

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 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 1170

4
5 By: Representatives Lowery, Maloch, Reynolds, Hawkins, Hoyt
6 By: Senators Trusty, B. Johnson, Miller, Capps

For An Act To Be Entitled

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9
10 AN ACT TO ALLOW FLEXIBILITY IN THE REPORTING OF
11 SEVERED NATURAL GAS; AND FOR OTHER PURPOSES.

Subtitle

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14 TO ALLOW FLEXIBILITY IN THE REPORTING OF
15 SEVERED NATURAL GAS.

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

19
20 SECTION 1. Arkansas Code § 26-58-114 is amended to read as follows:
21 26-58-114. Monthly reports and payment of tax by producers, primary
22 processors – Cancellation of permit upon cessation of business – Penalty for
23 noncompliance.

24 (a) Each producer of natural resources, excluding natural gas, and
25 each primary processor of timber, ~~within twenty five (25) days after the end~~
26 ~~of each month~~ whether or not he or she shall have actually severed natural
27 resources, excluding natural gas, or processed timber during the preceding
28 month, shall file a report within twenty-five (25) days after the end of each
29 month with the Director of the Department of Finance and Administration a
30 ~~report setting forth~~ in a form ~~to be~~ prescribed by the director that states:

31 (1) The kind of natural resources or timber, if any, severed by
32 such producer or processed or acquired for processing by ~~such~~ the primary
33 processor during the next preceding month;

34 (2) The point of severance ~~thereof~~;

35 (3) The gross quantity ~~so~~ severed and the cash value ~~thereof~~;

36 (4) The amount of severance tax due; and



1 (5) ~~Such~~ Any other information as the director may reasonably
 2 require for the ~~proper~~ enforcement of ~~the provisions~~ of this subchapter.

3 (b)(1) A producer of natural gas shall file with the director a
 4 report, in a form or forms prescribed by the director, that states:

5 (A) The natural gas, if any, severed by the producer for
 6 each calendar month;

7 (B) The point of severance;

8 (C) The gross quantity severed and the market value;

9 (D) The amount of severance tax due; and

10 (E) Any other information as the director may reasonably
 11 require for the enforcement of this subchapter.

12 (2) The producer shall file the monthly report required under
 13 subdivision (b)(1) of this section on or before the twenty-fifth (25th) day
 14 of the second month following the month that is covered by the report.

15 (3) The producer is required to file a report with the director
 16 for each month whether or not the producer has actually severed natural gas
 17 during the month.

18 ~~(b)(c)~~ The report shall be verified by the producer or primary
 19 processor himself or herself in the instance of an individual producer or
 20 primary processor and by a member or officer or the manager of the producer
 21 or primary processor in all other instances.

22 ~~(e)(d)~~ The payment of the full amount of the severance tax ~~appearing~~
 23 ~~to be~~ due from the report shall accompany the report.

24 ~~(d)(e)(1)~~ Within ten (10) days after any producer or primary processor
 25 ~~shall have ceased~~ ceases operation with the intention of no longer engaging
 26 in the business of severing or processing natural resources or timber, the
 27 permit ~~theretofore~~ issued shall be returned by him or her to the director for
 28 cancellation, ~~but any such producer or processor whose permit shall have been~~
 29 ~~so cancelled may engage in such business upon the filing of a new application~~
 30 ~~with and the issuance of a new permit by the director.~~

31 (2) A producer or processor whose permit is cancelled under
 32 subdivision (e)(1) of this section may reengage in the business of severing
 33 or processing natural resources or timber after filing a new application with
 34 the director and receiving a new permit by the director.

35 ~~(e)(f)~~ Any producer or primary processor who ~~shall fail~~ fails to
 36 comply with ~~the provisions~~ of this section shall be guilty of a misdemeanor

1 and upon conviction shall be fined not less than one hundred dollars (\$100)
 2 nor more than five hundred dollars (\$500) for each such offense, and the
 3 willful false swearing as to the contents of any such report shall constitute
 4 perjury and shall be punishable as ~~such~~ perjury.

5
 6 SECTION 2. Arkansas Code § 26-58-116 is amended to read as follows:
 7 26-58-116. Purchasers' reports and payment of tax – Penalties for
 8 noncompliance.

9 (a)(1) ~~Unless relieved in advance by the Director of the Department of~~
 10 ~~Finance and Administration in writing from doing so~~ Unless a purchaser of
 11 natural resources, excluding natural gas, is excused in writing by the
 12 Director of the Department of Finance and Administration in advance of the
 13 report filing deadline from filing a report, each a purchaser of natural
 14 resources, excluding natural gas, shall file with the director a verified
 15 report within twenty (20) days after the end of each month upon in a form or
 16 forms prescribed by the director and within twenty (20) days after the end of
 17 each month that states:

18 ~~(1)(A)~~ (A) A verified report showing the The names and
 19 addresses of all producers from whom ~~such~~ the purchaser has acquired natural
 20 resources during the respective month;

21 (B) The types and total quantity of each type of the
 22 natural resources so acquired and the purchase price thereof; and

23 (C) Such further Any other information as the director
 24 reasonably may require for the proper enforcement of ~~the provisions of this~~
 25 subchapter.

26 (b)(1) Unless a purchaser of natural gas is excused in writing by the
 27 Director of the Department of Finance and Administration in advance of the
 28 report filing deadline from filing a report, a purchaser of natural gas shall
 29 file with the director a report in a form or forms prescribed by the director
 30 that states:

31 (A) The names, addresses, and severance tax permit numbers
 32 of all producers from whom the purchaser has purchased natural gas during
 33 each calendar month;

34 (B) The total quantity of natural gas acquired and the
 35 purchase price; and

36 (C) Any other information as the director may reasonably

1 require for the proper enforcement of this subchapter.

2 (2) The purchaser of natural gas shall file each monthly report
 3 required under this subsection (b) on or before the twenty-fifth (25th) day
 4 of the second month following the month that is covered by the report.

5 ~~(b)(c)~~(1) It is the duty of each purchaser of natural resources,
 6 excluding natural gas, to ascertain in advance of permitting the natural
 7 resources so purchased to be processed or otherwise changed from the natural
 8 state thereof at the time of severance or to be transported for the purpose
 9 of such processing or other change that the severance tax upon the natural
 10 resources has been paid.

11 (2) Each purchaser of natural gas shall determine in advance of
 12 filing the report under subsection (b) of this section that each producer
 13 from whom the purchaser has purchased natural gas has been issued a severance
 14 tax permit number and furnish the director the severance tax permit number of
 15 each producer under subsection (b) of this section.

16 ~~(2)(3)~~(A) The purchaser of natural resources, excluding natural
 17 gas, ~~shall be~~ is primarily liable for any unpaid severance tax in the event
 18 of failure to make such advance ascertainment.

19 (B) Each purchaser of natural gas is primarily liable for
 20 any unpaid severance tax that is attributable to a producer from whom the
 21 purchaser purchased natural gas if the purchaser fails to furnish the
 22 director with all of the information required in subsection (b) of this
 23 section.

24 ~~(B)(4)~~ However, the purchaser as a condition to permitting the
 25 processing or other change of such natural resources, excluding natural gas,
 26 as to which the severance tax shall not have been paid by the producer may
 27 himself or herself pay such tax either in advance or, with the advance
 28 written approval of the director for cause shown to the director, within
 29 twenty (20) days after commencing the processing or other change of the
 30 natural resources or the transportation thereof for such purpose.

31 ~~(e)(d)~~(1) The removal by the purchaser of natural resources, excluding
 32 natural gas, to any point of concentration or assembly, either within or
 33 without the state, without the severance tax having been previously paid by
 34 the producer or such purchaser, unless the director shall have given advance
 35 written approval therefore as aforesaid shall be deemed a fraudulent
 36 concealment of the whereabouts of such natural resources with the intent to

1 avoid the payment of such tax.

2 (2) Each such removal by the purchaser of natural resources,
 3 excluding natural gas, and any failure by the purchaser to file the monthly
 4 reports as provided in this section, including a purchaser of natural gas
 5 shall constitute a separate offense and shall subject the purchaser to a fine
 6 of not less than fifty dollars (\$50.00) nor more than five hundred dollars
 7 (\$500).

8 (3) The willful false swearing as to the contents of any monthly
 9 report shall constitute perjury and shall be punished ~~as such~~.

10 ~~(d)~~(e)(1) The removal by the producer, purchaser, or primary processor
 11 of any timber to any point outside the state without the severance tax having
 12 been paid thereon, unless the director shall have given advance written
 13 approval thereof, shall be unlawful.

14 (2) Each failure of a producer, purchaser, or primary processor
 15 to file a monthly report as required in this section shall be unlawful.

16 (3) Each such removal or failure to file a monthly report shall
 17 be a separate offense punishable by a fine of at least fifty dollars (\$50.00)
 18 and not more than five hundred dollars (\$500).

19 (4) Any willful false swearing regarding the contents of a
 20 monthly report shall constitute perjury and shall be punishable as such.

21

22 SECTION 3. Arkansas Code § 26-58-117 is amended to read as follows:
 23 26-58-117. Responsibility for filing monthly reports.

24 (a)(1) Notwithstanding the provisions of §§ 26-58-114 and 26-58-116,
 25 either the producer or severer of natural resources, excluding natural gas,
 26 or the purchaser ~~thereof~~ of natural resources, excluding natural gas, shall
 27 report and pay severance taxes thereon as required in §§ 26-58-114 and 26-58-
 28 116.

29 (2) However, if either the producer or severer of natural
 30 resources, excluding natural gas, or the purchaser of natural resources,
 31 excluding natural gas, files ~~such~~ the report as required in §§ 26-58-114 and
 32 26-58-116 and pays the severance taxes during any month, the other shall be
 33 relieved of the responsibility of filing such report.

34 (b) Both the producer of natural gas and the purchaser of natural gas
 35 shall be required to file their monthly reports under §§ 26-58-114 and 26-58-
 36 116.

1
 2 SECTION 4. Arkansas Code § 26-58-119(a)(3) concerning the procedure
 3 upon failure to file reports or pay severance tax is amended to read as
 4 follows:

5 (3)(A) ~~Upon the ascertainment of the amount of the tax so found~~
 6 ~~to be due, the~~ The director shall ~~add thereto~~ assess a penalty equal to fifty
 7 percent (50%) of the amount of the severance tax, ~~together with including all~~
 8 ~~accrued costs and expenses of making such ascertainment,~~ the cost and expense
 9 of assessing the penalty and shall ~~thereupon~~ make demand for payment of the
 10 penalty upon both the producer of natural resources and the purchaser of
 11 natural resources to the extent liability for the tax may be imposed on the
 12 purchaser under §26-58-116, or the primary processor ~~in the case of timber,~~
 13 ~~for the payment thereof~~ as the case may be.

14 (B) The penalty assessment under subdivision (a)(3)(A) of
 15 this section shall not apply to any estimated severance tax payment that is
 16 made in good faith by a producer of natural gas or a purchaser of natural
 17 gas.

18
 19 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
 20 General Assembly of the State of Arkansas that natural gas is a unique
 21 resource that cannot be reported accurately under the existing language of
 22 the Arkansas Code. This act will alleviate the reporting problems currently
 23 burdening the state and provide the state with more accurate information.
 24 Therefore, an emergency is declared to exist and this act being immediately
 25 necessary for the preservation of the public peace, health, and safety shall
 26 become effective on:

- 27 (1) The date of its approval by the Governor;
- 28 (2) If the bill is neither approved nor vetoed by the Governor,
 29 the expiration of the period of time during which the Governor may veto the
 30 bill; or
- 31 (3) If the bill is vetoed by the Governor and the veto is
 32 overridden, the date the last house overrides the veto.