

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Senator Dowd

SENATE BILL 664

"AN ACT TO LEVY AN EXCISE TAX, ON FUEL SOLD FOR HIGHWAY USE, AT THE RATE EQUIVALENT TO TWO PERCENT (2%) OF THE AVERAGE RETAIL PRICE PER GALLON; TO PROVIDE FOR THE COLLECTION AND ADMINISTRATION OF SUCH TAX; AND FOR OTHER PURPOSES."

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

SECTION 1. The terms used in this Act shall have the following meanings:

(a) "Fuel" means all fuel for operating a motor vehicle on highways and shall include:

1. Motor fuel, as defined in Section 2(B.) of Act 383 of 1941, as amended [Ark. Stat. Ann. §75-1102(B.)]; and

2. Distillate special fuels and liquefied gas special fuels as defined in subsections (i) and (j) of Section 2 of Chapter 1 of Act 40 of 1965, 1st Ex. Sess., as amended [Ark. Stat. Ann. §75-1240(i) and (j)];

(b) "motor vehicle" means and includes any automobile, truck, truck tractor, tractor, bus, vehicle or other conveyance which is propelled by an internal combustion engine or motor, and is licensed or required to be licensed for highway use.

(c) "Sale" shall include any exchange, gift or other disposition, and "purchase" shall include any acquisition.

(d) "Storage" and "use" shall have the meanings given to those terms in subsections (b) and (c) of Section 4 of Act 487 of 1949, as amended [Ark. Stat. Ann. §84-3104(b) and (c)]; and

(e) "Sales price" and "gross proceeds or gross receipts" shall mean the average retail price per gallon of fuel as determined in accordance with Section 7 of this Act.

SECTION 2. Except as otherwise specifically provided herein, this Act

shall be governed by the terms and provisions of the Arkansas Tax Procedure Act, the same being Act 401 of 1979, as amended [Ark. Stat. Ann. §84-4701 et seq.].

SECTION 3. (a) There is hereby levied an excise tax at the rate of two percent (2%) upon the gross proceeds or gross receipts per gallon derived from all sales of fuel and upon the sales price per gallon of fuel brought into this State for storage, use or consumption in this State, to be computed in the manner set forth in this Act. It is the specific intent of this Act to impose the tax levied hereunder, notwithstanding the provisions of Section 4(h) of Act 386 of 1941, as amended [Ark. Stat. Ann. §84-1904(h)] and Section 28(B) of Act 383 of 1941 [Ark. Stat. Ann. §75-1130(B)].

(b) The tax levied by this Act shall be collected, reported and paid to the Commissioner, as set forth in this Act, by sellers of fuel. Provided, however, that every person storing, using or consuming, in this State, fuel purchased from a seller outside this State shall be liable for the tax imposed by this Act, and the liability shall not be extinguished until the tax has been paid to the Commissioner, but a receipt given by the seller to the purchaser with the required amount of tax separately stated thereon shall be sufficient, when furnished to the Commissioner, to relieve the purchaser from liability for the tax to which the receipt refers.

SECTION 4. Sales by a person who is a distributor under the Motor Fuel Tax Law, Act 383 of 1941, as amended [Ark. Stat. Ann. §§75-1101 - 1102, 75-1105 - 1131] or a supplier under the Special Motor Fuels Tax Law, Act 40 of 1965 (1st Ex. Sess.), as amended [Ark. Stat. Ann. §75-1239 et seq.] to another distributor or supplier shall be exempt from the tax levied by this Act where such fuel is purchased for the purpose of resale to the ultimate consumer and the invoice for the sale, in the case of a sale of motor fuel, shows the buyer's motor fuel distributor permit number, or, in the case of a sale of distillate special fuel, shows the distillate special fuel supplier permit number, and the invoice for the sale shows the number of the license issued under this Act.

SECTION 5. It shall be unlawful for any person to sell fuel without first having obtained from the Commissioner a license for the purpose of

registration for collection of the tax levied by this Act, which license shall be issued and remain in effect until cancelled by the Commissioner.

SECTION 6. (a) Every seller shall file, on or before the 20th day of each month, a report with the Commissioner, on forms prescribed by the Commissioner, accounting for the fuel sold during the next preceding calendar month. The report shall include the following:

- (1) The total number of gallons of motor fuel sold;
- (2) The total number of gallons of distillate special fuel sold;
- (3) The total number of gallons of liquefied gas special fuel sold;
- (4) The total amount of money received from all fuel sold; and
- (5) All additional information and/or supporting documents as the Commissioner may require.

(b) Remittance of the total amount of tax due shall accompany the filing of the report. The tax shall be computed in the following manner:

- (1) By multiplying two percent (2%) times the average retail price per gallon of fuel as determined in accordance with this Act; and
- (2) By multiplying the product resulting from subsection (b)(1) of this Section times the total number of gallons of fuel sold.

SECTION 7. (a) During the period of July 1, 1987 through February 29, 1988, the average retail price per gallon of fuel governed by the provisions of this Act shall be \$1.00 and the tax levied under this Act shall be two (2) cents per gallon.

(b) For all periods subsequent to February 29, 1988, the average retail price per gallon of fuel shall be determined as follows:

(1) For the period of March 1 through August 31 of each year, divide the total amount of money received from all sales of fuel during the period of July 1 through December 31 of the previous calendar year by the total number of gallons of fuel sold during the period of July 1 through December 31 of the previous calendar year.

(2) For every period of September 1 through February 29, divide the total amount of money received from all sales of fuel during the next preceding period of January 1 through June 30 by the total number of gallons of fuel sold during the next preceding period of January 1 through June 30.

SECTION 8. (a) After the effective date of this Act, the Commissioner shall, on or before August 20 of each year, notify every seller of the amount of tax per gallon to be collected, reported and remitted under this Act during the next succeeding period of September 1 through February 29.

(b) After the effective date of this Act, the Commissioner shall, on or before February 20 of each year, notify every seller of the amount of tax per gallon to be collected, reported and remitted under this Act during the next succeeding period of March 1 through August 31.

(c) The Commissioner shall, after the amount of tax to be collected during any succeeding period has been determined, round off such amount to the nearest one tenth (1/10) of a cent, and the resulting figure shall be the one of which sellers are notified as provided in this section.

(d) Within thirty (30) days from the date notice is given by the commissioner under Subsections (a) and (b) of this section, the Commissioner shall furnish sellers with reporting forms to be used in reporting the tax due under this Act during the next succeeding six-month reporting period.

SECTION 9. All taxes, penalties and interest collected by the Commissioner under the provisions of this Act 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, and shall be distributed as provided in the Revenue Stabilization law, the same being Act 750 of 1973, as amended [Ark. Stat. Ann. §13-501 et seq.].

SECTION 10. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 11. 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 schools and other essential services required by 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 preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1987.

