

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 876

By: Senator B. Sample

For An Act To Be Entitled

AN ACT TO AMEND THE LAWS CONCERNING THE EXCISE TAX ON DISTILLATE SPECIAL FUEL AND THE SALES AND USE TAX EXEMPTION FOR CLASS SIX AND CLASS SEVEN TRUCKS AND SEMITRAILERS; TO REPEAL THE SALES AND USE TAX EXEMPTION FOR CLASS SIX AND CLASS SEVEN TRUCKS AND SEMITRAILERS; TO REPEAL THE PROVISIONS ENACTED TO OFFSET THE GENERAL REVENUES LOST AS A RESULT OF THE SALES AND USE TAX EXEMPTION FOR CLASS SIX AND CLASS SEVEN TRUCKS AND SEMITRAILERS; TO INCREASE THE EXCISE TAX ON DISTILLATE SPECIAL FUEL; AND FOR OTHER PURPOSES.

Subtitle

TO REPEAL THE SALES AND USE TAX EXEMPTION FOR CLASS SIX AND CLASS SEVEN TRUCKS AND SEMITRAILERS AND TO REPEAL THE PROVISIONS ENACTED TO OFFSET THE GENERAL REVENUES LOST AS A RESULT OF THE EXEMPTION.

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

SECTION 1. Arkansas Code § 19-5-1103(b), concerning the Property Tax Relief Trust Fund, is amended to read as follows:

(b) The fund shall consist of such revenues as generated by §§ 26-52-302(c), 26-52-317(c)(1)(B), 26-52-319(a)(3)(B), 26-53-107(c), 26-53-145(c)(1)(B), 26-53-148(a)(3)(B), ~~26-56-201(g)(1)(C)~~, and 26-56-224(c)(2), and shall be used for such purposes as set out in § 26-26-310.



SECTION 2. Arkansas Code § 19-5-1227(b)(3), concerning the Educational Adequacy Fund, is amended to read as follows:

(3) The revenues generated by §§ 26-52-302(d), 26-52-316, 26-52-317(c)(1)(C), 26-52-319(a)(3)(C), 26-53-107(d), 26-53-145(c)(1)(C), 26-53-148(a)(3)(C), ~~26-56-201(g)(1)(B)~~, 26-56-224(c)(3), and 26-57-1002(d)(1)(A)(ii); and

SECTION 3. Arkansas Code § 19-6-201(68), concerning the enumeration of general revenues, is repealed.

~~(68) The first four million dollars (\$4,000,000) of the eight and one-half cent (8½¢) tax on distillate special fuels levied each fiscal year under § 26-56-201(a)(1)(A)(i).~~

SECTION 4. Arkansas Code § 19-6-301(3)(A), concerning the enumeration of special revenues, is amended to read as follows:

(3) Distillate special motor fuels taxes and liquefied gas special motor fuels taxes and license and permit fees, as enacted by the Special Motor Fuels Tax Law, § 26-56-101 et seq., ~~known as the "Special Motor Fuels Tax Law"~~, and all laws amendatory thereto, including the:

(A) ~~Eight and one-half cent (8.5¢) tax~~ Tax of nine and one-half cents (9½¢) on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(i), ~~after the deduction of the first four million dollars (\$4,000,000) each fiscal year under § 26-56-201(g)(1) and one cent (1¢) tax on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(ii);~~

(B) ~~Seven and one-half cent (7.5¢) tax~~ Tax of seven and one-half cents (7½¢) on liquefied gas special motor fuels levied by § 26-56-301(a);

(C) Additional tax of one cent (1¢) ~~tax~~ on distillate special motor fuels levied by § 26-56-201(a)(2);

(D) Additional tax of four ~~cent~~ cents (4¢) ~~tax~~ on liquefied gas special motor fuels and the additional tax of two ~~cent~~ cents (2¢) ~~tax~~ on distillate special motor fuels levied by § 26-56-502(a);

(E) Additional tax of four ~~cent~~ cents (4¢) ~~tax~~ on distillate special motor fuels levied by § 26-56-201(d)(1);

(F) Additional tax of five ~~cent~~ cents (5¢) ~~tax~~ on

liquefied gas special motor fuels and the additional tax of two cent cents (2¢) ~~tax~~ on distillate special motor fuels levied by §§ 26-55-1201(a) and 26-56-601; and

(G) Additional liquefied gas special motor fuels user permit fees levied in § 26-55-1002;

SECTION 5. Arkansas Code § 26-52-436 is amended to read as follows:
26-52-436. Certain classes of trucks or trailers.

(a) As used in this section:

(1) "Person" means a natural person who resided in this state at the time of purchasing a truck tractor or semitrailer in this state;

(2) "Semitrailer" means ~~every~~ a vehicle with or without motive power, including a pole trailer, drawn by a truck tractor ~~or a Class Six or Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered with the International Registration Plan to be engaged in interstate commerce~~ and designed for carrying property; and

(3)~~(A)~~ "Truck tractor" means a motor vehicle:

~~(i)~~ (A) Designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn; and

~~(ii)~~ (B) Registered as a+

~~(a)~~ Class Five, Class Six, Class Seven, or Class Eight truck as defined by § 27-14-601(a)(3); ~~or~~

~~(b)~~ Class Six or Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is not registered with the International Registration Plan to be engaged in interstate commerce.

~~(B)~~ "Truck tractor" ~~does not include a Class Six or Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered with the International Registration Plan to be engaged in interstate commerce.~~

(b) Except as provided in ~~subsections~~ subsection (d) ~~and (e)~~ of this section, the gross receipts or gross proceeds in excess of nine thousand one hundred fifty dollars (\$9,150) derived from the sale of a new or used truck tractor in this state are exempt from the Arkansas gross receipts tax levied by this chapter.

(c) The Except as provided in subsection (d) of this section, the

gross receipts or gross proceeds in excess of one thousand dollars (\$1,000) derived from the sale of a new or used semitrailer in this state are exempt from the Arkansas gross receipts tax levied by this chapter.

~~(d) The gross receipts or gross proceeds derived from the sale in this state of a new or used Class Six or Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered with the International Registration Plan to be engaged in interstate commerce are exempt from the Arkansas gross receipts tax levied by this chapter.~~

~~(e) (d)~~ The exemption ~~under subsection (b) of~~ in this section does not apply to gross receipts taxes levied by any Arkansas city, town, or county.

SECTION 6. Arkansas Code § 26-53-144 is amended to read as follows:
26-53-144. Certain classes of trucks or trailers.

(a) As used in this section:

(1) "Person" means a natural person who resided in this state at the time of purchasing a truck tractor or semitrailer in another state;

(2) "Semitrailer" means ~~every~~ a vehicle with or without motive power, including a pole trailer, drawn by a truck tractor ~~or a Class Six or Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered with the International Registration Plan to be engaged in interstate commerce~~ and designed for carrying property; and

~~(3)(A)~~ "Truck tractor" means a motor vehicle:

~~(i)~~ (A) Designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn; and

~~(ii)~~ (B) Registered as a+

~~(a)~~ Class Five, Class Six, Class Seven, or Class Eight truck as defined by § 27-14-601(a)(3); ~~or~~

~~(b) Class Six or Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is not registered with the International Registration Plan to be engaged in interstate commerce.~~

~~(B) "Truck tractor" does not include a Class Six or Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered with the International Registration Plan to be engaged in interstate commerce.~~

(b) Except as provided in ~~subsections~~ subsection (d) ~~and (e)~~ of this

section, the gross receipts or gross proceeds in excess of nine thousand one hundred fifty dollars (\$9,150) derived from the sale of a new or used truck tractor in another state for use in this state are exempt from the Arkansas compensating use tax levied by this subchapter.

(c) ~~The~~ Except as provided in subsection (d) of this section, the gross receipts or gross proceeds in excess of one thousand dollars (\$1,000) derived from the sale of a new or used semitrailer in another state for use in this state are exempt from the Arkansas compensating use tax levied by this subchapter.

~~(d) The gross receipts or gross proceeds derived from the sale in another state for use in this state of a new or used Class Six or Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered with the International Registration Plan to be engaged in interstate commerce are exempt from the Arkansas compensating use tax levied by this subchapter.~~

~~(e) (d)~~ The exemption ~~under subsection (b) of~~ in this section does not apply to compensating use taxes levied by any Arkansas city, town, or county.

SECTION 7. Arkansas Code § 26-56-201(a) and (b), concerning the excise tax on distillate special fuel, are amended to read as follows:

(a)(1)(A)~~(i)~~ There is levied an excise tax at the rate of ~~eight and one-half cents (8½¢)~~ nine and one-half cents (9½¢) per gallon on all distillate special fuel, except fuel utilized in propelling jet aircraft, sold or used in this state or purchased for sale or use in this state.

~~(ii) In addition to the tax levied in subdivision (a)(1)(A)(i) of this section, there is levied an excise tax at the rate of one cent (1¢) per gallon on all distillate special fuel sold or used in this state or purchased for sale or use in this state.~~

(B) The additional levies provided in subdivision (a)(2) of this section and § 26-56-502 are specifically intended to apply to the taxes levied by this section and shall remain effective.

(2) In addition to the tax levied in subdivision (a)(1) of this section, there is levied an excise tax of one cent (1¢) for each gallon of distillate special fuel, as defined in § 26-56-102, sold or used in this state, or purchased for sale or use in this state, to be computed in the manner set forth in this section.

(b) The following are exempted from the tax levied by subsection (a)

of this section:

- (1) Sales to the United States Government;
- (2) Sales to dealers, users, or off-road consumers for off-road use only if the distillate special fuel was delivered by the supplier into storage facilities clearly marked "NOT FOR MOTOR VEHICLE USE";
- (3) Sales of distillate special fuel by a licensed supplier for export from the State of Arkansas when shipped by common carrier f.o.b. destination to any other state or territory or to any foreign country, or the export of distillate special fuel by a licensed supplier from the State of Arkansas to any other state or territory or to any foreign country, if satisfactory proof of actual exportation of all such distillate special fuel is furnished at the time and in the manner prescribed by the Director of the Department of Finance and Administration; and
- (4) Sales of distillate special fuel by a pipeline importer who has first received the distillate special fuel in this state or to a licensed first receiver in this state;
- ~~(5) [Repealed]; and~~
- ~~(6) Sales of distillate special fuel utilized in propelling jet aircrafts.~~

SECTION 8. Arkansas Code § 26-56-201(f) and (g), concerning the excise tax on distillate special fuel, are amended to read as follows:

(f) ~~Except as provided in subsection (g) of this section, the~~ The additional taxes collected under this section are special revenues and shall be distributed as set forth in the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq., subject to any requirements for the repayment of bonds issued under the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq., the Arkansas Interstate Highway Financing Act of 2007, § 27-64-401 et seq., and the Arkansas Highway Financing Act of 2011, § 27-64-501 et seq.

~~(g)(1) In order to offset the general revenues lost by the tax exemption contained in § 26-52-436(c) and (d) and § 26-53-144(c) and (d), the Chief Fiscal Officer of the State shall, on or before June 30, 2013, and on or before June 30 of each fiscal year thereafter, deposit the first four million dollars (\$4,000,000) of the taxes collected under subdivision (a)(1)(A)(i) of this section as general revenues, to be distributed as follows:~~

~~(A) Seventy five percent (75%) to be deposited into the General Revenue Fund Account of the State Apportionment Fund, § 19-5-202;~~

~~(B) Fourteen and six tenths percent (14.6%) to be deposited into the Educational Adequacy Fund, § 19-5-1227;~~

~~(C) Eight and three tenths percent (8.3%) to be deposited into the Property Tax Relief Trust Fund, § 19-5-1103; and~~

~~(D) Two and one tenth percent (2.1%) to be deposited into the Conservation Tax Fund, § 19-6-484.~~

~~(2) The balance of the taxes collected under subdivision (a)(1)(A)(i) of this section shall be deposited as special revenues and distributed in the manner required by law.~~

~~(3) The classification and distribution of taxes under subdivision (g)(1) of this section is subject to any requirements for the repayment of bonds issued under the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq., and the Arkansas Interstate Highway Financing Act of 2007, § 27-64-401 et seq.~~

~~(4) The taxes collected under subdivision (a)(1)(A)(ii) of this section shall be distributed as provided in § 26-56-221.~~

SECTION 9. EFFECTIVE DATE. Sections 1 through 8 of this act are effective on the first day of the calendar quarter following the effective date of this act.