

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: H3/5/97 H3/12/97 H3/26/97 H3/27/97

## A Bill

HOUSE BILL 1703

5 By: Representatives Miller and Newman  
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7

### For An Act To Be Entitled

9 "AN ACT TO LEVY A WHOLESALE EXCISE TAX ON GROSS RECEIPTS  
10 OF FUEL SOLD BY WHOLESALERS IN ARKANSAS AND ON PURCHASE  
11 PRICE OF FUEL IMPORTED FOR SALE, USE, STORAGE,  
12 DISTRIBUTION, OR CONSUMPTION IN ARKANSAS AT THE SAME RATE  
13 OF TAXATION IMPOSED UPON THE GROSS PROCEEDS OR GROSS  
14 RECEIPTS DERIVED FROM SALES PURSUANT TO THE <sup>Ⓢ</sup>ARKANSAS  
15 GROSS RECEIPTS ACT OF 1941, <sup>Ⓢ</sup> INCLUDING ALL ADDITIONAL  
16 TAXES NOW IMPOSED OR HEREAFTER IMPOSED UPON SUCH GROSS  
17 PROCEEDS OR GROSS RECEIPTS; DESIGNATES THE TAX AS SPECIAL  
18 REVENUES FOR USE FOR HIGHWAY, ROAD, AND STREET PURPOSES;  
19 AND FOR OTHER PURPOSES."  
20

### Subtitle

21 "LEVIES A WHOLESALE FUEL EXCISE TAX ON  
22 SALE OF FUEL BY WHOLESALERS AND  
23 IMPORTATION OF FUEL BY IMPORTERS WITH  
24 REVENUES TO BE USED FOR HIGHWAY, ROAD,  
25 AND STREET PURPOSES."  
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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30 SECTION 1. Title 26, Chapter 57 of the Arkansas Code Annotated is  
31 amended to add a new subchapter as follows:

32 "26-57-1101. Definitions. As used in this act:

33 (a)

34 'Director' means the Director of the Department of Finance and Administration.

35 (b) 'Export' means with respect to a wholesaler or his agent, or with  
36 respect to an exporter, or his agent, the delivery of fuel out of this state.

1        (c) 'Exporter' means any person who acquires fuel in Arkansas for the  
2 purpose of transporting or delivering the fuel to another state or country.

3        (d) 'Gross receipts' or 'gross proceeds' means:

4                (1) the total amount of consideration for the sale of fuel  
5 including federal fuel excise tax less deductions for state fuel gallonage tax  
6 levied and collected pursuant to Title 26, Chapters 55 and 56 and  
7 transportation charges; and,

8                (2) the value of fuel, including any federal fuel excise tax,  
9 withdrawn from the stock of a wholesaler for distribution or use by the  
10 wholesaler. The value is deemed equal to the price per gallon, including any  
11 federal fuel excise tax, allocated to the withdrawal by the wholesaler as  
12 reflected on the bill of lading or manifest.

13        (e) 'Import' means with respect to a wholesaler or his agent, or with  
14 respect to an importer or his agent, the delivery of fuel into Arkansas from  
15 out of state.

16        (f) 'Importer' means any person who imports fuel to a location in  
17 Arkansas other than to a wholesaler at a terminal or refinery.

18        (g) 'Fuel' as used herein shall have the same meaning as ascribed to  
19 the term 'motor fuel' as set out in §26-55-202 (2) and as ascribed to the term  
20 'distillate special fuel' as set out in §26-56-102 (9).

21        (h) 'Person' includes any individual, company, partnership, joint  
22 venture, joint agreement, mutual or other association, corporation, limited  
23 liability company, estate, trust, business trust, receiver, or trustee  
24 appointed by any state, federal, or other court, syndicate, this state, any  
25 county, city, municipality, school district, or any other political  
26 subdivision of this state or group or combination acting as a unit, in the  
27 plural or singular number.

28        (i) 'Purchase price' means the total consideration for the purchase of  
29 fuel including federal fuel excise tax less deductions for state fuel  
30 gallonage tax levied and collected pursuant to Title 26, Chapters 55 and 56  
31 and transportation charges.

32        (j) 'Rack' means a dock, platform, or an open bay with a series of  
33 metered pumps and hoses for delivering fuel from a refinery or terminal into a  
34 motor vehicle or other means of conveyance.

35        (k) 'Terminal' means a fuel storage and distribution facility that is  
36 supplied by pipeline, marine vessel or other source, and from which fuel may

1 be removed at a rack.

2 (l) 'Terminal Operator' means the person who by ownership or  
3 contractual agreement is charged with the responsibility and physical control  
4 over the operation of a terminal. However, there shall be only one (1) person  
5 charged with responsibility as operator at each terminal for the purposes of  
6 this Act.

7 (m) 'Wholesaler' as used herein shall have the same meaning as ascribed  
8 to the term 'distributor' as set out in §26-55-202 (7) and as ascribed to the  
9 term 'supplier' as set out in §26-56-102 (11).

10 26-57-1102. There is hereby levied a wholesale excise tax at the same  
11 rate of taxation imposed upon the gross proceeds or gross receipts derived  
12 from sales pursuant to the 'Arkansas Gross Receipts Act of 1941,' including  
13 all additional taxes now imposed or hereafter imposed upon such gross proceeds  
14 or gross receipts, on:

15 (a) the gross receipts or gross proceeds derived from all sales of fuel  
16 by wholesalers to any person in the State of Arkansas; and,

17 (b) the purchase price of fuel purchased by an importer for sale,  
18 storage, use, distribution or consumption within this state.

19 26-57-1103. There is specifically exempted from the tax imposed by this  
20 Act the following:

21 (a) The gross receipts or gross proceeds derived from sales to the  
22 United States Government.

23 (b) The gross receipts or gross proceeds derived from sales for export  
24 outside of Arkansas.

25 (c) Fuel imported into Arkansas in the fuel tank of a motor vehicle.

26 (d) The gross receipts or gross proceeds derived from sales of fuel for  
27 off-road purposes, which sales are susceptible to taxation pursuant to and in  
28 accordance with the 'Arkansas Gross Receipts Act of 1941.'

29 26-57-1104. (a) The importer or wholesaler subject to the taxes levied  
30 by this Act shall file a monthly return and remit the tax for the month to the  
31 director on or before the twenty-fifth day of the month next following the  
32 month in which the sale was made.

33 (b) The returns shall be made upon forms prescribed and furnished by  
34 the director and signed by the person required to collect and remit the tax or  
35 his agent. The return shall contain such information as the director shall  
36 require for the proper administration of this subchapter. The director shall

1 have the authority to make and promulgate rules and regulations to carry out  
2 the provisions of this subchapter.

3 (c) This act is to be administered in all respects in accordance with  
4 the Arkansas Tax Procedure Act, §26-18-101 et seq., unless otherwise provided.  
5 26-57-1105. Every importer and wholesaler subject to the tax levied by  
6 this Act shall register with the Director and obtain a tax reporting number."

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8 SECTION 2. Ark. Code Ann. §26-52-401 (11) is amended to read as  
9 follows:

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

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

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

15 (B) Nothing in this subdivision shall exempt gasoline fuel from the  
16 wholesale gross receipts tax imposed pursuant to ~~Act 1005 of 1995~~ §26-57-1101,  
17 et seq."

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19 SECTION 3. (1) All taxes, fees, penalties, interest, and other amounts  
20 collected under the provisions of this Act shall be classified as special  
21 revenues and shall be deposited in the State Treasury. After deducting the  
22 amount to be credited to the Constitutional Officers Fund and the State  
23 Central Services Fund as provided under the Revenue Stabilization Law, §19-5-  
24 101 et seq., the Treasurer of State shall transfer on the last business day  
25 of each month:

26 (A) Fifteen percent (15%) of the amount thereof to the County Aid Fund;

27 (B) Fifteen percent (15%) of the amount thereof to the Municipal Aid  
28 Fund; and

29 (C) Seventy percent (70%) of the amount thereof to the State Highway  
30 and Transportation Department Fund.

31 (2) The funds shall be further disbursed in the same manner and used  
32 for the same purposes as set out in the Arkansas Highway Revenue Distribution  
33 Law, §27-70-201 et seq.

34  
35 SECTION 4. All provisions of this act of a general and permanent nature  
36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

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3 SECTION 5. If any provision of this act or the application thereof to  
4 any person or circumstance is held invalid, such invalidity shall not affect  
5 other provisions or applications of the act which can be given effect without  
6 the invalid provision or application, and to this end the provisions of this  
7 act are declared to be severable.

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9 SECTION 6. All laws and parts of laws in conflict with this act are  
10 hereby repealed.

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12 SECTION 7. EMERGENCY CLAUSE. It is hereby found and determined by the  
13 General Assembly that existing highway user revenue sources do not provide for  
14 the adequate maintenance, repair, construction and reconstruction of state  
15 highways, county roads and city streets; that the motor vehicular traffic on  
16 the public highways and streets of this State makes it immediately necessary  
17 that additional funds be provided in order to finance adequate highway, road  
18 and street maintenance and construction programs; that the continued economic  
19 expansion and growth of this State will be jeopardized if an adequate system  
20 of public roads and streets is not provided; and that only by the immediate  
21 passage of this Act may such vitally needed additional funds be provided to  
22 solve the aforementioned problems. Therefore, an emergency is declared to  
23 exist and this act being immediately necessary for the preservation of the  
24 public peace, health and safety shall become effective on July 1, 1997.

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26 /s/Rep. Miller et al

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