

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representatives Cunningham and Calhoun

A Bill

HOUSE BILL 1376

For An Act To Be Entitled

8 "AN ACT TO REPEAL THE LICENSING AND BONDING REQUIREMENTS
9 FOR MOTOR FUEL AND DISTILLATE SPECIAL FUEL DEALERS; TO
10 REPEAL THE ANNUAL DECAL AND FEE FOR MOTOR VEHICLES USING
11 LIQUEFIED PETROLEUM GAS; TO IMPOSE MOTOR FUEL TAX ON
12 LIQUEFIED PETROLEUM GAS AT THE TIME OF PURCHASE; AND, TO
13 REPEAL THE REFUND OF MOTOR FUEL TAXES PAID ON GASOLINE
14 USED FOR AGRICULTURAL PURPOSES; AND FOR OTHER PURPOSES."

Subtitle

16 "MISCELLANEOUS MOTOR FUEL TECHNICAL
17 CORRECTIONS."
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code 26-55-228 is repealed.

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24 SECTION 2. Arkansas Code §§26-55-501 through 26-55-511 are repealed.

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26 SECTION 3. Arkansas Code 26-55-710 (a)(2) is amended to read as
27 follows:

28 "(2) The number of gallons of motor fuel upon which the tax has been
29 paid by an interstate user shall be determined from the form obtained by the
30 interstate user from a licensed dealer or licensed bulk distributor within
31 the state. These forms must contain the information required by §26-56-209."

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33 SECTION 4. Arkansas Code 26-56-204(a)(1) is amended to read as
34 follows:

35 "(1) No person shall commence operations as a supplier, user, or off-

1 road consumer of distillate special fuels without first procuring a license
2 for that purpose from the director. The license shall be issued and remain
3 in effect until revoked as provided in this section. Any person holding or
4 applying for a supplier's license after August 1, 1987, shall make an
5 election to operate either as a pipeline importer, first receiver, or second
6 receiver. Once having made an election in writing filed with the director,
7 the election will remain in force until such time as the supplier makes
8 another written election to change his status. The election and any change
9 therein shall take effect on the first month following filing of the
10 election."

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12 SECTION 5. Arkansas Code 26-56-204(b) is amended to read as follows:

13 "(b)(1) Each application for a license or registration as a supplier,
14 user, or off-road consumer of distillate special fuels, and each license or
15 registration, shall have as a condition that the applicant and holder shall
16 comply with the provisions of this subchapter.

17 (2)(A) Each annual registration as a user or off-road consumer shall
18 have as a further condition that the applicant shall not deliver or permit
19 delivery into the fuel supply tanks of motor vehicles any distillate special
20 fuels which have been purchased tax-free by the applicant.

21 (B) A taxable use of distillate special fuels purchased tax-free by an
22 applicant for an annual registration as a user or off-road consumer, in
23 addition to the penal provisions prescribed in this subchapter, shall, at the
24 discretion of the director, forfeit the right of the applicant to purchase
25 distillate special fuels tax-free."

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27 SECTION 6. Arkansas Code 26-56-204(k)(2) is amended to read as
28 follows:

29 "(2) Should his license be revoked, any supplier or user may bring an
30 action against the director in the chancery court of the county of his
31 domicile within fifteen (15) days of the date of revocation to determine
32 whether or not the supplier or user has in fact violated any of the
33 provisions of this chapter. If the court determines that the provisions of
34 the law have been violated by the supplier or user, it shall affirm the
35 director's action in revoking the license."

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SECTION 7. Arkansas Code 26-56-205 and Arkansas Code 26-56-207 are repealed in their entirety.

SECTION 8. Arkansas Code 26-56-214(e)(1) is hereby amended to read as follows:

"(1) For the purpose of determining whether a distillate special fuel user owes tax or is entitled to a credit or refund, the distillate special fuel user shall determine the average miles per gallon of fuel used. The average miles per gallon shall be determined by dividing total miles traveled in all jurisdictions by the total gallons of fuel used in all jurisdictions. The distillate special fuel user shall then determine the total amount of fuel used within the State of Arkansas by dividing the total number of miles traveled within the State of Arkansas by the average miles per gallon. The number of gallons of distillate special fuels upon which the tax has been paid by an interstate user shall be determined from the form obtained by the interstate user from a dealer or licensed bulk supplier on forms containing information prescribed by §26-56-209."

SECTION 9. The provisions of Arkansas Code 26-55-301 through and including Arkansas Code 26-55-321 are hereby repealed.

SECTION 10. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 12. All laws and parts of laws in conflict with this act are hereby repealed.

1 SECTION 13. EMERGENCY CLAUSE. It is found and determined by the
2 Eightieth General Assembly of the State of Arkansas that current laws
3 allowing for a refund of tax paid on gasoline used for agricultural purposes
4 is an inefficient and impractical method of providing tax relief to farmers;
5 that current laws collecting motor fuel tax on liquefied petroleum gas based
6 upon a flat fee is inequitable and imposes an undue burden on some taxpayers
7 in this State; that current licensing and bonding requirements on motor fuel
8 and distillate special fuel dealers are unnecessary and contrary to federal
9 law; that this bill is designed to correct each of these deficiencies in
10 current law and this Act should be effective on July 1, 1995. Therefore, an
11 emergency is hereby declared to exist and this Act being necessary for the
12 immediate preservation of the public peace, health, and safety shall be in
13 full force and effect on and after July 1, 1995.

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/s/Rep. Cunningham, et al

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