

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of Senate Bill No. 786

"LEVIES A ONE PERCENT (1%) WHOLESALE MOTOR FUEL EXCISE TAX ON SALE OF
MOTOR FUEL BY POSITION HOLDERS AND IMPORTATION OF MOTOR FUEL BY
IMPORTERS."

Amendment No. 1 to Senate Bill No. 786.

Amend Senate Bill No. 786 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code, Title 26, Chapter 57 is amended by adding an additional subchapter to read as follows:

26-57-1301. Definitions.

For purposes of this subchapter:

(1) "Director" means the Director of the Department of Finance and Administration;

(2) "Export" means, with respect to a position holder or the holder's agent, or with respect to an exporter or the exporter's agent, the delivery of motor fuel out of this state;

(3) "Exporter" means any person who acquires motor fuel in Arkansas for the purpose of transporting or delivering the fuel to another state or country;

(4) "Gross receipts or gross proceeds" means:

(A) The total amount of consideration for the sale of motor fuel including federal motor fuel excise tax less deductions for state motor fuel gallonage tax levied and collected pursuant to Title 26, Chapter 55 and transportation charges; and

(B)(i) The value of motor fuel, including any federal motor fuel excise tax, withdrawn from the stock of a position holder for distribution or use by the position holder.

(ii) The value is deemed equal to the price per gallon, including any federal motor fuel excise tax, allocated to the withdrawal by the position holder as reflected on the bill of lading or manifest;

(5) "Import" means, with respect to a position holder or the holder's agent, or with respect to an importer or the importer's agent, the delivery of motor fuel into Arkansas from out of state;

(6) "Importer" means any person who imports motor fuel to a



location in Arkansas other than to a position holder at a terminal or refinery;

(7)(A) "Motor fuel" means all products commonly or commercially known or sold as gasoline regardless of their classification or uses.

(B) "Motor fuel" includes casinghead, absorption, and natural gasoline and condensate when used without blending as a motor fuel or is sold for use in motors directly, or is sold to those who blend for their own use.

(C) However, "motor fuel" does not include casinghead, absorption, and natural gasoline and condensate when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel;

(8) "Person" includes any individual, company, partnership, joint venture, joint agreement, mutual or other association, corporation, limited liability company, estate, trust, business trust, receiver, or trustee appointed by any state, federal, or other court, syndicate, this state, any county, city, municipality, school district, or any other political subdivision of this state or group or combination acting as a unit, in the plural or singular number;

(9)(A) "Position holder" means a person that imports or acquires immediately upon import into Arkansas motor fuel by pipeline, marine vessel, or other form of delivery from within a state, territory, or possession of the United States into a terminal or refinery or that imports motor fuel into Arkansas from a foreign country, or that produces, manufactures, or refines motor fuel within Arkansas or that owns motor fuel in the pipeline and terminal distribution system in Arkansas and is subject to the general taxing or police jurisdiction of Arkansas and in any case is also registered under Internal Revenue Code § 4101 as in effect on March 1, 2003, for transactions in taxable motor fuel in the bulk distribution system.

(B) A terminal operator shall not be considered a position holder merely because the terminal operator handles motor fuel or distillate special fuel consigned to it within a terminal;

(10) "Purchase price" means the total consideration for the purchase of motor fuel including federal motor fuel excise tax less deductions for state motor fuel gallonage tax levied and collected pursuant to Title 26, Chapter 55 and transportation charges;

(11) "Rack" means a dock, platform, or an open bay with a series of metered pumps and hoses for delivering motor fuel from a refinery or terminal into a motor vehicle or other means of conveyance;

(12) "Terminal" means a fuel storage and distribution facility that is supplied by pipeline, marine vessel, or other source, and from which motor fuel may be removed at a rack; and

(13)(A) "Terminal Operator" means the person who by ownership or contractual agreement is charged with the responsibility and physical control over the operation of a terminal.

(B) However, there shall be only one (1) person charged with responsibility as operator at each terminal for purposes of this subchapter.

26-57-1302. Sales by position holders - Purchase by importer. There is levied a wholesale excise tax of one percent (1%) on:

(1) The gross receipts or gross proceeds derived from all sales

of motor fuel by position holders to any person in the State of Arkansas; and
(2) The purchase price of motor fuel purchased by an importer
for sale, storage, use, distribution, or consumption within this state.

26-57-1303. Exemptions.

There is specifically exempted from the tax imposed by this subchapter
the following:

(1) The gross receipts or gross proceeds derived from sales to
the United States government;

(2) The gross receipts or gross proceeds derived from sales for
export outside of Arkansas; and

(3) Motor fuel imported into Arkansas in the fuel tank of a
motor vehicle.

26-57-1304. Monthly return and remittance.

(a) The importer or position holder subject to the taxes levied by
this subchapter shall file a monthly return and remit the tax for the month
to the Director of the Department of Finance and Administration no later than
the fifteenth day of the month next following the month in which the sale was
made.

(b)(1) The returns shall be made upon forms prescribed and furnished
by the director and signed by the person required to collect and remit the
tax or his agent.

(2) The return shall contain such information as the director
shall require for the proper administration of this subchapter.

(c) This subchapter is to be administered in all respects in
accordance with the Arkansas Tax Procedure Act, § 26-18-101 et seq., unless
otherwise provided.

26-57-1305. Tax reporting number.

Every importer and position holder subject to the tax levied by this
subchapter shall register with the Director of the Department of Finance and
Administration and obtain a tax reporting number.

26-57-1306. Disposition of taxes, interest, and penalties.

(a) All taxes, interest, penalties, and costs received by the Director
of the Department of Finance and Administration under the provisions of this
subchapter shall be general revenues and shall be deposited in the State
Treasury to the credit of the General Revenue Fund Account of the State
Apportionment Fund.

(b) The Treasurer of State shall allocate and transfer the taxes,
interest, penalties, and costs to the various State Treasury funds
participating in general revenues in the respective proportions to each as
provided by, and to be used for the respective purposes set forth in, the
Revenue Stabilization Law of Arkansas, § 19-5-101 et seq.

SECTION 2. Arkansas Code § 26-52-401(11) is amended to read as
follows:

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

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

and

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

(B) Nothing in this subdivision shall exempt gasoline from the wholesale gross receipts tax imposed pursuant to ~~Act 1005 of 1995~~ §§ 26-57-1301 through 26-57-1306.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that revenue available for the support of necessary state services has declined during the last twelve (12) months as a result of the nationwide economic slow down; that without additional revenue, some state services will be reduced or eliminated; that some Arkansans will suffer as a result of service reductions or cuts; and that this bill will provide necessary revenue to avoid state service reductions or cuts. Therefore, an emergency is declared to exist and this subchapter being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2003."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Revenue & Tax - Senate
LDH/JMB - 031220030842
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Secretary