

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S3/13/03

A Bill

SENATE BILL 786

5 By: Revenue & Tax - Senate
6
7

For An Act To Be Entitled

9 AN ACT TO LEVY A WHOLESALE EXCISE TAX OF ONE
10 PERCENT (1%) ON GROSS RECEIPTS OF MOTOR FUEL SOLD
11 BY POSITION HOLDERS IN ARKANSAS AND ON THE
12 PURCHASE PRICE OF MOTOR FUEL IMPORTED FOR SALE,
13 USE, STORAGE, DISTRIBUTION, OR CONSUMPTION IN
14 ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

15
16 LEVIES A ONE PERCENT (1%) WHOLESALE
17 MOTOR FUEL EXCISE TAX ON SALE OF MOTOR
18 FUEL BY POSITION HOLDERS AND IMPORTATION
19 OF MOTOR FUEL BY IMPORTERS.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

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

27 *26-57-1301. Definitions.*

28 *For purposes of this subchapter:*

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

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

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



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

2 (A) The total amount of consideration for the sale of
3 motor fuel including federal motor fuel excise tax less deductions for state
4 motor fuel gallonage tax levied and collected pursuant to Title 26, Chapter
5 55 and transportation charges; and

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7 motor fuel excise tax, withdrawn from the stock of a position holder for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

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

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

16 (6) "Importer" means any person who imports motor fuel to a
17 location in Arkansas other than to a position holder at a terminal or
18 refinery;

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

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

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

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

36 (9)(A) "Position holder" means a person that imports or acquires

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

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

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

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

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

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

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

29
30 26-57-1302. Sales by position holders - Purchase by importer.

31 There is levied a wholesale excise tax of one percent (1%) on:

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

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

36

1 26-57-1303. Exemptions.

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

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

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

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

10
11 26-57-1304. Monthly return and remittance.

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

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

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

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

25
26 26-57-1305. Tax reporting number.

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

30
31 26-57-1306. Disposition of taxes, interest, and penalties.

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

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

6
 7 SECTION 2. Arkansas Code § 26-52-401(11) is amended to read as
 8 follows:

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

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

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

17 (B) Nothing in this subdivision shall exempt gasoline from
 18 the wholesale gross receipts tax imposed pursuant to ~~Act 1005 of 1995~~ §§ 26-
 19 57-1301 through 26-57-1306.

20
 21 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
 22 General Assembly of the State of Arkansas that revenue available for the
 23 support of necessary state services has declined during the last twelve (12)
 24 months as a result of the nationwide economic slow down; that without
 25 additional revenue, some state services will be reduced or eliminated; that
 26 some Arkansans will suffer as a result of service reductions or cuts; and
 27 that this bill will provide necessary revenue to avoid state service
 28 reductions or cuts. Therefore, an emergency is declared to exist and this
 29 subchapter being immediately necessary for the preservation of the public
 30 peace, health and safety shall become effective on July 1, 2003.

31
 32 /s/ Revenue & Tax - Senate