

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

State of Arkansas
91st General Assembly
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As Engrossed: H3/13/17
A Bill

HOUSE BILL 1727

By: Representative D. Douglas

For An Act To Be Entitled

AN ACT CONCERNING TAXES LEVIED ON MOTOR FUEL AND DISTILLATE SPECIAL FUEL; TO LEVY A WHOLESALE SALES TAX ON GASOLINE AND DIESEL FUEL THAT SHALL NOT BECOME EFFECTIVE UNLESS THE BONDS TO BE PAID BY THE LEVY ARE APPROVED BY A VOTE OF THE PEOPLE; TO USE THE PROCEEDS FROM THE WHOLESALE SALES TAX ON GASOLINE AND DIESEL FUEL TO PAY HIGHWAY MAINTENANCE AND CONSTRUCTION GENERAL OBLIGATION BONDS IF APPROVED BY A VOTE OF THE PEOPLE; TO DEDICATE REVENUES TO BE USED FOR IMPROVEMENTS TO ARKANSAS'S PORTION OF THE NATIONAL HIGHWAY SYSTEM; AND FOR OTHER PURPOSES.

Subtitle

TO LEVY WHOLESALE SALES TAXES ON GASOLINE AND DIESEL; AND TO USE THE WHOLESALE SALES TAX REVENUES TO PAY BONDS FOR HIGHWAY IMPROVEMENTS IF APPROVED BY THE PEOPLE.

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

SECTION 1. Arkansas Code § 19-6-301, concerning the enumeration of special revenues, is amended to add additional subdivisions to read as follows:

(255) Wholesale sales tax on motor fuel levied under § 26-64-101; and

(256) Wholesale sales tax on distillate special motor fuel



levied under § 26-64-102.

SECTION 2. Arkansas Code § 19-6-405, concerning the State Highway and Transportation Department Fund, is amended to add an additional subsection to read as follows:

(b)(1) There is established a separate account within the State Highway and Transportation Department Fund to be known as the "Commercial Freight Routes Improvement Account".

(2) The Commercial Freight Routes Improvement Account shall consist of those revenues identified in § 26-56-201(h) and any other revenues appropriated to the Commercial Freight Routes Improvement Account by the General Assembly.

(3) The revenues deposited into the Commercial Freight Routes Improvement Account shall be dedicated to improvements to Arkansas's portion of the National Highway System, as defined by the Federal Highway Administration on March 25, 2015, and as established under the National Highway System Designation Act of 1995, Pub. L. No. 104-59.

SECTION 3. Arkansas Code § 19-6-405, concerning the State Highway and Transportation Department Fund, is amended to add an additional subsection to read as follows:

(c)(1) There is established a separate account within the State Highway and Transportation Department Fund to be known as the "2017 Highway Maintenance and Construction Bond Account".

(2)(A) On the last day of each month, the Treasurer of State, after making the deductions required from net special revenues as set out in § 19-5-203(b)(1), shall transfer the special revenues derived by the taxes levied in §§ 26-64-101 and 26-64-102 to the State Highway and Transportation Department Fund, the County Aid Fund, and the Municipal Aid Fund in the percentages provided in § 27-70-206.

(B) The proceeds of the taxes transferred to the State Highway and Transportation Department Fund under subdivision (c)(2)(A) of this section shall be deposited into the 2017 Highway Maintenance and Construction Bond Account for use as provided by state law.

SECTION 4. Arkansas Code § 26-56-201, concerning the imposition and

distribution of distillate special fuels tax, is amended to add an additional subsection to read as follows:

(h) On or before June 30 of each fiscal year, the Chief Fiscal Officer of the State shall deposit the first two million eight hundred thousand dollars (\$2,800,000) of the taxes collected under subdivision (a)(1)(A)(i) of this section to the Commercial Freight Routes Improvement Account of the State Highway and Transportation Department Fund.

SECTION 5. Arkansas Code Title 26 is amended to add an additional chapter to read as follows:

CHAPTER 64

WHOLESALE SALES TAX ON FUEL

26-64-101. Wholesale sales tax on motor fuel.

(a) As used in this section:

(1) "Average wholesale selling price" means the United States Gulf Coast regular average wholesale selling price of motor fuel as published by the Energy Information Administration within the Department of Energy or other similar reliable index if the index published by the Energy Information Administration within the Department of Energy is no longer available; and

(2) "Motor fuel" means the same as defined in § 26-55-202.

(b) Beginning April 1, 2019, in addition to the taxes levied in §§ 26-55-205, 26-55-1002, 26-55-1006, 26-55-1201, and 26-56-601, there is levied a wholesale sales tax upon the average wholesale selling price per gallon of motor fuel at the rate determined in subsection (c) of this section.

(c)(1)(A) By March 1, 2019, the wholesale sales tax levied under this section shall be determined by multiplying the twelve-month average wholesale selling price of motor fuel for the period of January 1, 2018, through December 31, 2018, by six and five-tenths percent (6.5%).

(B) To make the collection of the wholesale sales tax levied under this section more efficient, the Director of the Department of Finance and Administration shall determine and convert the wholesale sales tax determined in subdivision (c)(1)(A) of this section to a cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

(2)(A)(i) Beginning April 1, 2020, and each April 1 thereafter, the wholesale sales tax levied under this section for the twelve (12) month

period beginning on that April 1 of each year shall be determined by multiplying the twelve-month average wholesale selling price of motor fuel for the period of January 1 through December 31 of the immediately preceding year by six and five-tenths percent (6.5%).

(ii) If the twelve-month average wholesale selling price calculated in subdivision (c)(2)(A)(i) of this section is less than the twelve-month average wholesale selling price determined in subdivision (c)(1)(A) of this section, then the twelve-month average wholesale selling price determined in subdivision (c)(1)(A) of this section shall be substituted for the twelve-month average wholesale selling price calculated in subdivision (c)(2)(A)(i) of this section and shall be used in lieu of the twelve-month average wholesale selling price calculated in subdivision (c)(2)(A)(i) of this section in determining the amount of wholesale sales tax due on motor fuel for the twelve-month period described in subdivision (c)(2)(A)(i) of this section.

(B) To make the collection of the wholesale sales tax levied under this section more efficient, the director shall determine and convert the wholesale sales tax in subdivision (c)(2)(A) of this section to a cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

(d) The Department of Finance and Administration shall publish the cent-per-gallon amount to be collected from retailers under this section and shall notify fuel wholesalers of the published amount.

(e) The wholesale sales tax levied under this section shall be paid by retailers of motor fuel to wholesalers who shall collect, report, and remit the tax in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of motor fuel taxes, including §§ 26-55-210 – 26-55-212 and § 26-55-230(a)(1)(F).

26-64-102. Wholesale sales tax on distillate special fuel.

(a) As used in this section:

(1) “Average wholesale selling price” means the United States Gulf Coast regular average wholesale selling price of distillate special fuel as published by the Energy Information Administration within the Department of Energy or other similar reliable index if the index published by the Energy Information Administration within the Department of Energy is no longer available; and

(2)(A) “Distillate special fuel” means the same as defined in § 26-56-102.

(B) However, “distillate special fuel” does not include distillate special fuel used for off-road purposes as identified in § 26-56-224.

(b) Beginning April 1, 2019, in addition to the taxes levied in §§ 26-56-201, 26-56-502, and 26-56-601, there is levied a wholesale sales tax upon the average wholesale selling price per gallon of distillate special fuel at the rate determined in subsection (c) of this section.

(c)(1)(A) By March 1, 2019, the wholesale sales tax levied under this section shall be determined by multiplying the twelve-month average wholesale selling price of distillate special fuel for the period of January 1, 2018, through December 31, 2018, by six and five-tenths percent (6.5%).

(B) To make the collection of the wholesale sales tax levied under this section more efficient, the Director of the Department of Finance and Administration shall determine and convert the tax determined in subdivision (c)(1)(A) of this section to a cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

(2)(A)(i) Beginning April 1, 2020, and continuing each April 1 thereafter, the wholesale sales tax levied under this section for the twelve (12) month period beginning on that April 1 of each year shall be determined by multiplying the twelve-month average wholesale selling price of distillate special fuel for the period of January 1 through December 31 of the immediately preceding year by six and five-tenths percent (6.5%).

(ii) If the twelve-month average wholesale selling price calculated in subdivision (c)(2)(A)(i) of this section is less than the twelve-month average wholesale selling price determined in subdivision (c)(1)(A) of this section, then the twelve-month average wholesale selling price determined in subdivision (c)(1)(A) of this section shall be substituted for the twelve-month average wholesale selling price calculated in subdivision (c)(2)(A)(i) of this section and shall be used in lieu of the twelve-month average wholesale selling price calculated in subdivision (c)(2)(A)(i) of this section in determining the amount of wholesale sales tax due on distillate special motor fuel for the twelve-month period covered by subdivision (c)(2)(A)(i) of this section.

(B) To make the collection of the wholesale sales tax

levied under this section more efficient, the director shall determine and convert the wholesale sales tax in subdivision (c)(2)(A) of this section to a cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

(d) The Department of Finance and Administration shall publish the cent-per-gallon amount to be collected from retailers under this section and shall notify fuel wholesalers of the published amount.

(e) The wholesale sales tax levied under this section shall be paid by retailers of distillate special fuel to wholesalers who shall collect, report, and remit the tax in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of distillate special fuel taxes.

26-64-103. Disposition of revenues.

The wholesale sales taxes collected under this chapter shall be deposited into the 2017 Highway Maintenance and Construction Bond Account of the State Highway and Transportation Department Fund as provided in § 19-6-405.

SECTION 6. EFFECTIVE DATE. Sections 1, 3, and 5 of this act shall not become effective until after a majority of the qualified electors of the state voting on the question approve the issuance of highway maintenance and construction improvement general obligation bonds to be repaid in part by the wholesale sales taxes levied under §§ 26-64-101 and 26-64-102 and deposited to the 2017 Highway Maintenance and Construction Bond Account of the State Highway and Transportation Department Fund. If the bond issue is approved, Sections 1, 3, and 5 of this act shall become effective thirty (30) days after publication of the proclamation of the election results.

/s/D. Douglas