



## States' Biofuels Statutes

### STATE OF ARKANSAS

*This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#). These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.*

*Current through the 2013 Legislative Session of the Arkansas General Assembly.*

#### **§ 26-52-401. Certain products and services**

There is specifically exempted from the tax imposed by this chapter the following:

- (1) The gross receipts or gross proceeds derived from the sale of tangible personal property or services by churches, except when the organizations may be engaged in business for profit;
- (2) The gross receipts or gross proceeds derived from the sale of tangible personal property or service by charitable organizations, except when the organizations may be engaged in business for profit;
- (3) Gross receipts or gross proceeds derived from the sale of food, food ingredients, or prepared food in public, common, high school, or college cafeterias and lunch rooms operated primarily for teachers and pupils, not operated primarily for the public and not operated for profit;
- (4) Gross receipts or gross proceeds derived from the sale of newspapers;
- (5) Gross receipts or gross proceeds derived from sales to the United States Government;
- (6) Gross receipts or gross proceeds derived from the sale of motor vehicles and adaptive equipment to disabled veterans who have purchased the motor vehicles or adaptive equipment with the financial assistance of the United States Department of Veterans Affairs as provided under 38 U.S.C. § 3901 et seq.;
- (7) Gross receipts or gross proceeds derived from the sale of tangible personal property including but

not limited to office supplies; office equipment; program items at camp such as bows, arrows, and rope; rifles for rifle range and other rifle items; food, food ingredients, or prepared food for camp; lumber and supplies used in camp maintenance; camp equipment; first aid supplies for camp; the leasing of cars used in promoting scouting; or services to the Boy Scouts of America chartered by the United States Congress in 1916 or the Girl Scouts of the United States of America chartered by the United States Congress in 1950 or any of the scout councils in the State of Arkansas;

(8) Gross receipts or gross proceeds derived from sales of tangible personal property or services to the:

(A) Boys Clubs of America chartered by the United States Congress in 1956 or any local councils or organizations of the Boys Clubs of America; or

(B) Girls Clubs of America or any local councils or organizations of the Girls Clubs of America;

(9) Gross receipts or gross proceeds derived from sales of tangible personal property or services to the Poets' Roundtable of Arkansas;

(10) Gross receipts or gross proceeds derived from sales of tangible personal property or services to 4-H clubs and FFA clubs in this state, to the Arkansas 4-H Foundation, the Arkansas Future Farmers of America Foundation, and the Arkansas Future Farmers of America Association;

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

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

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

(iii) Dyed distillate special fuel on which the tax levied by § 26-56-224 has been paid; and

(iv)(a) Biodiesel fuel.

(b) As used in this subdivision (11)(A)(iv), "biodiesel fuel" means a diesel fuel substitute produced from nonpetroleum renewable resources.

(B) Nothing in this subdivision (11) shall exempt gasoline from the wholesale gross receipts tax imposed pursuant to Acts 1995, No. 1005;

(12)(A) Gross receipts or gross proceeds derived from sales for resale to persons regularly engaged in the business of reselling the articles purchased, whether within or without the state if the sales within the state are made to persons to whom gross receipts tax permits have been issued as provided in § 26-52-202.

(B)(i) Goods, wares, merchandise, and property sold for use in manufacturing, compounding, processing, assembling, or preparing for sale can be classified as having been sold for the purposes of resale or the subject matter of resale only in the event the goods, wares, merchandise, or property becomes a recognizable integral part of the manufactured, compounded, processed, assembled, or prepared products.

(ii) The sales of goods, wares, merchandise, and property not conforming to this requirement are classified for the purpose of this act as being “for consumption or use”;

(13) Gross proceeds derived from sales of advertising space in newspapers and publications and billboard advertising services;

(14) Gross receipts or gross proceeds derived from sales of publications sold through regular subscription, regardless of the type or content of the publication or the place printed or published;

(15) Gross receipts or gross proceeds derived from gate admission fees at state, district, county, or township fairs or at any rodeo if the gross receipts or gross proceeds derived from gate admission fees to the rodeo are used exclusively for the improvement, maintenance, and operation of the rodeo and if no part of the net earnings of the state, district, county, or township fair or rodeo inures to the benefit of any private stockholder or individual;

(16) Gross receipts or gross proceeds derived from sales for resale which the state is prohibited by the Constitution and laws of the United States from taxing or further taxing, or which the state is prohibited by the Arkansas Constitution from taxing or further taxing;

(17) Gross receipts or gross proceeds derived from isolated sales not made by an established business;

(18)(A) Gross receipts or gross proceeds derived from the sale of:

(i) Any cotton or seed cotton or lint cotton or baled cotton, whether compressed or not, or cotton seed in its original condition;

(ii) Seed for use in the commercial production of an agricultural product or of seed;

(iii) Raw products from the farm, orchard, or garden, when the sale is made by the producer of the raw products directly to the consumer and user, including the sale of raw products from a farm, orchard, or garden that are produced and sold by the producer of the raw products at a farmers' market, including without limitation cut or dried flowers, plants, vegetables, fruits, nuts, and herbs;

(iv) Livestock, poultry, poultry products, and dairy products of producers owning not more than five (5) cows; and

(v) Baby chickens.

(B)(i) An exemption granted by this subdivision (18) shall not apply when the articles are sold at or from an established business, even though sold by the producer of the articles.

(ii) A farmers' market is not an established business if the farmers' market sells raw product directly to the user of the raw product and the farmers' market is:

(a) Comprised of one (1) or more producers of a raw product;

(b) Operated seasonally; and

(c) Held out-of-doors or in a public space.

(C)(i) However, nothing in subdivision (18)(B) of this section shall be construed to mean that the gross receipts or gross proceeds received by the producer from the sale of the products mentioned in this subdivision (18) shall be taxable when the producer sells commodities produced on his or her farm at an established business located on his or her farm.

(ii) The provisions of this subdivision (18) are intended to exempt the sale by livestock producers of livestock sold at special livestock sales.

(iii) The provisions of this subdivision (18) shall not be construed to exempt sales of dairy products by any other businesses.

(iv) The provisions of this subdivision (18) shall not be construed to exempt sales by florists and nurserymen. As used in this subdivision (18), “nurserymen” does not include Christmas tree farmers;

(19) Gross receipts or gross proceeds derived from the sale of food, food ingredients, or prepared food to governmental agencies for free distribution to any public, penal, and eleemosynary institutions or for free distribution to the poor and needy;

(20)(A) Gross receipts or gross proceeds derived from the rental or sale of medical equipment, for the benefit of persons enrolled in and eligible for Medicare or Medicaid programs as contained in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395 et seq. and 1396 et seq., respectively, or successor programs or any other present or future United States Government subsidized health care program, by medical equipment suppliers doing business in the State of Arkansas.

(B) However, this exemption applies only to receipts or proceeds received directly or indirectly through an organization administering such program in the State of Arkansas pursuant to a contract with the United States Government in accordance with the terms thereof;

(21)(A) Gross receipts or gross proceeds derived from the sale of any tangible personal property or services as specifically provided in this subdivision (21) to any hospital or sanitarium operated for charitable and nonprofit purposes or any nonprofit organization whose sole purpose is to provide temporary housing to the family members of patients in a hospital or sanitarium.

(B) However, gross proceeds and gross receipts derived from the sale of materials used in the original construction or repair or further extension of the hospital or sanitarium or temporary housing facilities, except state-owned tax-supported hospitals and sanitariums, shall not be exempt from this chapter;

(22) Gross receipts or gross proceeds derived from the sale of used tangible personal property when the used property was:

(A) Traded in and accepted by the seller as part of the sale of other tangible personal property; and

(B)(i) The state gross receipts tax was collected and paid on the total amount of consideration for the sale of the other tangible personal property without any deduction or credit for the value of the used

tangible personal property.

(ii) The condition that the state gross receipts tax was collected and paid on the total amount of consideration is not required for entitlement to this exemption when the sale of the other tangible personal property was otherwise exempt under other provisions of this chapter.

(iii) This subdivision (22) does not apply to transactions involving used automobiles under § 26-52-510(b) or used aircraft under § 26-52-505;

(23) Gross receipts or gross proceeds derived from the sale of unprocessed crude oil;

(24) The gross receipts or gross proceeds derived from the sale of electricity used in the manufacture of aluminum metal by the electrolytic reduction process;

(25) The gross receipts or gross proceeds derived from the sale of articles sold on the premises of the Arkansas State Veterans Home;

(26) That portion of the gross receipts or gross proceeds derived from the sale of automobile parts which constitute core charges which are received for the purpose of securing a trade-in for the article purchased, except that when the article is not traded in, then the tax is due on the core charge;

(27)(A) Gross receipts and gross proceeds derived from the sale of:

(i) Tangible personal property lawfully purchased with food stamps or food coupons issued in accordance with the Food Stamp Act of 1964, 7 U.S.C. § 2011 et seq.;

(ii) Tangible personal property lawfully purchased with food instruments or vouchers issued under the Special Supplemental Nutrition Program for Women, Infants, and Children in accordance with Section 17 of the Child Nutrition Act of 1966, 42 U.S.C.<sup>1</sup> § 1786, as amended; and

(iii) Food or food ingredients purchased through bids under the Special Supplemental Nutrition Program for Women, Infants, and Children.

(B) If consideration other than food stamps, food coupons, food instruments, or vouchers is used in any sale, that portion of the sale shall be fully taxable.

(C) The tax exemption provided by this subdivision (27) shall expire if the exemption becomes no

longer required for full participation in the food stamp program and the Special Supplemental Nutrition Program for Women, Infants, and Children;

(28)(A) Parts or other tangible personal property incorporated into or which become a part of commercial jet aircraft components, or commercial jet aircraft subcomponents.

(B) As used in this subdivision (28) “commercial jet aircraft” means any commercial, military, private, or other turbine or turbo jet aircraft having a certified maximum take-off weight of more than twelve thousand five hundred pounds (12,500 lbs.);

(29) Gross receipts or gross proceeds derived from the sale of any tangible personal property specifically exempted from taxation by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.;

(30)(A) The gross receipts proceeds charged to a consumer or user for the transfer of fill material by a business engaged in transporting or delivering fill material, provided:

(i) Such fill material was obtained free of charge by a business engaged in transporting or delivering fill material; and

(ii) The charge to the consumer or user is only for delivery.

(B) Any business claiming the exemption under subdivision (30)(A) of this section shall keep suitable records necessary to determine that fill material was obtained without charge;

(31) Gross receipts or gross proceeds derived from sales of tangible personal property or services to Habitat for Humanity;

(32) Gross receipts or gross proceeds derived from the long-term lease, thirty (30) days or more, of commercial trucks used for interstate transportation of goods if the trucks are registered under an international registration plan similar to § 27-14-501 et seq. and administered by another state which offers reciprocal privileges for vehicles registered under § 27-14-501 et seq.;

(33) Gross receipts or gross proceeds derived from sales of tangible personal property or services to The Salvation Army;

(34) Gross receipts or gross proceeds derived from sales of tangible personal property and services to

Heifer International, Inc.;

(35)(A) Gross receipts or gross proceeds derived from the sale of catalysts, chemicals, reagents, and solutions which are consumed or used:

(i) In producing, manufacturing, fabricating, processing, or finishing articles of commerce at manufacturing or processing plants or facilities in the State of Arkansas; and

(ii) By manufacturing or processing plants or facilities in the state to prevent or reduce air or water pollution or contamination which might otherwise result from the operation of the plant or facility.

(B) As used in this subdivision (35), “manufacturing” and “processing” mean the same as set forth in § 26-52-402(b);

(36) Gross receipts or gross proceeds derived from the sale of:

(A) Fuel packaging materials to a person engaged in the business of processing hazardous and non-hazardous waste materials into fuel products at a facility permitted by the Arkansas Department of Environmental Quality for hazardous waste treatment; and

(B) Machinery and equipment, including analytical equipment and chemicals used directly in processing and packaging of hazardous and non-hazardous waste materials into fuel products at a facility permitted by the Arkansas Department of Environmental Quality for hazardous waste treatment;

(37) Gross receipts or gross proceeds derived from sales of tangible personal property or services to the Arkansas Symphony Orchestra Society, Inc.;

(38) Gross receipts or gross proceeds from the sale of any good, ware, merchandise, or tangible personal property withdrawn or used from an established business or from the stock in trade of the established reserves for consumption or use in an established business or by any other person if the good, ware, merchandise, or tangible personal property withdrawn or used is donated to a National Guard member, emergency service worker, or volunteer providing services to a county which has been declared a disaster area by the Governor; and

(39) Gross receipts or gross proceeds derived from sales of tangible personal property or services to the Arkansas Black Hall of Fame Foundation, Inc.



## **Credits**

Acts of 1941, Act 386, § 4; Acts of 1947, Act 102, § 1; Acts of 1949, Act 15, § 1; Acts of 1949, Act 152, § 1; Acts of 1961, Act 213, § 1; Acts of 1965, Act 133, § 1; Acts of 1967, Act 113, § 1; Acts of 1968 (1st Ex. Sess.), Act 5, § 1; Acts of 1973, Act 403, § 1; Acts of 1975, Act 922, § 1; Acts of 1975, Act 927, § 1; Acts of 1975 (Extended Sess., 1976), Act 1013, § 1; Acts of 1977, Act 252, § 1; Acts of 1977, Act 382, § 1; Acts of 1979, Act 324, § 16; Acts of 1979, Act 630, § 1; Acts of 1981, Act 706, § 1; Acts of 1985, Act 518, § 1; Acts of 1987, Act 7, § 1; Acts of 1987, Act 986, §§ 1 to 3; Acts of 1987, Act 1033, §§ 11, 12; Acts of 1989, Act 753, § 1; Acts of 1991, Act 458, § 2; Acts of 1992 (1st Ex. Sess.), Act 58, § 3; Acts of 1992 (1st Ex. Sess.), Act 61, § 3; Acts of 1993, Act 617, §§ 1, 2; Acts of 1993, Act 820, § 1, eff. April 1, 1993; Acts of 1993, Act 987, § 1, eff. April 9, 1993; Acts of 1993, Act 1183, § 1; Acts of 1995, Act 504, § 1, eff. March 1, 1995; Acts of 1995, Act 516, § 1; Acts of 1995, Act 850, § 2, eff. March 31, 1995; Acts of 1995, Act 1005, § 2, eff. April 7, 1995; Acts of 1997, Act 603, § 1, eff. March 18, 1997; Acts of 1997, Act 1222, § 1; Acts of 1999, Act 854, § 1, eff. July 30, 1999; Acts of 2001, Act 1683, § 1, eff. Aug. 13, 2001; Acts of 2005, Act 2132, § 1, eff. July 1, 2005; Acts of 2007, Act 87, § 1, eff. July 1, 2007; Acts of 2007, Act 181, §§ 15 to 19, eff. Jan. 1, 2008; Acts of 2007, Act 860, § 3, eff. Jan. 1, 2008; Acts of 2009, Act 1205, § 1, eff. April 7, 2009; Acts of 2009, Act 655, § 16, eff. July 31, 2009; Acts of 2011, Act 983, § 8, eff. July 27, 2011; Acts of 2011, Act 998, § 2, eff. Oct. 1, 2011.