

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4  
5 By: Representative Key  
6  
7

# A Bill

HOUSE BILL 2864

## For An Act To Be Entitled

9 AN ACT TO GRANT DISTRIBUTORS A LIEN ON THE MOTOR  
10 FUEL INVENTORY, STORAGE TANKS, AND RELATED LANDS  
11 OF RETAILERS OR BULK PURCHASERS FOR UNPAID  
12 BALANCES OWED FOR THE PURCHASE OF MOTOR FUEL; AND  
13 FOR OTHER PURPOSES.  
14

## Subtitle

15 AN ACT TO GRANT DISTRIBUTORS A LIEN ON  
16 THE MOTOR FUEL INVENTORY, STORAGE TANKS,  
17 AND RELATED LANDS OF RETAILERS OR BULK  
18 PURCHASERS FOR UNPAID MOTOR FUEL  
19 PURCHASES.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code Title 18, Chapter 48 is amended to add a new  
26 subchapter to read as follows:

27 18-48-801. Definitions.

28 As used in this subchapter:

29 (1) "Bulk purchaser" means any person, excluding a retailer, who  
30 purchases motor fuel from a distributor in a quantity of one thousand five  
31 hundred gallons (1,500 gals.) or more in a single transaction;

32 (2) "Buyer in ordinary course of business" shall have the same  
33 meaning as set forth in § 4-1-201;

34 (3) "Distributor" means any person who is customarily in the  
35 wholesale business of selling motor fuel to retailers or bulk purchasers, or  
36 both;



1           (4) "Inventory" shall have the same meaning set forth in § 4-9-  
2 102;

3           (5) "Motor fuel" means gasoline, diesel fuel, kerosene, aviation  
4 gasoline, aviation fuel, liquid petroleum gas, and other liquid fuel; and

5           (6) "Retailer" means any service station, filling station,  
6 garage, or other business where motor fuel is offered for sale at retail.

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8           18-48-802. Distributor's lien on motor fuel inventory.

9           (a) A distributor shall have a lien on the motor fuel inventory of a  
10 retailer or bulk purchaser for any unpaid balance owed by the retailer or  
11 bulk purchaser to the distributor for the purchase of motor fuel.

12           (b) The lien created by this section attaches and is perfected upon  
13 the distributor's delivery of motor fuel to the retailer or bulk purchaser.

14           (c)(1) Any lien created by this section shall have priority over a  
15 conflicting security interest in or other lien on a retailer's or bulk  
16 purchaser's motor fuel inventory, except for a tax lien, regardless of when  
17 the conflicting security interest or other lien is perfected.

18           (2) If more than one (1) distributor holds a lien on motor fuel  
19 inventory under this section, the earlier perfected lien shall have priority.

20           (d) A distributor enforcing a lien created by this section shall  
21 proceed in the same manner as a secured party enforcing a security interest  
22 under § 4-9-601 et seq.

23           (e) A buyer in ordinary course of business from a retailer or bulk  
24 purchaser takes motor fuel free of the lien on motor fuel inventory created  
25 by this section, even if the lien is perfected and the buyer knows of its  
26 existence.

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28           18-48-803. Distributor's lien on storage tank and related land.

29           (a)(1) In addition to the lien on motor fuel inventory under § 18-48-  
30 802, a distributor shall have a lien on each storage tank in which motor fuel  
31 purchased from the distributor is stored, and the land, up to a maximum of  
32 one (1) acre, upon which the storage tank, whether movable or permanently  
33 affixed, is situated, but only as to the retailer's or bulk purchaser's  
34 right, title, and interest in the storage tank and land.

35           (2) The lien on the storage tank and land shall be for any  
36 unpaid balance owed by the retailer or bulk purchaser to the distributor for

1 the purchase of motor fuel.

2 (b) The lien created by this section does not attach and is not  
3 perfected unless the lien is filed of record with the circuit clerk and  
4 recorder of the county in which the land is located.

5 (c)(1) Any lien created by this section shall be junior in priority  
6 to:

7 (A) Any encumbrance on the storage tank, the land, or  
8 both, that is filed of record before the filing made under subsection (b) of  
9 this section; or

10 (B) Any tax lien.

11 (2) Any lien created by this section shall be superior in  
12 priority to any encumbrance on the storage tank, the land, or both, that is  
13 filed of record after the filing made under subsection (b) of this section.

14 (d) A distributor enforcing a lien created by this section shall  
15 proceed in the same manner as a person enforcing a materialman's lien under §  
16 18-44-101 et seq.

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18 18-48-804. Erroneous liens.

19 If a lien is erroneously filed pursuant to this subchapter, then the  
20 person or distributor that filed the lien is responsible for paying all court  
21 costs and attorney's fees incurred for the removal of the lien.

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