

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 3/3/87

HOUSE BILL 1792

By: Representative Lipton

Representative King

"AN ACT TO AMEND THE MOTOR FUEL TAX LAW TO ASSIST IN THE PREVENTION OF EVASIONS OF THAT TAX LAW; AND FOR OTHER PURPOSES."

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

SECTION 1. Except as otherwise specifically provided in this Act, all terms and phrases used herein will have the same meaning as ascribed to them under Act 383 of 1941, as amended [Ark. Stat. Ann. 75-1101, et seq.].

SECTION 2. Section 2 of Act 383 of 1941, as amended, the same being Ark. Stat. 75-1102, is hereby amended by adding the following Subsections J, K and L thereto to read as follows:

"J. 'Pipeline importer' means a distributor who imports motor fuel by common carrier pipeline, barge or rail. A distributor who imports motor fuel exclusively by motor vehicle tank truck is not a pipeline importer.

K. 'Exporting' means taking motor fuel out of this State.

L. 'Importing' means bringing motor fuel into this State."

SECTION 3. Subsections A, B, and C of Section 4 of Act 383 of 1941, as amended, the same being Ark. Stats. 75-1106 A, 75-1106 B, and 75-1106 C, are hereby amended to read as follows:

"A. The sale of motor fuel by a pipeline importer who has first received such motor fuel into this State via common carrier pipeline, barge or rail to a duly licensed distributor in this State.

B. The sale of motor fuel by a duly licensed distributor for export from the State of Arkansas, and shipped by common carrier f.o.b. destination, to any other state or territory or to any foreign country, or the export of motor fuel by a duly licensed distributor from the State of

Arkansas to any other state or territory or to any foreign country, provided that satisfactory proof of actual exportation of all such motor fuel is furnished at the time and in the manner prescribed by the Commissioner of Revenues.

C. The sale of motor fuel to the United States government."

SECTION 4. Subsection A of Section 10 of Act 383 of 1941, as amended, the same being Ark. Stat. 75-1112 A, is hereby amended to read as follows:

"A. For the purpose of determining the amount of the tax herein imposed, the Commissioner of Revenues may require such supporting documents as he may deem necessary to assure accurate reporting. The reports shall be filed on forms prescribed by the Commissioner and shall be filed with the Commissioner of Revenues on or before the twenty-fifth (25th) day of each calendar month following the reporting month in question. These reports shall include the following:

(1) An itemized statement of the number of gallons of all motor fuel received during the next preceding calendar month by such distributor, which has been produced, refined, prepared, distilled, manufactured, or compounded by such distributor in the State of Arkansas.

(2) An itemized statement of the number of gallons of all motor fuel received by such distributor in the State of Arkansas from any source whatsoever during the next preceding calendar month as shown by the shipper's bills of lading thereof, other than motor fuel falling within the provisions of (1) above, together with a statement showing: the date of receipt of each shipment of such motor fuel; the name of the person from whom purchased and/or received; the point of origin and the point of destination of each shipment; the quantity of each of said purchases or shipment; the name of the carrier; the number of each tank car, or tank truck; and the number of gallons contained in each tank car, or tank truck; and the owner of the boat, ship, barge, or vessel, if shipped by water.

(3) An itemized statement of the number of gallons of motor fuel deducted in accordance with the provisions of subsection (c) or (d) of Subsection 1 of Subsection C of this Section in making any previous monthly report with respect to which motor fuel so deducted the tax payable under the terms of this Act have not theretofore been paid.

(4) An itemized statement of the number of gallons of motor fuel

sold by the distributor during the preceding calendar month and exempted from the tax by Subsection A, B, C and D of Section 4 of the Act, separately itemizing the amount of motor fuel sold and claimed to be exempt under each one of said subsections of Section 4; and such statement shall furnish such information relating to such sales as shall be required by the Commissioner of Revenues and reasonably necessary to the enforcement by him of the provisions of this Act.

(5) An itemized statement of the number of gallons of motor fuel sold by the distributor within a border rate area and at the border rate tax, as is permitted by Section 5 of this Act, together with such information relating to such sales as shall be required by the Commissioner of Revenues and reasonably necessary to the enforcement by him of the provisions of this Act.

(6) An itemized statement of the number of gallons of motor fuel which, during the next preceding month, was received, within the meaning of Subsection (1) or (2) of Subsection H of Section 2 of this Act, by being placed in a tank, but which had not been withdrawn therefrom at the close of the next preceding calendar month.

(7) An itemized statement of the number of gallons of motor fuel received during the next preceding calendar month and deductible under the provisions of Subsection (d) of Subsection (1) of Subsection C of this Section.

(8) An itemized statement of the number of gallons of motor fuel received by the distributor during the next preceding calendar month which were purchased by said distributor tax-paid and supported by copies of the seller's tax-paid invoices."

SECTION 5. Subsection C of Section 10 of Act 383 of 1941, as amended, the same being Arkansas Statutes 75-1112 C, is hereby amended to read as follows:

"(C) At the time of filing of each monthly report with the Commissioner of Revenues, each distributor shall pay to the Commissioner of Revenues the full amount of the motor fuel tax for the next preceding calendar month, which shall be computed as follows:

(1) From the sum of the total number of gallons of motor fuel received, reduced by the total number of gallons received upon which the tax

has been paid as evidenced by the itemized statement filed pursuant to Subsection (8) of Subsection A of this Section, by the distributor within the State of Arkansas during the next preceding calendar month, plus the total number of gallons of motor fuel deducted on any previous monthly report of the distributor under the provisions of Subsection (c) and/or (d) of this Subsection (1) with respect to which the tax payable under this Act remains unpaid, shall be made the following deductions:

(a) The total number of gallons of motor fuel received by the distributor within the State of Arkansas and sold or otherwise disposed of during the next preceding calendar month as set forth in Section 4 (Ark. Stat. 75-1106) of this Act; and

(b) The total number of gallons of motor fuel received by the distributor within the State of Arkansas and sold or otherwise disposed of during the next preceding calendar month as set forth in Section 5 (Ark. Stat. 75-1107) of this Act; and

(c) The total number of gallons of motor fuel which, during any previous calendar month, was received, within the meaning of Subsection (1) or (2) of Subsection H of Section 2 (Ark. Stat. 75-1102) of this Act, by being placed in a tank but had not been withdrawn therefrom at the close of the next preceding calendar month.

(d) The total number of gallons of motor fuel received, during any previous calendar month, within the meaning of Subsection (1) of Subsection H of Section 2 (Ark. Stat. 75-1102) of this Act, by being placed in a tank, which was thereafter delivered by the person receiving it to a common carrier pipeline for shipment or delivery to a point in Arkansas, but had not been, at the close of the next preceding calendar month, delivered by the pipeline at its destination, even though, because of being mingled in the common carrier pipeline system with other motor fuel, the motor fuel to be delivered to said point of destination is not the identical motor fuel delivered by the shipper to the common carrier pipeline.

(e) That number of gallons of motor fuel lost due to fire, flood, storm, theft or other cause beyond his control, other than through evaporation. The deduction for such loss may be included in the report filed for the month in which such loss occurred or in any subsequent report filed within a period of one (1) year.

(f) That number of gallons of motor fuel which shall be equal

to three per centum (3%) of the first one million (1,000,000) gallons, and no allowance for the remaining gallons of the total number of gallons of motor fuel received by the distributor during the next preceding calendar month, less the total number of gallons deducted under the subparagraphs (a), (b), (c), (d) and (e) next preceding; it being determined by the General Assembly that three per centum (3%) of the first one million (1,000,000) gallons, and no allowance for the remaining gallons so received is the actual and average amount of loss resulting from evaporation, shrinkage and the losses resulting from unknown causes irrespective of the amount thereof, and the cost of collection.

(2) The number of gallons remaining after the deductions hereinabove set forth have been made shall be multiplied by the rate of tax provided in Section 4 hereof. In reporting and computing this tax, distributors shall adjust all volume measurements of motor fuel to a temperature of 60 degrees Fahrenheit.

(3) The remaining number of gallons computed on a volumetric basis shall be multiplied by the rate provided by law in the adjoining state such rate not to exceed the rate provided by Section 4 of Act 437 of 1979, and resulting figure, together with the figure obtained in Subsection C(2) of this Section, shall be the total amount of motor fuel tax due for the next preceding calendar month."

SECTION 6. All laws and parts of laws in conflict with this Act are hereby repealed. Provided, nothing in this Act shall change or modify the tax rates levied on "motor fuel" pursuant to any of the laws of this State, including, but not limited to, Section 4 of Act 383 of 1941, as amended, Section 1 of Act 445 of 1973 and Section 1 of Act 456 of 1985.

SECTION 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the Act which can be given effect without the invalid provisions or application, and to that end, the provisions of this Act are declared to be severable.

SECTION 8. EMERGENCY. It is hereby found and determined by the General Assembly that the State of Arkansas is in serious danger of losing revenues

which are necessary to provide adequate funding for essential needs of the citizens of this State and the provisions of this Act are necessary to avoid a substantial reduction in State revenues. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1987.

