

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 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 1202

4
5 By: Representatives Thyer, Petrus, Sullivan, Wells, Walters, J. Brown, L. Cowling, L. Evans, Hall,
6 Kenney, Kidd, Norton, Pierce, Reep
7 By: Senators Malone, R. Thompson

For An Act To Be Entitled

11 AN ACT TO EXEMPT DYED DISTILLATE SPECIAL FUEL
12 FROM THE SALES AND USE TAX; TO IMPOSE A GALLONAGE
13 TAX ON DYED DISTILLATE SPECIAL FUEL; TO EXCLUDE
14 BIODIESEL FUEL FROM THE GALLONAGE TAX; AND FOR
15 OTHER PURPOSES.

Subtitle

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17
18 TO EXEMPT DYED DISTILLATE SPECIAL FUEL
19 FROM SALES AND USE TAX; TO IMPOSE A
20 GALLONAGE TAX ON DYED DISTILLATE SPECIAL
21 FUEL; TO EXCLUDE BIODIESEL FUEL FROM THE
22 GALLONAGE TAX.

23
24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26
27 SECTION 1. Arkansas Code Title 26, Chapter 56, Subchapter 2 is amended
28 to add an additional section to read as follows:

29 26-56-233. Dyed distillate special fuel – Imposition of tax.

30 (a)(1) There is levied an excise tax at the rate of five cents (5¢)
31 per gallon on all dyed distillate special fuel sold or used in this state or
32 purchased for sale or use in this state.

33 (2) If the dyed distillate special fuel contains biodiesel fuel,
34 the excise tax is levied only on the portion of the fuel that is not
35 biodiesel fuel.

36 (b) The excise tax levied by this section shall be levied and



1 collected in the same manner as the excise tax on distillate special fuel in
 2 § 26-56-201.

3 (c) The excise taxes collected under this section shall be deposited
 4 into the State Treasury, and on the last business day of each month the
 5 Treasurer of State shall transfer the amount of excise taxes collected under
 6 this section and deposited for that month to the General Revenue Fund Account
 7 of the State Apportionment Fund.

8 (d) As used in this section:

9 (1) "Biodiesel fuel" means a diesel fuel substitute produced
 10 from nonpetroleum renewable resources; and

11 (2) "Dyed distillate special fuel" means distillate special fuel
 12 sold, used, or utilized in this state for off-road purposes and described in
 13 § 26-56-224.

14
 15 SECTION 2. Arkansas Code § 26-56-209(d), concerning deliveries of
 16 distillate special fuels, is amended to read as follows:

17 (d) On all deliveries of distillate special fuels to a user by common
 18 or contract carriers, the shipper shall stamp on the manifest or bill of
 19 lading in letters not less than one-quarter inch (1/4") high "TAX PAID"
 20 whenever the tax levied under this subchapter, other than the tax levied by §
 21 26-56-233, has been paid, and "NOT FOR MOTOR VEHICLE USE" whenever the tax
 22 levied under this subchapter has not been paid or if the fuel is dyed
 23 distillate special fuel. It shall be a violation of this chapter for any
 24 driver for a carrier to deliver distillate special fuels covered by a
 25 manifest or bill of lading stamped "NOT FOR MOTOR VEHICLE USE" into a tank
 26 marked "TAX-PAID SPECIAL FUELS".

27
 28 SECTION 3. Arkansas Code § 26-56-217(a)(1), concerning use and storage
 29 of distillate special fuels, is amended to read as follows:

30 (a)(1) All users, except suppliers of distillate special fuels who
 31 maintain their own storage tanks in the state, are required to have a
 32 separate storage tank for taxable distillate special fuels, other than dyed
 33 distillate special fuels, which tanks are to be physically separate and apart
 34 from any other tanks or fueling units, and to indicate it by placing thereon
 35 in a conspicuous place the words "TAX-PAID FUELS" in letters not less than
 36 five inches (5") high.

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 2 SECTION 4. Arkansas Code § 26-56-217(b)(1), concerning use and storage
 3 of distillate special fuels, is amended to read as follows:

4 (b)(1) All users who have facilities for storing distillate special
 5 fuels intended for other than highway use and which facilities are suitable
 6 to fuel motor vehicles using distillate special fuels, except those
 7 facilities used for residential purposes, shall mark the storage facilities
 8 with the words "NOT FOR MOTOR VEHICLE USE" in letters not less than five
 9 inches (5") high, and suppliers may deliver into such storage without
 10 collecting the tax levied in this subchapter, other than the tax levied by §
 11 26-56-233.

12
 13 SECTION 5. Arkansas Code § 26-52-401(11), concerning exemptions from
 14 the tax imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et
 15 seq., is amended to read as follows:

16 (11)(A) Gross receipts or gross proceeds derived from the sale
 17 of:

18 (i) Gasoline or motor vehicle fuel on which the
 19 motor vehicle fuel or gasoline tax has been paid to the State of Arkansas;
 20 and

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

24 (ii) Dyed distillate special fuel.

25 (B) Nothing in this subdivision (11) shall exempt gasoline
 26 from the wholesale gross receipts tax imposed pursuant to Acts 1995, No.
 27 1005;

28
 29 SECTION 6. Sections one through five of this act become effective on
 30 the first day of the calendar quarter following the effective date of this
 31 act.