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2 88th General Assembly
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4

As Engrossed: H3/17/11 H3/23/11 S3/28/11

A Bill

HOUSE BILL 2188

5 By: Representative L. Cowling
6

For An Act To Be Entitled

8 AN ACT TO EXEMPT FROM THE SALES AND USE TAX THE GROSS
9 RECEIPTS DERIVED FROM THE SALE OF CLASS SIX AND CLASS
10 SEVEN TRUCKS IF THE VEHICLE IS REGISTERED WITH THE
11 INTERNATIONAL REGISTRATION PLAN AND ENGAGED IN
12 INTERSTATE COMMERCE; TO EXEMPT FROM THE SALES AND USE
13 TAX THE GROSS RECEIPTS DERIVED FROM THE SALE OF ALL
14 SEMITRAILERS; TO OFFSET GENERAL REVENUES LOST AS A
15 RESULT OF THE EXEMPTION WITH REVENUES FROM DISTILLATE
16 MOTOR FUEL TAXES; AND FOR OTHER PURPOSES.

Subtitle

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19 TO EXEMPT FROM THE SALES AND USE TAX THE
20 GROSS RECEIPTS DERIVED FROM THE SALE OF
21 CLASS SIX AND SEVEN TRUCKS AND
22 SEMITRAILERS AND TO OFFSET GENERAL
23 REVENUES LOST WITH REVENUES FROM
24 DISTILLATE MOTOR FUEL TAXES.
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
29

30 SECTION 1. Arkansas Code § 19-6-201, concerning the enumeration of
31 general revenues, is amended to add a new subdivision to read as follows:

32 (65) The first four million dollars (\$4,000,000) of the eight and one-
33 half cent (8½¢) tax on distillate special fuels levied each fiscal year under
34 § 26-56-201(a)(1)(A)(i).
35

36 SECTION 2. Arkansas Code § 19-6-301(3)(A), concerning the enumeration



1 of special revenues, is amended to read as follows:

2 (A) ~~Nine~~ Eight and ~~one half~~ one-half cent ~~(9½¢)~~ (8½¢) tax
3 on distillate special motor fuels levied by § 26-56-201(a)(1)(A), after the
4 deduction of the first four million dollars (\$4,000,000) each fiscal year
5 under § 26-56-201(g)(1) and one cent (1¢) tax on distillate special motor
6 fuels levied by § 26-56-201(a)(1)(A)(ii);

7
8 SECTION 3. Arkansas Code § 26-52-436 is amended to read as follows:
9 26-52-436. Certain classes of trucks or trailers.

10 (a) As used in this section:

11 (1) "Person" means a natural person who resided in this state at
12 the time of purchasing a truck tractor or semitrailer in this state;

13 (2) "Semitrailer" means every vehicle with or without motive
14 power, including a pole trailer, drawn by a truck tractor or a Class Six or
15 Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is
16 registered with the International Registration Plan to be engaged in
17 interstate commerce and designed for carrying property; and

18 (3)(A) "Truck tractor" means a motor vehicle:

19 ~~(A)(i)~~ Designed and used primarily for drawing other
20 vehicles and not so constructed as to carry a load other than a part of the
21 weight of the vehicle and load so drawn; and

22 ~~(B)(ii)~~ Registered as a:

23 (a) Class Five, ~~Class Six, Class Seven, or~~
24 Class Eight truck as defined by § 27-14-601(a)(3); or

25 (b) Class Six or Class Seven truck as defined
26 by § 27-14-601(a)(3)(F) and (G) that is not registered with the International
27 Registration Plan to be engaged in interstate commerce.

28 (B) "Truck tractor" does not include a Class Six or Class
29 Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered
30 with the International Registration Plan to be engaged in interstate
31 commerce.

32 (b) Except as provided in ~~subsection~~ subsections (d) and (e) of this
33 section, the gross receipts or gross proceeds in excess of nine thousand one
34 hundred fifty dollars (\$9,150) derived from the sale of a new or used truck
35 tractor in this state are exempt from the Arkansas gross receipts tax levied
36 by this chapter.

1 (c) ~~Except as provided in subsection (d) of this section, the~~ The
2 gross receipts or gross proceeds in excess of one thousand dollars (\$1,000)
3 derived from the sale of a new or used semitrailer in this state are exempt
4 from the Arkansas gross receipts tax levied by this chapter.

5 (d) The gross receipts or gross proceeds derived from the sale in this
6 state of a new or used Class Six or Class Seven truck as defined by § 27-14-
7 601(a)(3)(F) and (G) that is registered with the International Registration
8 Plan to be engaged in interstate commerce are exempt from the Arkansas gross
9 receipts tax levied by this chapter.

10 ~~(d)(e)~~ The exemption in this section under subsection (b) of this
11 section does not apply to gross receipts taxes levied by any Arkansas city,
12 town, or county.

13
14 SECTION 4. Arkansas Code § 26-53-144 is amended to read as follows:

15 26-53-144. Certain classes of trucks or trailers.

16 (a) As used in this section:

17 (1) "Person" means a natural person who resided in this state at
18 the time of purchasing a truck tractor or semitrailer in another state;

19 (2) "Semitrailer" means every vehicle with or without motive
20 power, including a pole trailer, drawn by a truck tractor or a Class Six or
21 Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is
22 registered with the International Registration Plan to be engaged in
23 interstate commerce and designed for carrying property; and

24 (3)(A) "Truck tractor" means a motor vehicle:

25 ~~(A)(i)~~ Designed and used primarily for drawing other
26 vehicles and not so constructed as to carry a load other than a part of the
27 weight of the vehicle and load so drawn; and

28 ~~(B)(ii)~~ Registered as a:

29 ~~(a)~~ Class Five, Class Six, Class Seven, or
30 Class Eight truck as defined by § 27-14-601(a)(3); or

31 ~~(b)~~ Class Six or Class Seven truck as defined
32 by § 27-14-601(a)(3)(F) and (G) that is not registered with the International
33 Registration Plan to be engaged in interstate commerce.

34 ~~(B)~~ "Truck tractor" does not include a Class Six or Class
35 Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered
36 with the International Registration Plan to be engaged in interstate

1 commerce.

2 (b) Except as provided in ~~subsection~~ subsections (d) and (e) of this
3 section, the gross receipts or gross proceeds in excess of nine thousand one
4 hundred fifty dollars (\$9,150) derived from the sale of a new or used truck
5 tractor in another state for use in this state are exempt from the Arkansas
6 compensating use tax levied by this subchapter.

7 (c) ~~Except as provided in subsection (d) of this section, the~~ The
8 gross receipts or gross proceeds ~~in excess of one thousand dollars (\$1,000)~~
9 derived from the sale of a new or used semitrailer in another state for use
10 in this state are exempt from the Arkansas compensating use tax levied by
11 this subchapter.

12 (d) The gross receipts or gross proceeds derived from the sale in
13 another state for use in this state of a new or used Class Six or Class Seven
14 truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered with the
15 International Registration Plan to be engaged in interstate commerce are
16 exempt from the Arkansas compensating use tax levied by this chapter.

17 ~~(d)(e)~~ The exemption in this section under subsection (b) of this
18 section does not apply to compensating use taxes levied by any Arkansas city,
19 town, or county.

20
21 SECTION 5. Arkansas Code § 26-56-201, concerning imposition of
22 distillate special fuel excise tax, is amended to read as follows:

23 26-56-201. Imposition of tax – Exemptions.

24 (a)(1)(A)(i) There is levied an excise tax at the rate of ~~nine~~ eight
25 and one-half cents ~~(9½¢)~~ (8½¢) per gallon on all distillate special fuel,
26 ~~except fuel utilized in propelling jet aircraft,~~ sold or used in this state,
27 or purchased for sale or use in this state.

28 (ii) In addition to the tax levied in subdivision
29 (a)(1)(A)(i) of this section, there is levied an excise tax at the rate of
30 one cent (1¢) per gallon on all distillate special fuel sold or used in this
31 state or purchased for sale or use in this state.

32 (B) The additional levies provided in subdivision (a)(2)
33 of this section and § 26-56-502 are specifically intended to apply to the
34 taxes levied by this section and shall remain effective.

35 (2) In addition to the tax levied in subdivision (a)(1) of this
36 section, there is levied an excise tax of one cent (1¢) for each gallon of

1 *distillate special fuel, as defined in § 26-56-102, sold or used in this*
2 *state, or purchased for sale or use in this state, to be computed in the*
3 *manner set forth in this section.*

4 *(b) The following are exempted from the tax levied by subsection (a)*
5 *of this section:*

6 *(1) Sales to the United States Government;*

7 *(2) Sales to dealers, users, or off-road consumers for off-road*
8 *use if and only if the fuel was delivered by the supplier into storage*
9 *facilities clearly marked "NOT FOR MOTOR VEHICLE USE";*

10 *(3) Sales of distillate special fuel by a licensed supplier for*
11 *export from the State of Arkansas when shipped by common carrier f.o.b.*
12 *destination to any other state or territory or to any foreign country, or the*
13 *export of distillate special fuel by a licensed supplier from the State of*
14 *Arkansas to any other state or territory or to any foreign country, provided*
15 *that satisfactory proof of actual exportation of all such distillate special*
16 *fuel is furnished at the time and in the manner prescribed by the Director of*
17 *the Department of Finance and Administration;*

18 *(4) Sales of distillate special fuel by a pipeline importer who*
19 *has first received the distillate special fuel in this state or to a licensed*
20 *first receiver in this state; ~~and~~*

21 *(5) Sales for other than motor vehicle use in quantities of*
22 *sixty gallons (60 gals.) or less; and*

23 *(6) Sales of distillate special fuel utilized in propelling jet*
24 *aircrafts.*

25 *(c) A licensed first receiver shall not sell untaxed distillate*
26 *special fuel to another licensed first receiver or pipeline importer, unless*
27 *a specific exemption is available under subsection (b) of this section.*

28 *(d)(1) In addition to the taxes levied on distillate special fuel in*
29 *this section and § 26-56-502, there is levied an additional excise tax of*
30 *four cents (4¢) per gallon upon all distillate special fuel subject to the*
31 *taxes levied in this section and § 26-56-502.*

32 *(2) This additional excise tax shall be levied, collected,*
33 *reported, and paid in the same manner and at the same time as is prescribed*
34 *by law for the levying, collection, reporting, and payment of the other*
35 *distillate special fuel taxes under Arkansas law.*

36 *(e)(1)(A) In addition to the taxes levied on distillate special fuel*

1 in this section and §§ 26-56-502 and 26-56-601, there is levied an excise tax
2 of two cents (2¢) per gallon upon all distillate special fuel subject to the
3 taxes levied in this section and §§ 26-56-502 and 26-56-601.

4 (B) Effective one (1) year after April 1, 1999, the
5 additional tax levied by this subsection shall be increased by an additional
6 two cents (2¢) per gallon.

7 (2) This additional excise tax shall be levied, collected,
8 reported, and paid in the same manner and at the same time as is prescribed
9 by law for the levying, collection, reporting, and payment of the other
10 distillate special fuel taxes under Arkansas law.

11 (3) The additional tax levied by this subsection shall be taken
12 into consideration and used when calculating tax credits or additional tax
13 due under § 26-56-214.

14 (f) The Except as provided in subsection (g) of this section, the
15 additional taxes collected pursuant to this section shall be considered
16 special revenues and shall be distributed as set forth in the Arkansas
17 Highway Revenue Distribution Law, § 27-70-201 et seq., subject to any
18 requirements for the repayment of bonds issued under the Arkansas Highway
19 Financing Act of 1999, § 27-64-201 et seq., and the Arkansas Interstate
20 Highway Financing Act of 2007, § 27-64-401 et seq.

21 (g)(1) In order to offset the general revenues lost by the tax
22 exemption contained in § 26-52-436(c) and (d) and § 26-53-144(c) and (d), the
23 Chief Fiscal Officer of the State shall, on or before June 30, 2013, and on
24 or before June 30 of each fiscal year thereafter, deposit the first four
25 million dollars (\$4,000,000) of the taxes collected under subdivision
26 (a)(1)(A)(i) of this section as general revenues, to be distributed as
27 follows:

28 (A) Seventy-five percent (75%) to be deposited into the
29 General Revenue Fund Account of the State Apportionment Fund, § 19-5-202;

30 (B) Fourteen and six-tenths percent (14.6%) to be
31 deposited into the Educational Adequacy Fund, § 19-5-1227;

32 (C) Eight and three-tenths percent (8.3%) to be deposited
33 into the Property Tax Relief Trust Fund, § 19-5-1103; and

34 (D) Two and one-tenth percent (2.1%) to be deposited into
35 the Conservation Tax Fund, § 19-6-484.

36 (2) The balance of the taxes collected under subdivision

1 (a)(1)(A)(i) of this section shall be deposited as special revenues and
2 distributed in the manner required by law.

3 (3) The classification and distribution of taxes under
4 subdivision (g)(1) of this section is subject to any requirements for the
5 repayment of bonds issued under the Arkansas Highway Financing Act of 1999, §
6 27-64-201 et seq., and the Arkansas Interstate Highway Financing Act of 2007,
7 § 27-64-401 et seq.

8 (4) The taxes collected under subdivision (a)(1)(A)(ii) of this
9 section shall be distributed as provided in § 26-56-221.

10
11 SECTION 6. EFFECTIVE DATE. This act becomes effective on July 1,
12 2012.

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14 /s/L. Cowling
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