

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

# A Bill

HOUSE BILL 2131

4  
5 By: Representative Broadway

## For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE  
10 PERTAINING TO LIQUEFIED PETROLEUM GAS; TO REPEAL THE  
11 ANNUAL FEE FOR MOTOR VEHICLES USING LIQUEFIED PETROLEUM  
12 GAS; TO IMPOSE SPECIAL MOTOR FUELS TAXES ON LIQUEFIED  
13 PETROLEUM GAS AT THE TIME OF PURCHASE; AND FOR OTHER  
14 PURPOSES."

## Subtitle

15  
16  
17 "TO REPEAL THE ANNUAL FEE FOR MOTOR  
18 VEHICLES USING LP GAS; AND TO IMPOSE  
19 SPECIAL MOTOR FUELS TAXES ON LP GAS AT  
20 THE TIME OF PURCHASE."

21  
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23  
24 SECTION 1. The following provision of the Arkansas Code is repealed.

25 ~~26-56-304. Users' permits generally.~~

26 ~~—(a) Each liquefied gas special fuel user, including licensed liquefied gas  
27 special fuel suppliers and dealers who use liquefied gas special fuels in  
28 vehicles owned by the supplier or dealer, shall make application for and  
29 secure a liquefied gas special fuel user's permit for each vehicle owned and  
30 operated which uses liquefied gas special fuel.~~

31 ~~—(b) The application must be made on a form prescribed by the director,  
32 showing the name, address, and user license number or supplier or dealer  
33 license number of the applicant, the make, model, and motor number of the  
34 vehicle involved, the type of fuel used therein, and such other pertinent  
35 information as the director may require.~~

36 ~~—(c) The fuel user's permit shall be obtained annually before the director~~

1 ~~shall register and issue a motor vehicle license for the vehicle.~~

2 ~~—(d)(1) At the time of applying for such permit and prior to the registration~~  
3 ~~and issuance of a motor vehicle license for the vehicle, each applicant,~~  
4 ~~except licensed liquefied gas special fuel suppliers, shall remit to the~~  
5 ~~director, in addition to the regular fee prescribed by law for the~~  
6 ~~registration and licensing of the vehicle, an additional fee in an amount~~  
7 ~~which is determined by the General Assembly, based upon information available~~  
8 ~~from statistical studies of the motor vehicular use of liquefied gas special~~  
9 ~~fuels by various classes of users, as follows:~~

10 ~~\_\_\_\_\_ NONFARM VEHICLES \_\_\_\_\_~~

11 ~~\_\_\_\_\_ Annual Additional Fee \_\_\_\_\_~~

12 ~~Passenger cars and motor homes ..... \$ 164.00~~

13 ~~Pickup trucks, one-half (½) and three-quarter (3/4) ton .... 195.00~~

14 ~~Pickup trucks, one (1) ton ..... 251.00~~

15 ~~Trucks, maximum gross loaded weight in excess of one (1) ton~~

16 ~~— but not exceeding 22,500 pounds ..... 520.00~~

17 ~~Passenger buses except school buses manufactured and licensed~~

18 ~~— as such ..... 520.00~~

19 ~~School buses manufactured and licensed as such ..... 260.00~~

20 ~~Trucks, maximum gross loaded weight in excess of 22,500~~

21 ~~— pounds ..... 609.00~~

22 ~~\_\_\_\_\_ FARM VEHICLES \_\_\_\_\_~~

23 ~~In order to aid in the production of farm products and to eliminate apparent~~  
24 ~~inequities in liquefied gas special fuel fees which are in lieu of the~~  
25 ~~gallonage tax on such fuel used in vehicles operated primarily on farms and~~  
26 ~~not on the main highway system of this state, a special classification is~~  
27 ~~created for farm vehicles using liquefied gas special fuel and entitled to be~~  
28 ~~registered and licensed as natural resources farm vehicles. The flat fee in~~  
29 ~~lieu of the gallonage tax on the fuel used in such vehicle shall be as~~  
30 ~~follows:~~

31 ~~Pickup trucks, one-half (½) and three-quarter (3/4) ton ..... \$ 130.00~~

32 ~~Pickup trucks, one (1) ton ..... 156.00~~

33 ~~Trucks, maximum gross loaded weight in excess of one (1) ton~~

34 ~~— but not exceeding 22,500 pounds ..... 178.00~~

35 ~~Trucks, maximum gross loaded weight in excess of 22,500~~

36 ~~— pounds ..... 260.00~~

1 ~~—(2) If the director determines that the flat fee provided herein in lieu of~~  
 2 ~~the gallonage tax on liquefied gas special fuel is, in the case of common or~~  
 3 ~~contract carriers or other vehicles for hire, inadequate to compensate for the~~  
 4 ~~gallonage tax, the director may require such common or contract carriers or~~  
 5 ~~owners of other vehicles for hire to pay a fee based upon the actual mileage~~  
 6 ~~of the common or contract carrier or vehicle for hire for the previous year,~~  
 7 ~~the current year, or any other reasonable basis.~~

8 ~~—(3) The director shall establish regulations for computing the fees and for~~  
 9 ~~the enforcement of the collection thereof.~~

10 ~~—(4) If any new liquefied gas special fuel vehicle is placed in operation or~~  
 11 ~~any other vehicle shall be converted to a liquefied gas special fuel vehicle~~  
 12 ~~during the registration year, the owner shall be permitted to pay a~~  
 13 ~~proportionate part of the special fuel user's permit fee for such vehicle for~~  
 14 ~~the remainder of the current registration year based upon one-twelfth (1/12)~~  
 15 ~~of the annual fee for such vehicle for each calendar month or fraction thereof~~  
 16 ~~remaining in the current registration year.~~

17

18 SECTION 2. The following provision of the Arkansas Code is repealed.

19 ~~—26-56-305. Users' permits - Transfer.~~

20 ~~—When a motor vehicle permitted to use liquefied gas under this subchapter is~~  
 21 ~~altered to operate on a fuel other than liquefied gas or destroyed prior to~~  
 22 ~~the expiration of the permit period, the director, upon the request of the~~  
 23 ~~motor vehicle owner within ten (10) days of the conversion or destruction and~~  
 24 ~~the payment of a two dollar (\$2.00) transfer fee, shall transfer the permit~~  
 25 ~~for the remainder of the permit period to another motor vehicle operating on~~  
 26 ~~liquefied gas owned by the person.~~

27

28 SECTION 3. The following provision of the Arkansas Code is repealed.

29 ~~—26-56-306. Users' permits - Window decals.~~

30 ~~—(a) The director shall promulgate special serially numbered window decals to~~  
 31 ~~be issued for motor vehicles for which liquefied gas special fuel user's~~  
 32 ~~permits are issued, except vehicles of licensed liquefied gas special fuel~~  
 33 ~~suppliers, which distinctive window decals shall evidence not only the~~  
 34 ~~registration of the vehicle but shall evidence the fact that the special~~  
 35 ~~permit fee charged under 26-56-304 has been paid.~~

36 ~~—(b) Each motor vehicle bearing such special and distinctive window decals~~

1 ~~shall entitle the owner or user of the motor vehicle to purchase liquefied gas~~  
 2 ~~special fuels from licensed liquefied gas special fuel suppliers only without~~  
 3 ~~the necessity of paying the gallonage tax levied thereon under 26-56-301, it~~  
 4 ~~being the intent of that section that the payment of the special fee levied by~~  
 5 ~~26-56-304 shall be in lieu of and in full satisfaction of the liquefied gas~~  
 6 ~~special fuels gallonage taxes that would have otherwise been due on liquefied~~  
 7 ~~gas special fuels used in the vehicle during the period for which the license~~  
 8 ~~and permit is issued.~~

9 ~~—(c) When a vehicle bearing a special and distinctive liquefied gas special~~  
 10 ~~fuel window decal is transferred, the liquefied gas special fuel window decal~~  
 11 ~~shall remain with the vehicle, and, when the registration of the vehicle is~~  
 12 ~~transferred to the new owner, such new owner shall be entitled to purchase~~  
 13 ~~liquefied gas special fuel for the vehicle without payment of the gallonage~~  
 14 ~~tax thereon the same as the former owner.~~

15

16 SECTION 4. Arkansas Code 26-56-301(b), pertaining to alternative  
 17 payment of liquefied gas fees, is amended to read as follows:

18 "~~(b) However, in lieu of the gallonage tax levied in this section with~~  
 19 ~~respect to liquefied gas special fuels used under this subchapter, the~~  
 20 ~~director shall, except as otherwise provided herein, require the payment of~~  
 21 ~~the fees prescribed in §§ 26-56-304 in the case of all vehicles required to~~  
 22 ~~obtain liquefied gas special fuel user's permits under this subchapter, except~~  
 23 ~~licensed liquefied gas special fuel suppliers. (1) The tax levied by this~~  
 24 ~~section shall also be due on all liquefied gas special fuels sold, used or~~  
 25 ~~consumed in this state for the operation of motor vehicles licensed or~~  
 26 ~~required to be licensed for use upon the public highways.~~

27 (2) This tax is in addition to all other taxes on liquefied gas special  
 28 fuels imposed by §§ 26-56-502 and 26-56-601.

29 (3) This tax shall be reported and paid in the manner prescribed by §§  
 30 26-56-307 through 26-56-309."

31

32 SECTION 5. Arkansas Code 26-56-308 is amended to read as follows:  
 33 "26-56-308. Reports and payment of tax by suppliers.

34 (a) On or before the twenty-fifth day of each calendar month next  
 35 following the calendar month for which the report is made, each liquefied gas  
 36 special fuel supplier shall report to the director:

1 (1) The total gallons of liquefied gas special fuel sold or delivered to  
 2 each liquefied gas special fuel dealer, the name and address and dealer  
 3 license number of each dealer, and the tax collected thereon;

4 (2) The number of gallons of liquefied gas special fuel sold or  
 5 delivered into the fuel supply tanks of motor vehicles or into storage tanks  
 6 marked "TAX PAID FUELS" and the tax collected thereon; and ~~The number of~~  
 7 ~~gallons of liquefied gas special fuel sold or delivered to liquefied gas~~  
 8 ~~special fuel users other than dealers, the name and address of each user, the~~  
 9 ~~quantity sold or delivered to each user, and the tax collected thereon; and~~

10 ~~\_\_\_\_\_ (3) If the fuel is delivered into the supply tanks of any vehicle for~~  
 11 ~~which the flat fee provided for in 26-56-304 has been paid, the vehicle~~  
 12 ~~license number of the vehicle; and~~

13 ~~\_\_\_\_\_ (4) (3) The number of gallons of such fuel used by such supplier for his~~  
 14 ~~own purposes, and the quantity thereof subject to the tax levied; and~~

15 ~~\_\_\_\_\_ (5) The quantity of the fuel otherwise disposed of by the supplier and~~  
 16 ~~the portion thereof subject to the tax levied in 26-56-304; and~~

17 ~~\_\_\_\_\_ (6) (4) Such other information as the director may by regulation~~  
 18 ~~require.~~

19 (b) The report shall be made even though no tax is due.

20 (c) Each liquefied gas special supplier shall, at the time of filing the  
 21 monthly report required by this section, remit to the director any and all  
 22 taxes due on liquefied gas special fuel covered by the report."

23

24 SECTION 6. Arkansas Code 26-56-309 is amended to read as follows:

25 "26-56-309. Reports by dealers.

26 Every liquefied gas special fuel dealer shall monthly, on or before the  
 27 twenty-fifth day of the month, file a report with the director for the  
 28 preceding calendar month, showing all liquefied gas special fuel sold,  
 29 delivered, or used by such dealer, whether the fuel is sold or delivered for a  
 30 taxable or nontaxable use, ~~the name and address of the purchasers, the~~  
 31 ~~quantity purchased by each, and, in the case of liquefied gas special fuel~~  
 32 ~~delivered into the supply tanks of vehicles on which the flat fee provided in~~  
 33 ~~this subchapter has been paid, the name, address, and vehicle license number~~  
 34 ~~of the purchaser. the amount of tax collected, and such other information as~~  
 35 ~~required by the director."~~

36

1 SECTION 7. Arkansas Code 26-56-310 is amended to read as follows:

2 "26-56-310. Surrender of license or permit - Discontinuance of business.

3 (a) Whenever any person to whom a liquefied gas special fuel supplier's  
 4 license, ~~or dealer's license, or liquefied gas special fuel user's permit~~ has  
 5 been issued, discontinues to supply, sell, or use liquefied gas special fuel  
 6 within the state, such person shall notify the director in writing of that  
 7 fact within thirty (30) days thereafter and surrender his license or permit to  
 8 the director.

9 (b) No person surrendering any such license or permit shall be entitled  
 10 to any refund of any of the fees previously paid."

11

12 SECTION 8. Arkansas Code 26-56-311 is amended to read as follows:

13 "26-56-311. Revocation of supplier's or dealer's license.

14 ~~—— (a) If a licensed liquefied gas special fuel supplier or dealer fails to~~  
 15 ~~file any report required by this subchapter, or falsely or fraudulently files~~  
 16 ~~a report, or fails to pay the full amount of the tax levied by this~~  
 17 ~~subchapter, or if at any time the surety on such licensee's bond becomes~~  
 18 ~~unsatisfactory or inaccessible to the director or the bond is discharged or~~  
 19 ~~canceled, and a new bond is not furnished by the licensee within five (5) days~~  
 20 ~~after the demand of the director, the director may give notice to the licensee~~  
 21 ~~of an intention to revoke his license. The provisions of §§ 26-18-601 and 26-~~  
 22 ~~18-602 shall govern the revocation of the license."~~

23 ~~—— (b) The licensee shall be entitled to a period of ten (10) days after~~  
 24 ~~the mailing of the notice within which to apply for a hearing on the question~~  
 25 ~~of having his license revoked, and the director shall designate a time and~~  
 26 ~~place for the hearing, giving the licensee five (5) days' notice thereof.~~

27 ~~—— (c) After the hearing at which the licensee shall be entitled to present~~  
 28 ~~evidence and be represented by counsel, the director shall determine whether~~  
 29 ~~the licensee's license shall be revoked.~~

30 ~~—— (d)(1) Upon the issuance of an order revoking the license, the licensee~~  
 31 ~~shall be entitled to appeal to the chancery court in any county in which he~~  
 32 ~~may do business where the question shall be tried de novo, but the director's~~  
 33 ~~order shall be affirmed if supported by substantial evidence.~~

34 ~~—— (2) An appeal may be had from the judgment of the chancery court as in~~  
 35 ~~other cases as provided by law.~~

36 ~~—— (e) If the licensee fails to apply for a hearing within the prescribed time,~~

1 ~~the director may immediately revoke the license of the licensee and notify the~~  
 2 ~~licensee by registered mail, addressed to the last known address of the~~  
 3 ~~licensee appearing in the files of the director. The director shall also~~  
 4 ~~notify the surety company on the licensee's bond in like manner.~~

5

6 SECTION 9. Arkansas Code 26-56-312 is amended to read as follows:

7 "26-56-312. Importation or use by unlicensed persons.

8 (a) Any person operating a motor vehicle on the highways of this state  
 9 who for the first time imports liquefied gas special fuels into the state in  
 10 the supply tank of a motor vehicle ~~but who has not obtained a liquefied gas~~  
 11 ~~special fuel user's permit from this state or~~ who is not a bonded liquefied  
 12 gas special fuel supplier in this state shall nevertheless be deemed a special  
 13 fuel user.

14 (b) For the purposes of determining the number of gallons of liquefied  
 15 gas special fuel consumed in operating on the highways of this state, the  
 16 special fuel user shall be required to pay to the director the tax levied by  
 17 this subchapter on each gallon of liquefied gas special fuel contained in the  
 18 supply tank of the vehicle at the time of entry into the state and upon all  
 19 such fuel used in this state upon which the tax levied in this subchapter has  
 20 not been paid."

21

22 SECTION 10. Arkansas Code 26-56-313(a), pertaining to payment of tax on  
 23 purchases by unlicensed persons, is amended to read as follows:

24 "(a) Any person purchasing liquefied gas special fuels for delivery into  
 25 the supply tanks of the motor vehicle of such person, ~~if such person does not~~  
 26 ~~have a liquefied gas special fuel user's permit as evidenced by the~~  
 27 ~~appropriate license issued therefor as provided in this subchapter or for~~  
 28 delivery into a storage facility marked "TAX PAID FUELS", if such person is  
 29 not a bonded licensed liquefied gas special fuel supplier, shall pay to the  
 30 supplier or dealer at the time of purchase of liquefied gas special fuels the  
 31 gallonage tax levied in §26-56-301 on each gallon of liquefied gas special  
 32 fuels so delivered into the supply tanks of the motor vehicle."

33

34 SECTION 11. Arkansas Code 26-56-102(6), pertaining to definitions  
 35 concerning special motor fuels taxes, is amended to read as follows:

36 "(6) <sup>Ⓢ</sup>Interstate user<sup>Ⓢ</sup> means any person who imports or exports

1 distillate special fuels or liquefied gas special fuels into or out of this  
2 state in the fuel supply tanks of motor vehicles owned or operated by him;"

3

4 SECTION 12. Title 26, Chapter 56, Subchapter 3 of the Arkansas Code is  
5 amended by adding a new section to read as follows:

6 "26-56-316. (a)(1) All users, except suppliers of liquefied gas special  
7 fuels who maintain their own storage tanks in the state, are required to have  
8 a separate storage tank for taxable liquefied gas special fuels, which tanks  
9 are to be physically separate and apart from any other tanks or fueling units,  
10 and to indicate it by placing thereon in a conspicuous place the words TAX  
11 PAID FUELS in letters not less than five inches (5") high.

12 (2) Suppliers and dealers are required to collect the tax on all  
13 liquefied gas special fuels delivered into those tanks.

14 (b)(1) All users who have facilities for storing liquefied gas special  
15 fuels intended for other than highway use and which facilities are suitable to  
16 fuel motor vehicles using liquefied gas special fuels, except those facilities  
17 used for residential purposes, shall mark the storage facilities with the  
18 words NOT FOR MOTOR VEHICLE USE in letters not less than five inches (5")  
19 high, and suppliers may deliver into such storage without collecting the tax  
20 levied in this subchapter.

21 (2) If users do not provide such tanks, then all liquefied gas special  
22 fuels delivered by a supplier or dealer into storage tanks suitable for  
23 fueling motor vehicles become taxable, provided, however, that any city or  
24 county using a computerized fuel dispensing system that will automatically  
25 record each transaction as to pump operator and specific vehicle to which the  
26 fuel is dispensed may have taxable and nontaxable liquefied gas special fuels  
27 delivered into the same tank. The supplier shall collect the tax on the  
28 taxable portion of each purchase based upon the sworn statement of the  
29 purchaser as to the amount of taxable fuel purchased. Each city or county  
30 shall file a report with the Director of the Department of Finance and  
31 Administration accounting for the taxable and nontaxable fuel used and miles  
32 driven by each vehicle which requires taxable fuel in such a manner, at such  
33 time, and on such forms as shall be prescribed by the director. The director  
34 may promulgate regulations to establish a system to periodically reconcile the  
35 taxable fuel purchased and actual taxable fuel used by the city or county.

36 (3) However, where a user has one (1) or more storage tanks used for the



1 storage of liquefied gas special fuels within the meaning of this chapter, and  
 2 the user does not own, possess, lease, or otherwise operate a motor vehicle  
 3 licensed or required to be licensed for use upon the public highway and  
 4 capable of using said fuel, the requirement for marking such storage  
 5 facilities NOT FOR MOTOR FUEL USE shall be waived.

6 (c) Nothing in this section shall be construed to amend or change the  
 7 meaning of any other section of this chapter."

8

9 SECTION 13. All provisions of this act of a general and permanent  
 10 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
 11 Code Revision Commission shall incorporate the same in the Code.

12

13 SECTION 14. If any provision of this act or the application thereof to  
 14 any person or circumstance is held invalid, such invalidity shall not affect  
 15 other provisions or applications of the act which can be given effect without  
 16 the invalid provision or application, and to this end the provisions of this  
 17 act are declared to be severable.

18

19 SECTION 15. All laws and parts of laws in conflict with this act are  
 20 hereby repealed.

21

22 SECTION 16. Emergency. It is hereby found and determined by the  
 23 General Assembly that the annual fee for motor vehicles using petroleum gas  
 24 should be repealed; that the payment of motor fuel tax on liquefied petroleum  
 25 gas should be collected at the time of purchase; that the current user fees  
 26 collected expire June 30, 1997; and that for the efficient administration of  
 27 this act it is necessary for it to become effective July 1, 1997. Therefore,  
 28 an emergency is hereby declared to exist and this act being necessary for the  
 29 immediate preservation of the public peace, health and safety shall be in full  
 30 force and effect on and after July 1, 1997.

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