

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

As Engrossed: H3/17/15 H3/20/15

# A Bill

HOUSE BILL 1716

5 By: Representative Pitsch  
6 By: Senator B. Sample  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING THE CREATION OF A VEHICLE MILES  
10 TRAVELED TAX; TO PROVIDE FOR THE CONSIDERATION OF A  
11 VEHICLE MILES TRAVELED TAX TO ADDRESS DECLINING FUEL  
12 TAX REVENUES; AND FOR OTHER PURPOSES.  
13  
14

## Subtitle

15  
16 TO PROVIDE FOR THE CONSIDERATION OF A  
17 VEHICLE MILES TRAVELED TAX TO ADDRESS  
18 DECLINING FUEL TAX REVENUES.  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 *SECTION 1. DO NOT CODIFY. Legislative findings.*

24 *The General Assembly finds that:*

25 *(1) An efficient transportation system is critical for*  
26 *Arkansas's economy and the quality of life of the state's residents;*

27 *(2) The revenues currently available for highways and local*  
28 *roads are inadequate to preserve and maintain existing infrastructure and to*  
29 *provide funds for improvements that would reduce congestion and improve*  
30 *service;*

31 *(3) The tax levied on motor fuel in the state is an ineffective*  
32 *mechanism for meeting Arkansas's long-term revenue needs because the motor*  
33 *fuel tax will steadily generate less revenue as motor vehicles become more*  
34 *fuel efficient and alternative sources of fuel are identified;*

35 *(4) By 2030, as much as one-half (1/2) of the revenue that could*  
36 *have been generated by the motor fuel tax will be lost as the result of the*



1 increased fuel efficiency of motor vehicles;

2 (5) Bundling fees for roads and highways into the motor fuel tax  
3 makes it difficult for users to understand the amount they are paying for  
4 roads and highways;

5 (6) Other states have begun to explore the potential for a road  
6 usage charge to replace traditional motor fuel taxes, including the State of  
7 Oregon, which established the first permanent road-user charge program in the  
8 nation;

9 (7) A road-user charge program requires motorists to pay for the  
10 use of the roadway network based on the distance they travel, and motorists  
11 pay the same rate per mile driven, regardless of which part of the roadway  
12 network the motorists use;

13 (8) A road-user charge program has the potential to distribute  
14 the motor fuel tax burden across all vehicles regardless of fuel source and  
15 to minimize the impact of the current regressive motor fuel tax structure;

16 (9) The experience of other states across the nation  
17 demonstrates that mileage-based charges can be implemented in a way that  
18 ensures data security and maximum privacy protection for motorists;

19 (10) It is important that this state begin to explore  
20 alternative revenue sources that may be implemented in lieu of the antiquated  
21 motor fuel tax structure now in place; and

22 (11) Any exploration of alternative revenue sources shall:

23 (A) Take in account the privacy of the taxpayers,  
24 especially with regard to location data;

25 (B) Not report travel locations or patterns; and

26 (C) Use legal and technical safeguards to protect personal  
27 information.

28  
29 SECTION 2. Arkansas Code Title 27, Subtitle 5, is amended to add an  
30 additional chapter to read as follows:

31 CHAPTER 77

32 ARKANSAS ROAD-USER TAX PILOT PROGRAM

33  
34 27-77-101. Title.

35 This chapter shall be known and may be cited as the "Arkansas Road-User  
36 Tax Pilot Program".

1  
2 27-77-102. Definitions.

3 As used in this chapter:

4 (1) "Certified service provider" means:

5 (A) An entity that has entered into an agreement with the  
6 Arkansas State Highway and Transportation Department for reporting use by a  
7 subject vehicle on Arkansas highways or for administrative services related  
8 to the collection of a per-mile road-user tax; and

9 (B) An authorized employee of an entity described in  
10 subdivision (1)(A) of this section;

11 (2) "Highway" means the entire width between boundary lines of  
12 every way publicly maintained when any part is open to the use of the public  
13 for purposes of vehicular travel;

14 (3) "Lessee" means a person who leases a motor vehicle that is  
15 required to be registered in Arkansas;

16 (4)(A) "Motor vehicle" means a self-propelled vehicle in, upon,  
17 or by which a person or property is or may be transported upon a street or  
18 highway.

19 (B) "Motor vehicle" does not include a motorcycle, motor-  
20 driven cycle, or truck with an unladen weight of ten thousand pounds (10,000  
21 lbs.) or more;

22 (5) "Open system" means an integrated system based on common  
23 standards and an operating system that has been made public so that  
24 components performing the same function can be readily substituted or  
25 provided by multiple providers;

26 (6) "Personally identifiable information" means information that  
27 identifies or describes a person, including without limitation the person's:

28 (A) Travel pattern data;

29 (B) Per-mile road-user tax account number;

30 (C) Address;

31 (D) Telephone number;

32 (E) Electronic mail address;

33 (F) Driver license or identification card number;

34 (G) Registration plate number;

35 (H) Photograph;

36 (I) Recorded images;

1 (J) Bank account information; and

2 (K) Credit card number;

3 (7) "Registered owner" means a person who is required to  
4 register a motor vehicle in Arkansas;

5 (8) "Subject vehicle" means a motor vehicle that is the subject  
6 of an application approved under this chapter; and

7 (9) "VIN summary report" means a monthly report by the  
8 department or a certified service provider that includes a summary of all  
9 vehicle identification numbers of subject vehicles and associated total use  
10 on Arkansas highways during the month but does not include location  
11 information.

12  
13 27-77-102. Arkansas Road-User Tax Pilot Program – Creation.

14 (a) The State Highway Commission may develop an Arkansas Road-User Tax  
15 Pilot Program to evaluate the creation and implementation of a road-user tax  
16 system under this chapter.

17 (b) State funds shall not be used to develop or implement the program  
18 under this chapter.

19 (c) The commission may promulgate rules necessary for the  
20 implementation of this chapter.

21 (d) A program established under this chapter shall terminate no later  
22 than June 30, 2020.

23  
24 27-77-103. Application.

25 (a) If the State Highway Commission develops an Arkansas Road-User Tax  
26 Pilot Program under this chapter, a person may apply to the Arkansas State  
27 Highway and Transportation Department to participate in the program, using  
28 the form prescribed by the department.

29 (b) The department shall approve a completed application submitted  
30 under this section if:

31 (1) The applicant is the registered owner or lessee of the  
32 subject vehicle;

33 (2) The subject vehicle:

34 (A) Is equipped with a method established under § 27-77-  
35 105 for collecting and reporting the use by the subject vehicle of the  
36 highways in Arkansas; and

1 (B) Has a gross vehicle weight rating of ten thousand  
2 pounds (10,000 lbs.) or less; and

3 (3) Approval of the application would not result in the number  
4 of motor vehicles in the program exceeding the limit stated in subsection (d)  
5 of this section.

6 (c) After an application is approved, the person applying for  
7 participation in the program is subject to the requirements of this chapter  
8 until the person ends his or her participation by:

9 (1) Notifying the department in writing, using the form  
10 prescribed by the department; and

11 (2) Paying any outstanding road user taxes.

12 (d)(1) The department shall not approve:

13 (A) More than five thousand (5,000) total applications  
14 under the program;

15 (B) More than one thousand five hundred (1,500)  
16 applications in which the subject vehicle has a rating of less than seventeen  
17 miles per gallon (17 mpg); or

18 (C) More than one thousand five hundred (1,500)  
19 applications in which the subject vehicle has a rating of at least seventeen  
20 miles per gallon (17 mpg) and less than twenty-two miles per gallon (22 mpg).

21 (2) The department shall establish a method for determining the  
22 rating of subject vehicles under this subsection.

23  
24 27-77-104. Road-user tax.

25 (a) A person participating in the Arkansas Road-User Tax Pilot Program  
26 shall pay a road-user tax of one and five-tenths cents (1.5¢) for each mile  
27 the subject vehicle travels on Arkansas highways.

28 (b) The tax imposed under this section applies as long as the person  
29 is participating in the program and:

30 (1) Owns the subject vehicle, if the person is the owner; or

31 (2) Leases the subject vehicle, if the person is a lessee.

32  
33 27-77-105. Methods of determining road use.

34 (a) The Arkansas State Highway and Transportation Department shall  
35 establish by rule at least two (2) methods of recording and reporting the  
36 number of miles that a subject vehicle travels on Arkansas highways.

1 (b) In establishing a method of recording and reporting the number of  
2 miles that a subject vehicle travels on Arkansas highways, the department  
3 shall consider:

4 (1) The accuracy of the data collected and reported;

5 (2) The privacy afforded the data collected during participation  
6 in the Arkansas Road-User Tax Pilot Program;

7 (3) The security of the technology used;

8 (4) The resistance of the technology to tampering and fraud;

9 (5) The ability of the department to audit a participant's  
10 compliance with this chapter using each method; and

11 (6) Any other factors determined by the department to be  
12 important.

13 (c) The department shall establish at least one (1) method of  
14 recording and reporting the number of miles that a subject vehicle travels on  
15 Arkansas highways that does not use vehicle location technology.

16 (d) The department shall adopt standards for open-system technology  
17 used in each method established under this section.

18 (e) The person participating in the program shall select which of the  
19 available methods he or she will use to collect and report the number of  
20 miles the subject vehicle traveled on Arkansas highways.

21 (f) The department is responsible for the costs associated with the  
22 procurement and installation of any technology required for a method selected  
23 under this section.

24  
25 27-77-106. Collection and reporting of road-user taxes.

26 (a)(1) The Arkansas State Highway and Transportation Department shall  
27 establish by rule a procedure for collecting the road-user taxes imposed  
28 under this chapter.

29 (2) The department may impose a penalty of up to ten percent  
30 (10%) of the road-user taxes due for the late payment of road-user taxes.

31 (b)(1) The department shall establish by rule the reporting  
32 requirements for persons participating in the Arkansas Road-User Tax Pilot  
33 Program.

34 (2) In establishing reporting requirements under this  
35 subsection, the department shall consider the following:

36 (A) The effort required by persons participating in the

1 program to report metered use and pay the road-user tax;

2 (B) The amount of the road-user taxes owed;

3 (C) The cost to persons participating in the program to  
4 report the subject vehicle's use and pay the road-user tax;

5 (D) The administrative costs to the department; and

6 (E) Any other factors determined by the department to be  
7 important.

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9 27-77-107. Disposition of revenues.

10 (a) The revenues generated under this chapter shall be deposited into  
11 the State Treasury and credited to the State Highway and Transportation  
12 Department Fund to be used for the administration of this chapter.

13 (b)(1) However, at the conclusion of the first full fiscal year that  
14 the Arkansas Road-User Tax Pilot Program exists, the Director of State  
15 Highways and Transportation shall certify to the Treasurer of State the  
16 amount of revenue necessary for the administration of the program.

17 (2) Following the certification in subdivision (b)(1) of this  
18 section, the revenues generated under this chapter shall be deposited into  
19 the State Treasury, and the Treasurer of State shall:

20 (A) First deposit the amount certified under subdivision  
21 (b)(1) of this section to the fund to be used for the administration of this  
22 chapter; and

23 (B) Distribute the remainder under § 27-70-206.

24  
25 27-77-108. Privacy.

26 (a) Personally identifiable information used in the collection and  
27 reporting of the number of miles a subject vehicle travels on Arkansas  
28 highways is exempt from the Freedom of Information Act of 1967, § 25-19-101  
29 et seq.

30 (b)(1) The Arkansas State Highway and Transportation Department, a  
31 certified service provider of the department, and a contractor of a certified  
32 service provider of the department shall not disclose personally identifiable  
33 information used in the collection and reporting of the number of miles a  
34 subject vehicle travels on Arkansas highways or in the collection of road-  
35 user taxes under this chapter to any person except:

36 (A) The participant in the Arkansas Road-User Tax Program;

1 (B) A financial institution for the purpose of collecting  
2 road-user taxes;

3 (C) An employee of the department;

4 (D) A certified service provider of the department;

5 (E) A contractor of a certified service provider of the  
6 department to the extent that the contractor provides services directly  
7 related to the certified service provider's agreement with the department;

8 (F) An entity expressly approved to receive the  
9 information by the registered owner or lessee of the subject vehicle; or

10 (G) A police officer or other authorized official pursuant  
11 to a valid court order or subpoena.

12 (2) Disclosure under subdivision (b)(1) of this section shall be  
13 provided only to the extent necessary for the recipient of the information to  
14 perform his or her function.

15 (c)(1) Within thirty (30) days after the department has completed  
16 payment processing, dispute resolution, or a noncompliance investigation,  
17 whichever is latest, the department and any certified service providers shall  
18 destroy all records of the location and use of subject vehicles.

19 (2) However:

20 (A) The department and certified service providers, for  
21 purposes of traffic management and research, may retain, aggregate, and use  
22 information obtained under this chapter after all personally identifiable  
23 information has been removed;

24 (B) A participant in the program may consent to a  
25 certified service provider's retaining records obtained under this chapter;  
26 and

27 (C) The department and certified service providers may  
28 retain monthly summaries of the use of subject vehicles in VIN summary  
29 reports.

30 (d) In each agreement with a certified service provider, the  
31 department shall provide penalties for a certified service provider's  
32 violation of this section.

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34 27-77-109. Rules.

35 If an Arkansas Road-User Tax Pilot Program is created, the State  
36 Highway Commission may and the Arkansas State Department of Highway and

1 Transportation shall promulgate rules to implement and administer this  
2 chapter.

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*/s/Pitsch*