commit the defendant to the appropriate facilities as provided in § 20-47-201 et seq.

(2) If the circuit court finds that the defendant is no longer affected by mental disease or defect, it shall order him discharged;

(3) If the circuit court finds that the defendant is affected by mental disease or defect but that he no longer presents a danger to himself or the

person or property of others, it shall order him discharged from custody or released on conditions the court deems appropriate.

(c) The circuit court's findings may be based on:

- (1) The report submitted pursuant to § 5-2-305, if uncontested; or
- (2) The medical evidence presented at trial; or
- (3) The medical evidence presented at a separate post-acquittal hearing.

(d) Whether the circuit court's order under subsection (b) of this section is based on the report submitted pursuant to § 5-2-305, the medical evidence presented at trial, or the medical evidence presented at a separate post-acquittal hearing, the burden shall be upon the state to prove, by a preponderance of the evidence, that the defendant should be either committed or conditionally released as provided in subsection (b) of this section."

SECTION 2. Subdivision (9) of Arkansas Code § 9-13-202 is amended to read as follows:

"(9) 'Person acting as parent' means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody; and"

SECTION 3. Amend Arkansas Code § 11-9-404 by adding the following subsections (e) and (f) which were inadvertently deleted during the codification of the section:

"(e) The commission may suspend or revoke any authorization to a self-insurer for a good cause shown after a hearing at which the self-insurer shall be entitled to be heard in person or by counsel and to present evidence. No suspension or revocation shall affect the liability of any self-insurer already incurred.

(f) Authorization to write compensation insurance under this chapter shall be given to a carrier only after the carrier has received a certificate of authority from the State Insurance Commissioner to transact the business of worker's compensation insurance in Arkansas and the commission has been notified in writing of the issuance of the certificate of authority."

SECTION 4. Amend Arkansas Code § 14-171-210(d) to read as follows:

"(d) It shall be a condition to any payments under this subchapter that the city or county has issued and has outstanding its bonds for the purpose of financing, in whole or in part, the eligible facilities, but this shall not limit the provisions in this subchapter for repayment of a city or county investment, heretofore made, in eligible facilities."

SECTION 5. Amend subdivision (b) (1) of Arkansas Code § 16-66-218 to read as follows:

"(1) The personal property of an unmarried person not the head of a family not exceeding a value of two hundred dollars (\$200) in addition to such person's wearing apparel -- Arkansas Constitution, Article 9, Section 1;"

SECTION 6. Amend subdivisions (3) and (4) of Arkansas Code § 19-6-301, respectively, to read as follows:

"(3) Distillate special motor fuels taxes and liquefied gas special motor fuels taxes and license and permit fees, as enacted by § 26-56-101 et seq., known as the "Special Motor Fuels Tax Law," and all laws amendatory thereto. The additional one cent (1_) tax on distillate special motor fuels levied by § 26-56-201(a) (2); the additional four cents (4_) tax on liquefied gas special motor fuels and the additional two cents (2_) tax on distillate special motor fuels levied by § 26-56-502; and the additional liquefied gas special motor fuels user permit fees levied in § 26-56-502;

(4) Gasoline taxes, as enacted by § 26-55-201 et seq.; the additional one cent (1_) tax on motor fuels levied by § 26-55-205(b); and the additional four cents (4_) tax on motor fuels levied by § 26-55-1002;"

SECTION 7. Arkansas Code title 20, chapter 77, subchapter 1 is amended to add the following new section 107 to reenact legislation authorizing the establishment of an indigent medical care program:

"20-77-107. Program for indigent medical care - Rules and regulations.

(a) The appropriate division of the Department of Human Services is authorized to establish and maintain an indigent medical care program.

(b) (1) The deputy director of the appropriate division of the Department of Human Services is authorized to promulgate rules and regulations to implement this program so as to qualify it for assistance under the Social Security Amendments of 1965 or other applicable federal law.

(2) The deputy director is further authorized to enter into separate agreements with the University of Arkansas for Medical Sciences and private institutions in order to provide maximum medical care for the indigent persons of this state."

SECTION 8. Amend subdivision (f) (4) of Arkansas Code § 24-7-406 to read as follows:

"(4) If the election is to eliminate member contributions, then the election shall apply only to future member salaries and shall not change the status of any member contributions made before the election. If the effect of the election is to require member contributions, then the election shall apply only to future member salaries and shall not change any member contribution requirements existing before the election. However, if a member has previously contributed on only the first seven thousand eight hundred dollars (\$7,800) of his annual salary, he cannot contribute on full future salaries until he has made added contributions on past full salaries as provided in subsection (b) of this section."

SECTION 9. Arkansas Code § 24-11-820 is amended by adding subsection (f) to read as follows:

"(f) If a retirant and, if any, his eligible beneficiary both die before they have received in annuity payments a total amount equal to the accumulated contributions, including any interest credits, standing to the retirant's credit in the system at the time of his retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to such person or persons as the retirant shall have nominated by written designation duly executed and filed with the board. If no designated person survives the retirant and his beneficiary, the difference shall be paid to the estate of the survivor of the retirant and his beneficiary."

SECTION 10. Amend the following sections or parts of sections of the Arkansas Code to read:

(a) Amend Arkansas Code § 26-55-205 to read:

"26-55-205. Levy of tax.

(a) There is levied a privilege or excise tax of eight and one-half cents (8½) on each gallon of motor fuel as defined in this subchapter, sold or used in this state, or purchased for sale or use in this state, to be computed in the manner hereinafter set forth.

(b) In addition to the tax levied in subsection (a), there is levied an excise tax of one cent (1¢) on each gallon of motor fuel as defined in this subchapter, sold or used in this state, or purchased for sale or use in this state, to be computed in the manner hereinafter set forth."

(b) Amend subdivisions (a) (1) (A) and (a) (3) of Arkansas Code § 26-55-230, respectively, to read:

"(a) (1) (A) The total number of gallons of motor fuel received by the distributor within the State of Arkansas and sold or otherwise disposed of during the next preceding calendar month as set forth in § 26-55-207;"

"(a) (3) The remaining number of gallons computed on a volumetric basis shall be multiplied by the rate provided by law in the adjoining state, such rate not to exceed the rate provided by § 26-55-205; and the resulting figure, together with the figure obtained in subdivision (a) (2) of this section, shall be the total amount of motor fuel tax due for the next preceding calendar month."

(c) Amend Arkansas Code § 26-55-1002 to read:

"26-55-1002. Additional tax levied on motor fuel.

(a) In addition to the tax levied upon motor fuel in § 26-55-205, there is levied an excise tax of four cents (4¢) per gallon upon all motor fuel subject to the tax levied in that section.

(b) The tax shall be collected, reported, and paid in the same manner and

at the same time as is prescribed by law for the collection, reporting, and payment of other motor fuel taxes."

(d) Amend Arkansas Code § 26-56-201(a) to read:

"(a) (1) There is levied an excise tax at the rate of nine and one-half cents (9 1/2_) per gallon on all distillate special fuels sold, or used in this state, or purchased for sale or use in this state. The additional levies provided in subdivision (a) (2) of this section and § 26-55-1002 are specifically intended to apply to the taxes levied by this section as amended by this act and shall remain effective.

(2) In addition to the tax levied in subdivision (a) (1) of this section, there is levied an excise tax of one cent (1_) for each gallon of distillate special motor fuels, as defined in § 26-56-102(9), sold or used in this state, or purchased for sale or use in this state, to be computed in the manner hereinafter set forth."

(e) Amend Arkansas Code § 26-56-502 to read:

"26-56-502. Additional tax levied on distillate special motor fuels.

(a) In addition to the tax levied upon distillate special motor fuels in § 26-56-201 and upon liquefied gas special fuels in § 26-56-301, there is levied an excise tax of four cents (4_) per gallon upon all liquefied petroleum gas special fuels and two cents (2_) per gallon upon all distillate special motor fuels, subject to the tax levied in those sections.

(b) The tax shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of other distillate special fuel taxes."

SECTION 11. Amend Arkansas Code § 27-14-806(a) to read as follows:

"(a) (1) (A) At his option, a lienholder may:

- (i) Record the lien on the manufacturer's statement of origin; or
- (ii) Record the lien on an existing certificate of title; and

(B) File with the Revenue Division of the Department of Finance and Administration a certified copy of the instrument creating and evidencing the

lien or encumbrance.

(2) He shall remit therewith a fee of one dollar (\$1.00) for each lien to be filed.

(3) The recording and filing shall constitute constructive notice of the lien against the vehicle described therein to creditors of the owner, subsequent purchasers, and encumbrancers, except those liens as are by law dependent upon possession.

(4) A photocopy of the manufacturer's statement of origin or of such existing certificate of title or of ownership, showing the lien recorded thereon and certified as a true and correct copy by the party recording the lien, shall be sufficient evidence of the recording."

SECTION 12. Amend subsections (a) and (d) of Arkansas Code § 27-70-103, respectively, to read as follows:

"(a) All taxes, penalties, and other amounts collected pursuant to the additional taxes and fees levied in §§ 26-55-205(b) and 26-56-201(a)(2) shall be classified as special revenues."

"(d) All taxes, penalties, and other amounts collected pursuant to §§ 26-55-205(b) and 26-56-201(a)(2) shall be distributed solely and exclusively for the purposes set forth herein. None of the amounts shall be distributed as provided by § 27-70-206(2) and (3)."

SECTION 13. Amend Arkansas Code § 27-70-208 to read as follows:

"27-70-208. Disposition of gross receipts taxes on gasohol.

The gross receipts taxes levied and collected on gasohol, which was exempted from the motor fuel tax by Acts 1973, No. 433, § 1E. [repealed], and from the special motor fuel tax by Acts 1965 (1st Ex. Sess.), No. 40, Ch. 2, § 2 [repealed], shall be used by the State Highway and Transportation Department to defray, in whole or in part, the cost of constructing, widening, reconstructing, maintaining, resurfacing, or repairing the public highways, and retiring highway indebtedness of this state. These taxes shall be remitted to the State Highway and Transportation Department in accordance with this subchapter."