

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

HOUSE BILL 1599

4
5 By: Representative House
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7

For An Act To Be Entitled

9 "AN ACT TO LEVY A WHOLESALE EXCISE TAX OF FOUR AND
10 ONE-HALF PERCENT (4½%) ON GROSS RECEIPTS OF FUEL SOLD
11 BY POSITION HOLDERS IN ARKANSAS AND ON THE PURCHASE
12 PRICE OF FUEL IMPORTED FOR SALE, USE, STORAGE,
13 DISTRIBUTION OR CONSUMPTION IN ARKANSAS; TO PROVIDE
14 FOR THE DISTRIBUTION AND USE OF REVENUES DERIVED FROM
15 SUCH TAX; TO DECLARE AN EMERGENCY; AND FOR OTHER
16 PURPOSES. "

Subtitle

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18 "TO LEVY A FOUR AND ONE-HALF PERCENT
19 (4½%) WHOLESALE FUEL EXCISE TAX ON THE
20 SALE OF FUEL BY POSITION HOLDERS AND THE
21 IMPORTATION OF FUEL BY IMPORTERS. "

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

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27 SECTION 1. Definitions. As used in this act:

28 (a) "Director" means the Director of the Department of Finance and
29 Administration.

30 (b) "Export" means with respect to a position holder or his agent, or
31 with respect to an exporter or his agent, the delivery of fuel out of this
32 state.

33 (c) "Exporter" means any person who requires fuel in Arkansas for the
34 purpose of transporting or delivering the fuel to another state or country.

35 (d)(1) "Fuel" means:

36 (A) "Motor fuel," as the term "motor fuel" is defined in

1 Arkansas Code 26-55-202, commonly known as gasoline;

2 (B) "Distillate special fuel", as the term "distillate
3 special fuel" is defined in Arkansas Code 26-56-102, commonly known as diesel;
4 and

5 (C) "Liquefied gas special fuels", as the term "liquefied
6 gas special fuels" is defined in Arkansas Code 26-56-102, commonly known as
7 liquefied petroleum gas.

8 (2) Provided the term "fuel" as used in this act shall not
9 include:

10 (A) Distillate special fuel dyed in accordance with
11 Arkansas Code 25-56-224;

12 (B) Motor fuel used in propelling airplanes if satisfactory
13 proof is furnished in the manner prescribed by the Director that the motor
14 fuel is used in the propelling of airplanes; nor

15 (C) Distillate special fuel utilized in the propelling of
16 jet aircraft.

17 (e) "Gross receipts" or "gross proceeds" means:

18 (1) The total amount of consideration for the sale of fuel
19 including federal fuel excise taxes less deductions for state fuel gallonage
20 taxes levied and collected pursuant to Title 26, Chapter 55 or Title 26,
21 Chapter 56 and transportation charges; and

22 (2) The value of fuel, including any federal fuel excise tax,
23 withdrawn from the stock of a position holder for distribution or use by the
24 position holder. The value is deemed equal to the price per gallon, including
25 any federal fuel excise tax, allocated to the withdrawal by the position
26 holder as reflected on the bill of lading or manifest.

27 (f) "Import" means with respect to a position holder or his agent, or
28 with respect to an importer or his agent, the delivery of fuel into Arkansas
29 from out of state.

30 (g) "Importer" means any person who imports fuel to a location in
31 Arkansas other than to a position holder at a terminal or refinery.

32 (h) "Person" includes any individual, company, partnership, joint
33 venture, joint agreement, mutual or other association, corporation, limited
34 liability company, estate, trust, business trust, receiver, or trustee
35 appointed by any state, federal, or other court, syndicate, this state, any
36 county, city, municipality, school district, or any other political

1 subdivision of this state or group or combination acting as a unit, in the
2 plural or singular number.

3 (i) "Position holder" means a person who imports or acquires
4 immediately upon import into Arkansas, fuel by pipeline, marine vessel, or
5 other form of delivery from within a state, territory or possession of the
6 United States into a terminal or refinery or who imports fuel into Arkansas
7 from a foreign country, or who produces, manufactures, or refines fuel within
8 Arkansas or who owns fuel in the pipeline and terminal distribution system in
9 Arkansas and is subject to the general taxing or police jurisdiction of
10 Arkansas and in any case is also registered under Internal Revenue Service
11 §4101 as in effect on the effective date of this act for transactions in
12 taxable fuel in the bulk distribution system. A terminal operator shall not
13 be considered a position holder merely because the terminal operator handles
14 fuel consigned to it within a terminal.

15 (j) "Purchase price" means the total consideration for the purchase of
16 fuel including federal fuel excise taxes less deductions for state fuel
17 gallorage taxes levied and collected pursuant to Title 26, Chapter 55 or Title
18 26, Chapter 56, and transportation charges.

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

22 (l) "Terminal" means a fuel storage and distribution facility that is
23 supplied by pipeline, marine vessel, or other source, and from which fuel may
24 be removed at a rack.

25 (m) "Terminal operator" means the person who by ownership or
26 contractual agreement is charged with the responsibility and physical control
27 over the operation of a terminal. However, there shall be only one (1) person
28 charged with responsibility as operator at each terminal for purposes of this
29 act.

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31 SECTION 2. Effective July 1, 1999, there is hereby levied a wholesale
32 excise tax of four and one-half percent (4.5%) upon:

33 (a) The gross receipts or gross proceeds derived from all sales of fuel
34 by position holders to any person in the State of Arkansas; and

35 (b) The purchase price of fuel purchased by an importer for sale,
36 storage, use, distribution, or consumption within this state.

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 2 SECTION 3. There is specifically exempted from the tax imposed by this
 3 act the following:

4 (a) The gross receipts or gross proceeds derived from sales to the
 5 United States government.

6 (b) The gross receipts or gross proceeds derived from sales for export
 7 outside of Arkansas.

8 (c) Fuel imported into Arkansas in the fuel tank of a motor vehicle.

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 10 SECTION 4. (a) The importer or position holder subject to the taxes
 11 levied by this act shall file a monthly return and remit the tax for the month
 12 to the director on or before the fifteenth (15th) day of the month next
 13 following the month in which the sale was made.

14 (b) The returns shall be made upon forms prescribed and furnished by
 15 the director and signed by the person required to collect and remit the tax or
 16 his agent. The return shall contain such information as the director shall
 17 require for the proper administration of this act.

18 (c) This act is to be administered in all respects in accordance with
 19 the Arkansas Tax Procedure Act, beginning at Arkansas Code § 26-18-101, unless
 20 otherwise provided.

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 22 SECTION 5. Every importer and position holder subject to the tax levied
 23 by this act shall register with the director and obtain a tax reporting
 24 number.

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 26 SECTION 6. Arkansas Code 26-52-401(11) is amended to read as follows:

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

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

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

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 34 (B) Nothing in this subdivision shall exempt gasoline or
 35 other motor fuel from the wholesale gross receipts tax imposed pursuant to ~~Act~~
 36 1005 of 1995 action of the Eighty-Second General Assembly."

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2 SECTION 7. (a) All of the taxes, fees, penalties and other amounts
3 collected under the provisions of this act shall be classified as special
4 revenues and shall be deposited in the State Treasury. After deducting the
5 amount to be credited to the Constitutional Officers fund and the State
6 Central Services Fund as provided under the Revenue Stabilization Law,
7 Arkansas Code beginning at § 19-5-101, the State Treasurer shall transfer on
8 the last business day of each month:

9 (1) Fifteen percent (15%) of the amount thereof to the County Aid
10 Fund;

11 (2) Fifteen percent (15%) of the amount thereof to the Municipal
12 Aid Fund; and

13 (3) Seventy percent (70%) of the amount thereof to the Arkansas
14 State Highway and Transportation Department Fund.

15 (b) The funds shall be used for the same purposes and further disbursed
16 in the same manner as set out in Arkansas Code § 27-70-207.

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18 SECTION 8. All provisions of this act of a general and permanent nature
19 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
20 Revision Commission shall incorporate the same in the Code.

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22 SECTION 9. If any provision of this act or the application thereof to
23 any person or circumstance is held invalid, such invalidity shall not affect
24 other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this
26 act are declared to be severable.

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28 SECTION 10. All laws and parts of laws in conflict with this act are
29 hereby repealed.

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31 SECTION 11. EMERGENCY CLAUSE. It is hereby found and determined by the
32 Eighty-second General Assembly that the Arkansas State Highway System is in
33 desperate need of improvement, rehabilitation, repair, and expansion; that the
34 county road systems and municipal street systems are in dire need of
35 improvement, rehabilitation and repair; that additional revenues should be
36 provided to address these needs as soon as practicable; and that this act is

1 designed to provide revenues to assist in meeting these needs. Therefore, an
2 emergency is declared to exist and this act being immediately necessary for
3 the preservation of the public peace, health and safety shall become effective
4 on the date of its approval by the Governor. If the bill is neither approved
5 nor vetoed by the Governor, it shall become effective on the expiration of the
6 period of time during which the Governor may veto the bill. If the bill is
7 vetoed by the Governor and the veto is overridden, it shall become effective
8 on the date the last house overrides the veto.

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