

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

As Engrossed: S2/12/99 S2/19/99 S2/26/99

A Bill

SENATE BILL 434

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By: Senators Hoofman, Everett, Gordon, Mahony, Bearden, Gwatney, Roebuck, B. Lewellen, Argue, Canada, Critcher, Hopkins

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For An Act To Be Entitled

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"AN ACT TO LEVY AND COLLECT A TAX ON ALL MOTOR VEHICLES HAVING DECLARED GROSS WEIGHTS IN EXCESS OF 73,280 POUNDS; TO AMEND ARKANSAS CODE 27-14-601(a)(3)(G)(ii) TO REDUCE THE REGISTRATION FEE FOR TRUCKS CARRYING OVER 73,280 POUNDS FROM ONE THOUSAND THREE HUNDRED FIFTY DOLLARS (\$1,350) TO THREE HUNDRED FIFTY DOLLARS (\$350); AND FOR OTHER PURPOSES."

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Subtitle

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"TO LEVY A TAX ON ALL MOTOR VEHICLES HAVING DECLARED GROSS WEIGHTS IN EXCESS OF 73,280 POUNDS."

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

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SECTION 1. This act shall be known and may be cited as the Arkansas Weight-Distance Tax Act of 1999.

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SECTION 2. As used in this Act, unless the context otherwise requires:

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(1) "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;

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

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(3) "Department" means the Arkansas State Highway and Transportation

1 Department;

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

6 (5) "Highway" means all highways, roads, and streets of this state
7 generally open to the use of the public as a way for vehicular traffic;

8 (6) "Motor Vehicle" means all cargo vehicles required to be registered
9 for use upon the public highways of this state, designed, used or maintained
10 primarily for the transportation of property and having a declared gross
11 weight of seventy-three thousand two hundred eighty-one (73,281) pounds or
12 more. For the purpose hereof, truck-tractors, single unit trucks, semi-
13 trailers and trailers operated in combination thereof shall constitute a
14 single vehicle. The person having the use or control, or the right to the
15 use or control of the part of the vehicle furnishing the motive power is the
16 highway user with respect to the entire vehicle and is accordingly subject as
17 such to the provisions of this Act;

18 (7) "Net Laden Miles" means the total miles driven in Arkansas by the
19 user vehicle less the total unladen miles traveled in Arkansas by the user
20 vehicle;

21 (8) "Truck" means truck, truck-tractor and semi-trailer or
22 combinations of trailers or semi-trailers when operated in combination with a
23 truck or truck-tractor;

24 (9) "Unladen Miles" means those miles traveled with the vehicle
25 totally empty and free of cargo. However, cargo shall not include any
26 equipment, supplies, fixtures and materials carried in or on a truck which
27 are used in loading, unloading, covering, containing, packing or securing the
28 cargo hauled or to be hauled, and equipment, supplies, fixtures and materials
29 as used herein includes, but is not limited to, lifts, hoists, dollies,
30 pallets, crates, coops or other containers, covers, packing materials and
31 supplies, chains, cables, braces and blocks; and

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

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1 SECTION 3. (a)(1) An annual tax is hereby imposed upon all users of
2 motor vehicles in compensation for the use of the highways of this state.
3 The tax shall be in addition to all other taxes and fees now required to be
4 paid on motor vehicles.

5 (2) Any Arkansas registered vehicle user who registers a motor
6 vehicle to haul in excess of 73,280 pounds shall notify the Arkansas
7 Department of Finance and Administration at the time of license registration.
8 The Arkansas Department of Finance and Administration shall then record the
9 maximum declared gross weight on the vehicle license registration and notify
10 the Arkansas State Highway and Transportation Department, in writing, of
11 those vehicles registered in excess of seventy-three thousand, two-hundred
12 eighty (73,280) pounds. All other users of motor vehicles subject to this
13 act shall annually qualify such vehicles directly with the Department.

14 (b) The tax imposed by this Act shall not apply to:

15 (1) any motor vehicle whose declared gross weight is seventy-
16 three thousand two hundred eighty (73,280) pounds or less;

17 (2) any vehicle owned and operated by the United States of
18 America or the State of Arkansas, or any political subdivision thereof;

19 (3) any vehicles licensed exclusively for hauling unfinished and
20 unprocessed farm products, forest products, and clay minerals and ores, from
21 the point of production, harvesting or severance to the point at which the
22 same shall first undergo any processing, preparation for processing,
23 conversion or transformation from their raw, natural or severed state; and

24 (4) any vehicles used exclusively for hauling animal feed by
25 owners of livestock or poultry for consumption by livestock or poultry owned
26 by them.

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28 SECTION 4. (a) The user of every vehicle subject to this Act, before
29 operating the vehicle over the highways of this state, shall annually qualify
30 the vehicle with the Department. Qualifications shall be made by application
31 to the Department on forms to be provided by said Department. The Department
32 may accept applications from owners of leasing and rental companies that
33 lease vehicles under long-term leases to customer lessees.

34 (b) Upon receipt of an application and payment of the tax as
35 hereinafter determined, the Department shall make appropriate record of the
36 vehicle qualified and certify its annual qualification on the applicant's tax

1 cab card, one of which is to be carried in the cab of the vehicle at all
2 times. The Department shall also issue a decal to the user, which shall, by
3 the user, be affixed to the cab of such vehicle.

4 (c) Any user qualifying a motor vehicle within his fleet shall be
5 responsible for the removal of the decal and cab card when that vehicle is
6 terminated from the user's fleet. Failure to remove the decal and cab card,
7 which shall be retained by the user as proof of removal, shall result in a
8 penalty of twenty-five dollars (\$25.00) per month for the remaining months of
9 the qualification period after the vehicle was terminated from that user's
10 fleet.

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12 SECTION 5. (a) At the time of the qualification of any vehicle subject
13 to this tax, the Department shall apply the mileage rate, utilizing the gross
14 weight declared in the application for the vehicle, according to the
15 following table:

<u>Vehicle Weight (pounds)</u>	<u>Mileage Rate (dollars)</u>
<u>73,281 - 80,000</u>	<u>\$.035</u>

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21 (b) The tax determined under this provision for every vehicle subject
22 to the tax shall be three and one-half cents (\$.035) per mile for the Net
23 Laden Miles estimated to be traveled in Arkansas for the forthcoming twelve
24 months (July 1 through June 30). The user may, at his option, pursuant to
25 regulations promulgated by the Department, elect to make equal quarterly
26 payments of his annual tax liability. Vehicles added to the fleet during the
27 twelve-month qualification period must qualify by paying three and one-half
28 cents (\$.035) per mile for the estimated net laden miles to be traveled in
29 Arkansas in the remainder of the qualifying year, in the manner allowed under
30 regulations promulgated by the Department. Underpayments and overpayments
31 may be reconciled at the time of any quarterly estimate payment, or as
32 otherwise allowed by regulation, based upon actual net laden miles traveled
33 in the state during the qualification year with the mileage estimated for the
34 year and an amended application submitted for refund or credit, or with any
35 additional taxes due.

36 (c) Failure to make any quarterly payment as provided by regulation

1 shall result in the cancellation by the Department of the user's authority to
2 operate any vehicle out of compliance with this Act in this State.

3 (d) Any user qualifying a motor vehicle with the Department must, at
4 the end of the qualification period, submit to the Department any and all
5 records as the Department deems appropriate according to regulations
6 promulgated by the Department indicating the total number of miles traveled
7 through the state, both laden and unladen by the user's vehicle or vehicles.

8 A summary of records submitted by the user must be supported by source
9 documents retained by the user. In all cases specific records must be
10 maintained by the user indicating the above information for every trip
11 whether laden or unladen, pursuant to rules and regulations to be promulgated
12 by the Department. Mileage reports and records shall be subject to
13 inspection and audit by the Department in the same manner as other books,
14 records and documents of the user are subject to inspection and audit as
15 provided by this Act.

16 (e) Any claims made by the user on the applications and the initial
17 acceptance by the Department of those claims, for application purposes, does
18 not preclude a later decision by the Department based on specific audit
19 findings during an audit of the user. Any user who shall falsify any records
20 required by this act shall be guilty of a Class A misdemeanor.

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22 SECTION 6. (a) The user of any motor vehicle may, in lieu of
23 qualification in accordance with the provisions of Section 4 of this Act, pay
24 a trip permit fee. The trip permit for trucks with a declared gross weight
25 of seventy-three thousand two hundred eighty-one (73,281) pounds through
26 eighty (80,000) pounds shall be issued at a fee of four dollars (\$4.00) for
27 each one hundred (100) miles of travel, rounded to the nearest one hundred
28 (100) miles. Unladen motor vehicle travel in the State shall be exempt from
29 payment of the trip permit fee and no Arkansas registered vehicle shall be
30 allowed to utilize a trip permit.

31 (b) Trip permits shall be issued by the Department pursuant to
32 regulations to be promulgated by the Department on forms as it deems
33 appropriate and shall be retained by the user for a period of three (3) years
34 as proof of payment of any liability determined through audit.

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36 SECTION 7. (a) The Department is hereby authorized to collect those

1 taxes and fees imposed by this Act upon all users subject to the provisions
2 of this Act, to make timely deposits into the State Treasury of all monies
3 collected by the Department, and to administer the provisions of this Act,
4 including the right to inspect and audit at reasonable times, at any place,
5 without prior notice, the books, records and documents of any user or other
6 qualifying person required to pay the tax hereby imposed.

7 (b) No assessment shall be made upon any user under the tax imposed by
8 this Act after the expiration of three (3) years from the date the user's
9 application for qualification was made, provided, in those cases where an
10 application is deemed to have been fraudulently made, an assessment may be
11 made for any prior qualification period or periods.

12 (c) Any user who neglects or refuses to pay the tax shall be liable
13 for the full tax amount owed plus interest at the rate of ten percent (10%).
14 If the liability, at the end of the qualification period, based upon the
15 difference between the "estimated" net laden miles and the actual net laden
16 miles supported by the user's records, exceeds twenty percent (20%), a ten
17 percent (10%) penalty may also be imposed. Any user making quarterly payments
18 who fails to make a quarterly payment, as provided by regulation, may be
19 assessed after hearing a five percent (5%) penalty in addition to an interest
20 charge to be calculated in the same manner as provided above.

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22 SECTION 8. The tax provided for in this Act must be paid by the users
23 of all applicable vehicles using the highways of this state, and no
24 reciprocal agreement or agreement of any nature heretofore or hereafter
25 entered into between officials of this State and those of any other state may
26 exempt any user of such vehicles using the highways of this state from the
27 provisions of and the payment of the tax levied by this Act.

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29 SECTION 9. (a) Any motor vehicle user who has been assessed a
30 retaliatory tax by another state, and who has paid the tax, shall be entitled
31 to reimbursement by the State of Arkansas for the tax so paid. Any person
32 desiring reimbursement shall apply to the Arkansas Highway and Transportation
33 Department, and shall furnish the Department a copy of the receipt for the
34 payment of the retaliatory tax for which reimbursement is requested, together
35 with such other information as the Department may reasonably request in order
36 to verify that the applicant is entitled to reimbursement.

1 (b) When the Department determines that any applicant for
2 reimbursement under this Act is entitled to reimbursement, the Department is
3 authorized to make a reimbursement out of funds on hand which were received
4 by the Department from the tax levied by this Act.

5 (c) Retaliatory tax means an amount assessed by another state against a
6 motor vehicle user in direct retaliation to and as a direct result of the
7 imposition of the tax imposed pursuant to this Act which would not have been
8 assessed in the absence of the tax imposed pursuant to this Act.

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10 SECTION 10. Any user, or other qualifying person, of any vehicle found
11 operating over the highways of this state without complying with this Act, or
12 without having available in or on the cab thereof the appropriate cab card
13 and decal or trip permit, shall be guilty of a misdemeanor and upon
14 conviction thereof shall each be punished by a fine of no less than one
15 hundred dollars (\$100.00) and not more than two hundred dollars (\$200.00) for
16 the first offense; and of no less than two hundred dollars (\$200.00), and not
17 more than five hundred dollars (\$500.00) for the second offense; and of no
18 less than five hundred dollars (\$500.00) and not more than one thousand
19 dollars (\$1,000.00) for a third or subsequent offense.

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21 SECTION 11. The annual tax hereby imposed on all users of motor
22 vehicles shall be applicable for the qualification year beginning July 1,
23 1999 and ending June 30, 2000 and for each year thereafter.

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25 SECTION 12. All fees, taxes, penalties and interest collected under
26 this Act shall be classified as "special revenues" and shall be deposited in
27 the State Treasury, and the State Treasurer shall, after deducting therefrom
28 the amount to be credited to the Constitutional Officers Fund and the State
29 Central Services Fund as provided in the Revenue Stabilization Law, transfer
30 on the last business day of each month: 15% of the amount thereof, to the
31 County Aid Fund; 15% of the amount thereof, to the Municipal Aid Fund; and
32 70% of the amount thereof, to the State Highway and Transportation Department
33 Fund, such funds to be further disbursed in the same manner and used for the
34 same purposes as set out in the "Arkansas Highway Revenue Distribution Law".

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36 SECTION 13. The Arkansas State Highway Commission shall, immediately

1 following the passage and approval of this Act, promulgate reasonable rules
2 and regulations and take all appropriate action on the Arkansas State Highway
3 Commission deems necessary, as hereby authorized, in order to ensure that all
4 provisions of this Act may be effectuated as soon as practicable following
5 the passage and approval of this act. The taxes imposed by this act shall be
6 exempt from the provisions of the Arkansas Tax Procedure Act, Act 401 of
7 1979, as amended. The Director of the Department shall appoint a hearing
8 officer to review all written protests of tax assessments, hold hearings and
9 make written findings of tax assessments. Hearings and appeals shall be
10 governed by the Arkansas Administrative Procedure Act, Act 434 of 1967, as
11 amended.

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13 SECTION 14. Arkansas Code 27-14-601(a)(3)(G)(ii), regarding the motor
14 vehicle registration fees, is amended to read as follows:

15 "(ii) On all such vehicles with a gross loaded weight between seventy-
16 three thousand, two hundred eighty one pounds (73,281 lbs.) and eighty
17 thousand pounds (80,000 lbs.), the fee to be charged shall be ~~one thousand,~~
18 ~~three hundred fifty dollars (\$1,350.00)~~ three hundred fifty dollars (\$350)."

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20 SECTION 15. All provisions of this act of a general and permanent
21 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
22 Code Revision Commission shall incorporate the same in the Code.

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24 SECTION 16. If any provision of Sections 3, 4 and 5 this Act are
25 declared invalid for any reason then all remaining provisions of this Act
26 shall not be severable and shall also be invalid. In that event, the
27 provisions of Arkansas Code 27-14-601 (a)(3)(G)(ii) that were in effect prior
28 to the effective date of this act concerning the fee to be charged for the
29 registration of vehicles with a gross loaded weight between seventy-three
30 thousand, two-hundred eighty one pounds (73,281 lbs.) and eighty thousand
31 pounds (80,000 lbs.) shall become the applicable fee to be charged for the
32 registration of such vehicles.

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34 SECTION 17. All laws and parts of laws in conflict with this Act are
35 hereby repealed.

36 /s/ Hoofman