



## 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.*

#### **§ 26-62-101. Short title**

This chapter may be known and cited as the “Alternative Fuels Tax Law”.

**Credits:** Acts of 1993, Act 1119, § 1, eff. July 1, 1993.

#### **§ 26-62-102. Definitions**

As used in this chapter:

(1)(A) “Alternative fuels” means and includes all liquids or combustion gases used or suitable for use in an internal combustion engine or motor for the generation of power for motor vehicles, including, but not limited to, natural gas fuels as defined in subdivision (9) of this section.

(B) “Alternative fuels” also means and includes:

(i) Methanol, denatured ethanol, and other alcohols;

(ii) Mixtures containing eighty-five percent (85%) or more or such percentage, but not less than seventy percent (70%), as determined by the United States Secretary of Energy by rule to provide for requirements relating to cold start, safety, or vehicle functions, by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels;

(iii) Hydrogen;

(iv) Coal-derived liquid fuels;

(v) Fuels, other than alcohol, derived from biological materials;

(vi) Electricity, including electricity from solar energy; and

(vii) Any other fuel the United States Secretary of Energy determines by rule is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

(C) “Alternative fuels” does not include fuels subject to the:

(i) Taxes levied by the Motor Fuel Tax Law, § 26-55-201 et seq.; or

(ii) Taxes or fees levied by the Special Motor Fuels Tax Law, § 26-56-101 et seq.;

(2) “Alternative fuels supplier” means and includes every person who:

(A) Sells alternative fuels for the purpose of delivering alternative fuels or delivers alternative fuels into the fuel tanks of motor vehicles; or

(B) Sells alternative fuels to any user or dealer, including an interstate user, or an IFTA carrier user, which user or dealer delivers alternative fuels into the fuel tanks of motor vehicles;

(3) “Dealer” means and includes every person who sells or delivers alternative fuels to a user at retail for use in motor vehicles;

(4) “Director” means the Director of the Department of Finance and Administration or his or her duly authorized agents;

(5) “Gallon equivalent” or “equivalent gallon” means a quantity of alternative fuels which is the equivalent of one United States gallon (1 U.S. gal.) of gasoline as determined by the director based on United States standards or industry standards, provided that one United States gallon (1 U.S. gal.) of gasoline shall be the equivalent of one hundred cubic feet (100 c.f.) of natural gas fuels;

(6) “Interstate user” means any person, except an IFTA carrier user as defined in subdivision (7) of this section, who imports or exports alternative fuels into or out of this state in the fuel supply tanks of motor vehicles owned or operated by that person;

(7) “IFTA carrier” or “IFTA carrier user” means any person who operates a motor vehicle licensed pursuant to the International Fuel Tax Agreement and imports or exports alternative fuels into or out of this state in the fuel supply tanks of motor vehicles owned or operated by that carrier;

(8) “Motor vehicles” or “vehicles” means and includes any automobile, truck, truck-tractor, tractor, bus, vehicle, or other conveyance which is propelled by an internal combustion engine or motor and is licensed or required to be licensed for highway use;

(9) “Natural gas fuels” means and includes all mixtures of hydrocarbon gases and vapors consisting principally of methane (CH<sub>4</sub>) in gaseous form;

(10) “Person” means every natural person, fiduciary, partnership, limited liability company, firm,

association, corporation, business trust combination acting as a unit, any receiver appointed by any state or federal court, or any municipality, county, or any subdivision, department, agency, board, commission, or other instrumentality of this state;

(11) "Purchase" shall include any acquisition of ownership.

(12) "Sale" shall include any exchange, gift, or other disposition; and

(13) "Use" or "used" means:

(A) Keeping alternative fuels in storage and selling, using, or otherwise disposing of the same for the operation of motor vehicles;

(B) Selling alternative fuels in this state to be used for operating motor vehicles; or

(C) Operating a motor vehicle in this state with alternative fuels;

(14) "User" means and includes every person who delivers or causes to be delivered any alternative fuels into the supply tank of a motor vehicle or motor vehicles used or operated by that person;

**Credits:** Acts of 1993, Act 1119, § 2, eff. July 1, 1993; Acts of 1995, Act 1160, § 41, eff. April 11, 1995.

### **§ 26-62-103. Violations**

Any person who violates or fails or refuses to comply with any provision of this chapter for which a specific penalty is not otherwise prescribed shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned not less than ten (10) days nor more than sixty (60) days, or both so fined and imprisoned.

**Credits:** Acts of 1993, Act 1119, § 3, eff. July 1, 1993.

### **§ 26-62-104. Rules and regulations**

The Director of the Department of Finance and Administration is authorized and empowered in consultation with the Director of Highways and Transportation of the Arkansas State Highway and Transportation Department to make and promulgate such rules and regulations not inconsistent with this chapter as they shall deem necessary and desirable to facilitate the collection of the taxes levied in this chapter and to otherwise effectuate the purposes of this chapter, and these rules and regulations shall have the same effect as if specifically set forth in this chapter.

**Credits:** Acts of 1993, Act 1119, § 4, eff. July 1, 1993.

**§ 26-62-105. Report requirement--Penalties**

(a) Once an alternative fuels supplier, user, interstate user, or IFTA carrier user of alternative fuels has become liable to file a report with the Director of the Department of Finance and Administration, he or she must continue to file a report, even though no tax is due, until such time as he or she notifies the director in writing that he or she is no longer liable for those reports.

(b)(1) Any alternative fuels supplier, user, interstate user, or IFTA carrier user of alternative fuels who fails, neglects, or refuses to make any report required by this chapter or to pay any tax levied at the time and in the manner required in this chapter in addition to any other penalty provided in this chapter shall be liable for the amount of the tax due, together with a penalty of twenty percent (20%) or a minimum of five dollars (\$5.00), whichever is greater, plus interest at the rate of ten percent (10%) per annum from the date due until paid.

(2) If the tax, penalty, and interest are collected by proceedings in court, an additional penalty of twenty percent (20%) of the tax shall be imposed and collected as attorney's fees.

**Credits:** Acts of 1993, Act 1119, § 5, eff. July 1, 1993.

**§ 26-62-106. False or fraudulent reports--Fraudulent avoidance of tax**

Any person who makes a false or fraudulent report hereunder or who fraudulently attempts to avoid the payment of the tax herein levied on any alternative fuels shall be guilty of a misdemeanor and upon conviction shall be fined not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000) or by imprisonment for not less than thirty (30) days nor more than six (6) months, or both so fined and imprisoned.

**Credits:** Acts of 1993, Act 1119, § 6, eff. July 1, 1993.

**§ 26-62-107. Delayed assessments of delinquent taxes**

No assessment of delinquent alternative fuels tax or penalties or interest shall be made for any month after the expiration of three (3) years from the date set for the filing of such monthly return. However, in case of a false or fraudulent report with intent to evade tax or of failure to file a report, assessment may be made at any time.

**Credits:** Acts of 1993, Act 1119, § 7, eff. July 1, 1993.

**§ 26-62-108. Construction with Tax Procedure Act**

The provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq., shall be read in pari materia

with this chapter, and in the event of any conflict with that chapter and this chapter, the provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq., shall control.

**Credits:** Acts of 1993, Act 1119, § 24, eff. July 1, 1993.

**§ 26-62-109. Classification of revenues--Disbursement**

(a) All of the taxes, fees, penalties, and interest collected under the provisions of this chapter shall be classified as special revenues and shall be deposited into the State Treasury. After deducting therefrom the three percent (3%) for credit to the Constitutional Officers Fund and the State Central Services Fund as provided in the Revenue Stabilization Law, § 19-5-101 et seq., the Treasurer of State shall transfer on the last business day of each month:

- (1) Fifteen percent (15%) of the amount thereof to the County Aid Fund;
- (2) Fifteen percent (15%) of the amount thereof to the Municipal Aid Fund; and
- (3) Seventy percent (70%) of the amount thereof to the State Highway and Transportation Department Fund.

(b) The funds shall be further disbursed in the same manner and used for the same purposes as set out in the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq.

**Credits:** Acts of 1993, Act 1119, § 8, eff. July 1, 1993.

**§ 26-62-110. Effect on other laws**

All laws and parts of laws in conflict with this chapter are hereby repealed, provided that nothing in this chapter is intended to nor shall it abrogate any of the provisions of the Motor Fuel Tax Law, § 26-55-201 et seq., nor shall it abrogate any of the provisions of the Special Motor Fuels Tax Law, § 26-56-101 et seq., which provisions apply to the taxation of motor fuels, distillate special fuel, and liquefied gas special fuels, it being the intent of this chapter that such fuels continue to be taxed in accordance with those tax laws and not in accordance with this chapter.

**Credits:** Acts of 1993, Act 1119, § 25, eff. July 1, 1993.

**§ 26-62-111. Assistance with audits**

In all audits conducted by the Arkansas State Highway and Transportation Department pursuant to this chapter, the Arkansas State Highway and Transportation Department may call upon the Director of the Department of Finance and Administration for assistance.

**Credits:** Acts of 1993, Act 1119, § 23, eff. July 1, 1993.

**§ 26-62-201. Levy--Rates--Rate changes--Report--Exemptions**

(a)(1) There is hereby levied and imposed an excise tax per gallon equivalent at the rate set forth in subsection (b) of this section on each type of alternative fuels sold or used in this state for the purpose of propelling a motor vehicle or motor vehicles in this state or purchased for sale or use in this state for the purpose of propelling a motor vehicle or motor vehicles in this state.

(2) The Director of the Department of Finance and Administration shall determine the various types of alternative fuels being utilized in this state and the applicable rates to be imposed for each type fuel in accordance with the following provisions of this section, provided that the Director of the Department of Finance and Administration in his or her initial determination at a minimum shall find at least one (1) type of alternative fuels, specifically, natural gas fuels.

(b) The tax rate for each equivalent gallon for each type of alternative fuels shall be in accordance with the following table:

<b>Number of Motor Vehicles Licensed in Arkansas Utilizing Alternative Fuels (for each type of alternative fuels)</b>	<b>Tax Rate Per Equivalent Gallon (for each type of alternative fuels)</b>
0-- 999	\$0.050
1,000--1,499	\$0.085
1,500--1,999	\$0.105
2,000--2,499	\$0.125
2,500--2,999	\$0.145
3,000 & over	\$0.165

(c)(1)(A)(i) The tax rate set forth in subsection (b) of this section for each type of alternative fuels from July 1, 1993, through March 31, 1994, shall be determined and published by the Director of the Department of Finance and Administration prior to June 1, 1993, and such rates shall be effective for each type of alternative fuels through March 31, 1994.

(ii) The tax rate set forth in subsection (b) of this section for each type of alternative fuels shall be adjusted if necessary by the Director of the Department of Finance and Administration to be effective on April 1, 1994, and on April 1 of each year thereafter based upon the number of vehicles utilizing alternative fuels, by each type of alternative fuels, licensed in this state, as determined by the Director of the Department of Finance and Administration, as of December 31 of the preceding calendar year.

(B) If a change in the tax rate in accordance with subsection (b) of this section for any type of alternative fuels is required, the Director of the Department of Finance and Administration shall include this in the report required by this section, and the Director of the Department of Finance and Administration shall also notify each alternative fuels supplier of the new tax rate not later than thirty (30) days prior to the effective date of such change.

(2) Notwithstanding any other provision of this chapter, in determining the number of alternative fuels vehicles licensed in this state by each type of alternative fuels in order to determine the tax rate per

equivalent gallon, there shall not be taken into account any alternative fuels vehicles owned, licensed, or used by the United States Government, or any agency or instrumentality thereof.

(d) It is the intent of the tax levy set forth in this section to tax each particular type of alternative fuels depending upon the number of alternative fuels vehicles using the particular type of alternative fuels licensed in Arkansas.

(e)(1) The Director of the Department of Finance and Administration may develop a procedure in which the type of alternative fuels or other type of fuel is noted on the certificate of title or certificate of registration of an alternative fuels vehicle.

(2) It is the intention of this subsection to develop a system for the Director of the Department of Finance and Administration and other officials of the State of Arkansas to know the precise number of vehicles using alternative fuels and other fuels licensed in this state, both in the aggregate and by the type of fuel propelling the vehicles.

(f) Not later than February 15 each year, the Director of the Department of Finance and Administration shall file a written report with the Director of State Highways and Transportation setting forth the number of vehicles using alternative fuels and other types of fuels licensed in this state as of the end of the preceding calendar year, both in the aggregate and by each type of fuel, and the amount of tax revenue received by the State of Arkansas on the tax levied by this chapter. The Director of the Department of Finance and Administration shall also state the tax rate for the next twelve (12) months, beginning as of the first day of April of each year for each type of alternative fuel.

(g) Sales to the United States Government are exempt from the tax levied by subsection (a) of this section.

(h) The tax levied herein shall not apply to alternative fuels imported into this state in the fuel supply tanks, including any additional containers, of motor vehicles being used solely for noncommercial purposes if the aggregate capacity of the fuel supply tanks, including any additional containers, does not exceed thirty (30) equivalent gallons.

**Credits:** Acts of 1993, Act 1119, § 9, eff. July 1, 1993; Acts of 2009, Act 655, § 106, eff. July 31, 2009.

### **§ 26-62-202. Collection and payment**

(a) The tax levied by this chapter shall be collected and paid by alternative fuels suppliers on all alternative fuels sold or delivered by such suppliers when:

(1) Delivered into the fuel supply tanks of a motor vehicle;

(2) Sold to a dealer or user; or

(3) Used in any motor vehicle owned or operated by that alternative fuels supplier. The Director of the Department of Finance and Administration shall make and promulgate rules and regulations for a

system for recordkeeping requirements to be kept by such suppliers in fulfilling this subdivision (a)(3).

(b) The tax levied by this chapter shall be paid by an interstate user who uses alternative fuels in this state as provided by §§ 26-62-209 and 26-62-211.

(c) The tax levied by this chapter shall be paid by any person who uses alternative fuels in this state on which the tax levied in this chapter has not been paid in accordance with the provisions of § 26-62-209 or § 26-62-211.

(d) The tax levied by this chapter shall be paid by an IFTA carrier user who uses alternative fuels in this state as provided by § 26-62-209.

**Credits:** Acts of 1993, Act 1119, § 10, eff. July 1, 1993.

**§ 26-62-203. Separate meters for different natural gas uses--Report**

(a) No user, including an alternative fuels supplier of natural gas fuels, who utilizes natural gas for residential or other tax-free purposes, shall use such natural gas fuels in motor vehicles unless such natural gas fuels are removed through a separate meter installed by the alternative fuels supplier for such purposes.

(b) All alternative fuels suppliers shall monitor such separate meters for billing and taxation purposes.

(c)(1) Such users shall be licensed and bonded only if required by § 26-62-204 but shall remit all taxes to the alternative fuels supplier upon billing by that supplier, which supplier shall further remit such taxes to the Director of the Department of Finance and Administration as provided in § 26-62-206.

(2) Such user, however, at the time of the installation of the separate meter shall report to the director the:

(A) Number of vehicles;

(B) Models and makes;

(C) License numbers;

(D) Vehicle identification numbers; and

(E) Any other information required by the director pursuant to rules and regulations of the director.

**Credits:** Acts of 1993, Act 1119, § 11, eff. July 1, 1993.



**§ 26-62-204. Licenses--Bonds**

(a) No person shall commence operations as an alternative fuels supplier, interstate user, or IFTA carrier user of alternative fuels without first procuring a license for that purpose from the Director of the Department of Finance and Administration. This license shall be issued and remain in effect until revoked as provided in this section.

(b)(1) Each application for a license as an alternative fuels supplier, interstate user, or IFTA carrier user of alternative fuels, and each license, shall have as a condition that the applicant and holder shall comply with the provisions of this chapter.

(2)(A) Each application for a license as an alternative fuels supplier, interstate user, or IFTA carrier user, and each such license, shall have as a further condition that the applicant and holder shall not deliver or permit delivery into the fuel supply tanks of motor vehicles any alternative fuels on which the tax levied by this chapter is not collected or will be remitted pursuant to § 26-62-209.

(B) A taxable use of alternative fuels on which the tax is not collected by an applicant for, or a holder of, an alternative fuels supplier license or on a licensed interstate user or IFTA carrier user on which the tax is not remitted pursuant to § 26-62-209, in addition to the penal provisions prescribed in this chapter, shall cause immediate cancellation of the applicant or holder's license.

(c)(1)(A) Every alternative fuels supplier shall file with the director a surety bond of not less than one and one-half (1 ½ ) times or one hundred fifty percent (150%) of the prior six-months' average alternative fuels tax due which is based upon the gallon equivalent of alternative fuels to be sold or distributed:

(i) As shown by the application for a license if the applicant has not previously been engaged in the business of an alternative fuels supplier; or

(ii) As shown by sales for the previous year if the applicant previously has been engaged in such business in this state.

(B) However, no bond shall be filed for less than one thousand dollars (\$1,000).

(2) If the director deems it necessary to protect the state in the collection of alternative fuels taxes, the director may require any alternative fuels supplier to post a bond in an amount up to three (3) times or three hundred percent (300%) of the prior six (6) months' average alternative fuels tax due.

(3)(A) However, the director is authorized to waive the posting of bond by any licensed alternative fuels supplier organized and operating under the laws of Arkansas and wholly owned by residents of this state who has been licensed for a period of at least three (3) years and who has not been delinquent in remitting alternative fuels taxes during the three-year period immediately preceding application by the alternative fuels supplier for waiver of bond.

(B) If any alternative fuels supplier whose bond has been waived by the director as authorized in subdivision (c)(3)(A) of this section subsequently becomes delinquent in remitting alternative fuels taxes to the director, the director may require that the alternative fuels supplier post a bond in the

amount required in this section, and the alternative fuels supplier shall not be eligible to petition for a waiver of bond for a period of three (3) years thereafter.

(d)(1) Each application of an interstate user or IFTA carrier user for a license shall be accompanied by a surety bond of a surety company authorized to do business in this state, in favor of the director, satisfactory to the director, and in an amount to be fixed by the director of not less than one thousand dollars (\$1,000) nor more than fifty thousand dollars (\$50,000), guaranteeing the payment of any and all taxes, penalties, interest, attorney's fees, and costs levied by, accrued, or accruing under this chapter.

(2) Any violation of this chapter shall be cause for revocation of any license issued under this chapter.

(e)(1) The bond or bonds shall be issued by a surety company qualified to do business in Arkansas, which shall be executed by the alternative fuels supplier, interstate user, or IFTA carrier user as the principal obligor and shall be made payable to the State of Arkansas as the obligee.

(2) The bond shall be conditioned upon the prompt filing of true reports and the payment by the alternative fuels supplier, interstate user, or IFTA carrier user to the director of any and all alternative fuels taxes which are levied or imposed by the State of Arkansas, together with any and all penalties and interest thereon, and generally, upon faithful compliance with the provisions of this chapter.

(f)(1) In the event that liability upon the bond filed pursuant to this section by the alternative fuels supplier, interstate user, or IFTA carrier user with the director shall be discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if, in the opinion of the director, any surety on the bond shall have become unsatisfactory or unacceptable, then the director may require the filing of a new bond with a satisfactory surety in the same form and amount; failing which, the director shall immediately cancel the license of the alternative fuels supplier, interstate user, or IFTA carrier user.

(2) If a new bond shall be furnished, the director shall cancel the bonds for which the new bond shall be substituted.

(g) In the event that upon hearing of which the alternative fuels supplier, interstate user, or IFTA carrier user shall be given five (5) days' notice in writing, the director shall decide that the amount of the existing bond is insufficient to ensure payment to the State of Arkansas of the amount of the tax and any penalties and interest for which said alternative fuels supplier, interstate user, or IFTA carrier user is or may at any time become liable, then the alternative fuels supplier, interstate user, or IFTA carrier user upon written demand of the director shall immediately file an additional bond in the same manner and form and with a surety company thereon approved by the director in any amount determined by the director to be necessary to secure at all times the payment to the State of Arkansas of all taxes, penalties, and interest due under the provisions of this chapter; failing which, the director shall immediately cancel the license of the alternative fuels supplier, interstate user, or IFTA carrier user.

(h)(1)(A) Any surety on any bond furnished as provided in this section shall be released and discharged from any and all liability to the State of Arkansas accruing on the bond after the expiration of sixty (60) days from the date upon which a surety shall have lodged with the director a written request to be released and discharged.

(B) However, the request shall not operate to relieve, release, or discharge the surety from any liability already accrued, or which shall accrue, before the expiration of the sixty-day period.

(2) Upon receipt of notice of such request, the director shall promptly notify the alternative fuels supplier, interstate user, or IFTA carrier user who furnished the bond, and unless the alternative fuels supplier, interstate user, or IFTA carrier user, on or before the expiration of the sixty-day period, files with the director a new bond with a surety company satisfactory to the director in the amount and form as provided in this section, the director shall immediately cancel the license of that alternative fuels supplier, interstate user, or IFTA carrier user.

(3) If a new bond shall be furnished as provided in this section, the director shall cancel the bond for which the new bond shall be substituted.

(i) In lieu of furnishing a bond or bonds executed by a surety company as provided in this section, any alternative fuels supplier, interstate user, or IFTA carrier user may furnish a bond or other instrument, in form prescribed by the director, equal to the amount of the bond or bonds required by this section which will provide security or payment of all amounts as described in this section and in compliance with all provisions of this chapter.

(j)(1) Any violation of this chapter shall be cause for revocation of any license issued pursuant to this chapter.

(2)(A) Should his or her license be revoked, any alternative fuels supplier, interstate user, or IFTA carrier user may bring an action against the director in the Pulaski County Circuit Court within fifteen (15) days of the date of revocation to determine whether or not the alternative fuels supplier, interstate user, or IFTA carrier user has in fact violated any of the provisions of this chapter.

(B) If the court determines that the provisions of the law have been violated by the alternative fuels supplier, interstate user, or IFTA carrier user, it shall affirm the director's action in revoking the license.

(k) If any of the provisions of this chapter regarding IFTA carrier users conflicts with the International Fuel Tax Agreement, § 26-55-1101 et seq., entered into by this state, the provisions of the International Fuel Tax Agreement, § 26-55-1101 et seq., shall govern.

**Credits:** Acts of 1993, Act 1119, § 12, eff. July 1, 1993.

### **§ 26-62-205. Sales tickets**

(a)(1) Each alternative fuels supplier shall have available a sufficient number of sales tickets prepared in triplicate to cover sales of alternative fuels under the provisions of this chapter.

(2) The forms for sales tickets shall be numbered and prepared with blank spaces for:

(A) The name and address of the alternative fuels supplier;

(B) The name and address of the purchaser;

(C) The date of the purchase;

(D) The number of gallons equivalent purchased;

(E) The total cost of alternative fuels purchased including taxes; and

(F) Such other information as the Director of the Department of Finance and Administration may require.

(b)(1) The sales tickets shall be issued in triplicate by the alternative fuels supplier and shall be signed by the alternative fuels supplier or his or her authorized agent, and the original and one (1) copy shall be given to the purchaser.

(2) The remaining copy shall be retained by the alternative fuels supplier as a record for a period of at least three (3) years, during which period it shall be subject to inspection by the Director of the Department of Finance and Administration or his or her representative at all reasonable times.

(c) The sales tickets as described in subsections (a) and (b) of this section shall be the only evidence accepted for tax credit by the Director of the Department of Finance and Administration under the provisions of § 26-62-209.

(d) Any licensed alternative fuels supplier or agent or employee of the alternative fuels supplier who issues any sales ticket or invoice to any user showing that the user has purchased a quantity of alternative fuels from the alternative fuels supplier, agent, or employee when, in fact, the user has not purchased alternative fuels or has purchased less alternative fuels than the sales ticket or invoice shows shall be guilty of a violation and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

(e)(1) The Director of the Department of Finance and Administration, in consultation with the Director of State Highways and Transportation shall promulgate rules and regulations regarding an alternative to the required usage of sales tickets for all sales of natural gas fuels made by alternative fuels suppliers by separate meter as provided in § 26-62-203.

(2) It is the intent of this directive that if a user, other than an interstate user or IFTA carrier user, receives natural gas fuels through a separate meter, there shall be no sales ticket requirement.

**Credits:** Acts of 1993, Act 1119, § 13, eff. July 1, 1993; Acts of 2005, Act 1994, § 180, eff. Aug. 12, 2005; Acts of 2007, Act 827, § 234, eff. July 31, 2007.

#### **§ 26-62-206. Report--Remittance of tax**

(a)(1) Every alternative fuels supplier on or before the twenty-fifth day of each calendar month shall file

with the Director of the Department of Finance and Administration on forms prescribed by the director a report accounting for the alternative fuels taxable under this chapter during the preceding month and shall remit all taxes as reflected by the report to the director at the time of filing such report.

(2) The alternative fuels supplier shall file supporting documents necessary to assure accurate reporting. The reports shall include the following:

(A) An itemized statement of the number of equivalent gallons of alternative fuels sold and delivered into the fuel supply tanks of motor vehicles during the next preceding calendar month by the alternative fuels supplier;

(B) An itemized statement of the number of gallons equivalent of alternative fuels delivered into the fuel supply tanks of motor vehicles owned, leased, or operated by the alternative fuels supplier during the next preceding calendar month by the alternative fuels supplier;

(C) An itemized statement of the number of gallons equivalent of alternative fuels sold through separate meter to a user for the fueling of motor vehicles during the next preceding calendar month by the supplier; and

(D) Such other documents as the director requires.

(b) Every interstate user and IFTA carrier user, on or before the twenty-fifth day of the month following the end of each calendar quarter, shall file with the director on forms prescribed by the director an itemized report showing the quantities of alternative fuels purchased and used in this state during the preceding calendar quarter, together with payments of the tax due thereon.

**Credits:** Acts of 1993, Act 1119, § 14, eff. July 1, 1993.

#### **§ 26-62-207. Records--Invoices--False documents**

(a) Every person required by law to secure a license under this chapter shall keep records in the time and manner and subject to inspection and audit as required by the Arkansas Tax Procedure Act, § 26-18-101 et seq., including a complete record of all alternative fuels taxable under this chapter and sold, delivered, or used by the person, showing for each purchase, receipt, sale, delivery, or use:

(1) The date;

(2) The name and address of the seller from whom the user, interstate user, or IFTA carrier user purchased the fuels and that interstate user or IFTA carrier user's license number; and

(3) An accurate record of the number of gallons equivalent of alternative fuels sold or used for taxable purposes with quantities measured by a meter.

(b)(1) For each delivery of alternative fuels directly into the fuel supply tank of a motor vehicle, the required record shall include a serially-numbered invoice issued in not less than triplicate counterparts

on which shall be printed or stamped with a rubber stamp the name and address of the alternative fuels supplier making such delivery and on which shall be shown, in spaces to be provided on that invoice, the:

(A) Date of delivery;

(B) Number of equivalent gallons and kind of alternative fuels so delivered;

(C) Total mileage recorded on the odometer or hub meter of the motor vehicle into which delivered;  
and

(D) Motor vehicle registration number of the motor vehicle, or the interstate user, or IFTA carrier user's license number, if applicable.

(2) The invoice shall reflect that the tax has been paid or accounted for on each of the products delivered.

(3)(A) One (1) counterpart of the invoice required by this subsection shall be kept by the alternative fuels supplier making such delivery as a part of his or her record and for the period of time and purposes provided in this chapter.

(B) Another counterpart shall be delivered to the operator of the motor vehicle and carried in the cab compartment of the motor vehicle for inspection by the Director of the Department of Finance and Administration or his or her representatives until the fuel it covers has been consumed.

(c)(1) Every person who operates a motor vehicle that is equipped to use motor fuels taxable under the Motor Fuel Tax Law, § 26-55-201 et seq., or equipped to use distillate special fuels taxable under the Special Motor Fuels Tax Law, § 26-56-101 et seq., and alternative fuels interchangeably in the propulsion of the motor vehicle shall carry in the cab compartment of the motor vehicle for inspection by the director or his or her representative not only the counterpart of the serially-numbered invoice required under subsection (b) of this section for the delivery of alternative fuels into the fuel supply tanks of the motor vehicle but also an invoice or receipt from the seller for each delivery into the fuel supply tanks of the motor vehicle of motor fuels taxable under the Motor Fuel Tax Law, § 26-55-201 et seq., or of distillate special fuels taxable under the Special Motor Fuels Tax Law, § 26-56-101 et seq., which latter invoices or receipts shall show the same information as to date of delivery, quantity, odometer or hub meter mileage, and motor vehicle registration number as is required for the invoice covering alternative fuels.

(2) These invoices shall be carried with the motor vehicle until the types of fuels covered thereby have been consumed.

(d) The willful issuance of any invoice required by this chapter, bill of sale, or receipt which is false, untrue, or incorrect in any material particular, or the alteration or changing except for errors, or forging any such invoice, bill of sale, or receipt, or any duplicate of any such receipt pertaining to alternative fuels, shall constitute a violation of this chapter.

(e) All sales to users made pursuant to § 26-62-203 shall not require the carriage of an invoice by the user, provided that the director shall provide by regulation another means of providing an indication that the tax on the fuel being utilized to propel the motor vehicle will ultimately be paid by the user to the alternative fuels supplier, who is required to remit such tax to the director.

**Credits:** Acts of 1993, Act 1119, § 15, eff. July 1, 1993.

**§ 26-62-208. Consequences of failure to keep records**

(a) Any alternative fuels supplier, user, interstate user, or IFTA carrier user who fails to keep the records, issue the invoices, or file the reports required by this chapter shall be prima facie presumed to have sold, delivered, or used for taxable purposes all alternative fuels shown by a verified audit by the Arkansas State Highway and Transportation Department, the Director of the Department of Finance and Administration, or any authorized representative.

(b)(1) The director is authorized to fix or establish the amount of taxes, penalties, and interest due the State of Arkansas from any record or information available to the director, or to the Arkansas State Highway and Transportation Department, and if the tax claim as developed from that procedure is not paid, the claim and any audit made by the Arkansas State Highway and Transportation Department, the director, or an authorized representative, or any report filed by such alternative fuels supplier, user, interstate user, or IFTA carrier user shall be admissible in evidence in any suit or judicial proceedings filed by the director and shall be prima facie evidence of the correctness of said claim or audit.

(2) However, the prima facie presumption of the correctness of the claim may be overcome by evidence adduced by the alternative fuels supplier, user, interstate user, or IFTA carrier user.

**Credits:** Acts of 1993, Act 1119, § 16, eff. July 1, 1993.

**§ 26-62-209. Quarterly report--Calculation**

(a) For the purpose of determining whether an interstate user or IFTA carrier user owes alternative fuels tax or is entitled to a credit or refund, the licensed interstate user or licensed IFTA carrier user shall file a quarterly report on or before the twenty-fifth day of the month following the end of each calendar quarter, which shall be made on forms prescribed by the Director of the Department of Finance and Administration, which forms shall include such information as the director may require.

(b) If it shall be determined by the quarterly report that the licensed interstate user or licensed IFTA carrier user has used alternative fuels in this state in excess of the number of equivalent gallons of the fuel upon which the Arkansas tax had been paid, the interstate user or IFTA carrier user shall remit to the director at the time of filing the report an excise tax at the rate as previously determined in accordance with § 26-62-201 per equivalent gallon for the taxable quarter multiplied by the number of equivalent gallons used on which the tax has not been paid.

(c) If it shall be determined that the licensed interstate user or licensed IFTA carrier user has purchased

more equivalent gallons of alternative fuels in this state than he or she has used in this state, then the licensed interstate user or licensed IFTA carrier user shall be entitled to a credit or refund at the rate as previously determined in accordance with § 26-62-201 per equivalent gallon for the taxable quarter for the number of excess equivalent gallons upon which the tax has been paid.

(d) Licensed interstate users or licensed IFTA carrier users may not take credit on reports at a tax rate in excess of that actually paid.

(e)(1)(A) For the purpose of determining whether such a licensed interstate user or licensed IFTA carrier user owes tax or is entitled to a credit or refund, such licensed user shall determine the average miles per equivalent gallon of alternative fuels used.

(B) The average miles per equivalent gallon shall be determined by dividing total miles traveled in all jurisdictions by the total equivalent gallons of alternative fuels used in all jurisdictions.

(C) Such licensed user shall then determine the total amount of alternative fuels used within the State of Arkansas by dividing the total number of miles traveled within the State of Arkansas by the average miles per equivalent gallon.

(2) The taxpayer's tax liability shall be calculated by multiplying the number of equivalent gallons of alternative fuels used within the State of Arkansas by the applicable tax rate for that calendar quarter per equivalent gallon.

(3) A taxpayer shall be entitled to credits against his or her tax liability for tax-paid alternative fuels purchased within the State of Arkansas.

(f)(1) Whenever any licensed interstate user or licensed IFTA carrier user who fails to maintain adequate mileage or fuel records, then for the purpose of determining the amount the licensed user owes the State of Arkansas for tax on alternative fuels used in this state as provided in this section, the number of equivalent gallons of alternative fuels used in this state shall be determined by an assessment based on the following mileage factors per equivalent gallon of alternative fuels, regardless of the type of alternative fuels, as compared to the appropriate class of vehicle set out in subdivision (f)(2) of this section.

(2) For the purposes of this section:

(A) All automobiles, except buses, with a capacity of fewer than eight (8) passengers shall be deemed to be Class A vehicles;

(B) All truck-type vehicles, except buses, with a factory rating and gross loaded weight of less than twenty-two thousand five hundred pounds (22,500 lbs.), shall be deemed to be Class B vehicles;

(C) All other vehicles, except buses, with a factory rating in excess of twenty-two thousand five hundred pounds (22,500 lbs.), or whose total gross loaded weight exceeds twenty-two thousand five hundred pounds (22,500 lbs.), shall be deemed to be Class C vehicles; and



(D) All buses rated and licensed as such shall be deemed to be Class D vehicles.

(3) The mileage factor per equivalent gallon of alternative fuels for:

(A) Class A vehicles shall be twelve (12) miles;

(B) Class B vehicles shall be eight (8) miles;

(C) Class C vehicles shall be five (5) miles; and

(D) Class D vehicles shall be six (6) miles.

(4) These mileage factors shall be utilized in conjunction with the Arkansas mileage as determined through an audit and based upon the best records available regardless of source.

(g) For the purpose of determining the amount any unlicensed or unbonded user owes the State of Arkansas for tax on alternative fuels used in this state, only the above mileage factors per equivalent gallon of alternative fuels for the applicable vehicles shall be utilized.

(h)(1)(A) If a quarterly report of a licensed interstate user or licensed IFTA carrier user results in a net credit, such user may elect to have the credit carried forward and applied against the alternative fuels tax due for the succeeding eight (8) quarters or until the credit is completely used, whichever occurs first.

(B) In the alternative, a taxpayer who is entitled to a net credit on his or her quarterly fuel tax report may elect to have the amount of credit refunded to him or her.

(2) A licensed interstate user or licensed IFTA carrier user who has a total tax liability for alternative fuels tax during the previous calendar year of less than one hundred dollars (\$100) upon application to the director may obtain permission to report his or her alternative fuels tax liability on an annual basis. The annual report shall be due on or before the twenty-fifth day of the month following the end of each fiscal year.

(i) The director shall prescribe the appropriate forms necessary for the administration of this chapter. The director may make appropriate rules and regulations necessary to ensure the accurate reporting of the alternative fuels tax.

**Credits:** Acts of 1993, Act 1119, § 17, eff. July 1, 1993.

### **§ 26-62-210. Refund procedure**

(a)(1) The Director of the Department of Finance and Administration shall quarterly estimate the amount necessary to pay refunds to licensed interstate users and licensed IFTA carrier users of alternative fuels who are entitled to refunds with respect to alternative fuels taxes paid in this state as authorized in § 26-62-209, and upon certification by the Director of the Department of Finance and Administration, the Treasurer of State shall transfer from the gross amount of alternative fuels taxes collected each month

the amount to the Interstate Alternative Fuels Refund Fund, which is established on the books of the State Treasury, from which the Department of Finance and Administration shall make refunds as provided by law.

(2) The transfers from the gross alternative fuels taxes collected each month shall be after deducting allowances for bad checks or claims but before making any other distribution as provided by law.

(b) All warrants drawn against the fund which are not presented for payment within one (1) year of issuance shall be void.

(c) Neither the Director of the Department of Finance and Administration nor any member or employee of the Department of Finance and Administration shall be held personally liable for making any refund by reason of a fraudulent claim's being filed as a basis for such refund.

(d) The Director of the Department of Finance and Administration in consultation with the Director of State Highways and Transportation is authorized to promulgate rules and regulations and to prescribe the necessary forms required for the administration of claims for tax refunds from licensed interstate users or licensed IFTA carrier users of alternative fuels in this state as authorized by law, which rules and regulations shall be in conformance with the following requirements:

(1) The Director of the Department of Finance and Administration shall first determine with respect to each refund claim filed that the bond of the interstate user or IFTA carrier user is adequate to compensate the State of Arkansas for any losses with respect to the recovery of any refunds illegally claimed by such user, and the Director of the Department of Finance and Administration may require the increase of the bond if the Director of the Department of Finance and Administration determines it to be inadequate before approving any such claim for refund;

(2) Each licensed interstate user or licensed IFTA carrier user of alternative fuels claiming refunds shall maintain adequate records to substantiate each claim for refund, and the Director of the Department of Finance and Administration may reject any claim for refund if the Director of the Department of Finance and Administration determines the applicant has not maintained adequate records or has not conformed to the rules and regulations of the Department of Finance and Administration in filing the claim therefor;

(3) Each claim for refund must be upon the request of the licensed interstate user or licensed IFTA carrier user, which shall be verified by such user as to its accuracy and validity;

(4)(A) Each quarterly report filed by a licensed interstate user or licensed IFTA carrier user of alternative fuels with the Department of Finance and Administration shall reflect thereon the amount of alternative fuels purchased for use in Arkansas during the quarter, the number of equivalent gallons of alternative fuels upon which taxes are due the State of Arkansas for the quarter, and the excess equivalent gallons upon which such user is entitled to refunds.

(B) At the end of each calendar quarter, the licensed interstate user or licensed IFTA carrier user may apply for a refund with respect to the number of equivalent gallons of alternative fuels upon which the alternative fuels taxes have been paid during the calendar quarter for which the licensed

interstate user or licensed IFTA carrier user is entitled to a refund; and

(5) The Director of the Department of Finance and Administration is authorized to promulgate any such rules or regulations the Director of the Department of Finance and Administration deems desirable in consultation with the Director of State Highways and Transportation regarding refunds to licensed interstate users and IFTA carrier users.

**Credits:** Acts of 1993, Act 1119, § 18, eff. July 1, 1993; Acts of 2009, Act 655, § 107, eff. July 31, 2009.

**§ 26-62-211. Out-of-state motor vehicles**

(a) Any unlicensed alternative fuels user, unless exempt from the tax levied herein, operating an out-of-state motor vehicle, upon entering the State of Arkansas, at the point of entry shall secure a copy of an entry slip from the Director of the Department of Finance and Administration or his or her authorized agent or employee.

(b) The entry slip shall be signed by the director or his or her authorized agent or employee, and the entry slip shall also be signed by the driver of the vehicle.

(c) The entry slip shall contain the following information:

- (1) Name and address of the owner or the operator of the vehicle;
- (2) State of registration;
- (3) License number;
- (4) Odometer reading;
- (5) Destination and point of leaving state; and
- (6) Description of vehicle.

(d) The entry slip shall remain in the vehicle for the remainder of the trip over the highways of this state and shall be produced for the inspection of the director or his or her authorized employee or representative, at any point within the state and shall also be produced at the port of exit to the director or his or her authorized agent or employee, for determination of any alternative fuels taxes due the state.

(e) For the purpose of determining the amount the interstate user owes the State of Arkansas for tax on alternative fuels used in this state as provided in this section, the number of equivalent gallons of alternative fuels used in this state shall be determined by an assessment based on the mileage factors per equivalent gallon of alternative fuels set out in § 26-62-209(f) compared to the appropriate class of vehicle set out in § 26-62-209(f).

(f) The alternative fuels tax levied by this chapter shall be paid upon all such fuels used to propel out-of-state motor vehicles upon the highways of this state.

(g) The tax shall be paid by the owner or operator of the motor vehicle in either of the following ways, at the option of the owner or operator:

(1)(A) By the purchase of a sufficient amount or quantity, as determined above, of alternative fuels from an alternative fuels supplier within the State of Arkansas to propel the vehicle the number of miles which the vehicle travels upon the highways of this state.

(B) At the time of the purchase of the fuels, the owner or operator of such vehicle shall obtain from the alternative fuels supplier from whom purchased an invoice or sales ticket, on forms approved by the director, which shall contain the:

- (i) Name and address of the seller of the alternative fuels;
- (ii) Name and address of the purchaser;
- (iii) Date of purchase; and
- (iv) Amount or quantity and type of alternative fuels purchased.

(C) The invoice or sales ticket shall remain in the vehicle for the remainder of the trip over the highways of this state. The invoice or sales ticket shall be preserved and retained by the owner or operator for a period of not less than three (3) years and shall be produced for the inspection and examination of the director or his or her authorized agent or employee, at any reasonable time and place, either within or without this state, upon proper demand therefor;

(2)(A) By the payment to the director or to his or her agent, representative, or employee of the amount of tax which would be due upon a sufficient quantity, as determined above, of alternative fuels to propel the vehicle over the highways of this state.

(B) At the time of payment of the tax, the director or his or her employee or representative shall issue to the person paying the tax a receipt showing:

- (i) The amount of tax paid;
- (ii) The name and address of the owner or operator of the vehicle;
- (iii) A description of the vehicle, including license number and state of registration;
- (iv) The point at which the vehicle entered upon the highways of this state;
- (v) The destination and the place where the vehicle is to leave the highways of this state; and
- (vi) Any other information which the director may require, which receipt shall be signed by the

director or his or her agent or representative.

(C) The receipt shall remain in the vehicle for the remainder of the trip over the highways of this state and thereafter shall be preserved and retained by the owner or operator for a period of not less than three (3) years and shall be produced for the inspection of the director or his or her authorized agent or representative, at any reasonable time and place, either within or without this state, upon proper demand.

(h)(1) If a person who has not obtained an alternative fuels license from this state, and who is nevertheless determined an alternative fuels user, leaves the State of Arkansas by a state highway or other road not equipped with a permanent port of entry or exit and has not paid the alternative fuels tax or has not purchased tax-paid alternative fuels from a licensed alternative fuels supplier in an amount equal to the number of equivalent gallons used upon the highways of the State of Arkansas, the person shall be liable for the payment of the tax due as determined above together with the penalties as set out in § 26-62-105.

(2) If an unlicensed alternative fuels user is within one (1) mile of the state line on the way out of the state and does not have in his or her possession a form issued by a licensed alternative fuels supplier showing the number of equivalent gallons purchased equal to the amount used in traveling upon the highways of the State of Arkansas, it shall be prima facie evidence of his or her failure to comply with the requirements of this chapter, and he or she shall be liable for the payment of the tax due, plus the fine as set out in § 26-62-106.

(3) In the event an unlicensed alternative fuels user enters the State of Arkansas via a state highway not equipped with a permanent port of entry, and the driver of the vehicle does not receive an entry form, then the burden of proof of the point of entry and time of entry for the purpose of determining the miles traveled and the tax due shall be upon the driver or owner of the vehicle.

**Credits:** Acts of 1993, Act 1119, § 19, eff. July 1, 1993; Acts of 1995, Act 1296, § 89.

**§ 26-62-212. Authority to stop, investigate, and impound motor vehicles**

(a) In order to enforce the provisions of this chapter, the Director of the Department of Finance and Administration or his or her authorized representative is empowered to stop any motor vehicle which appears to be operating with alternative fuels for the purpose of examining the invoices or other documents required by this chapter, or by regulation, and for such other investigative purposes reasonably necessary to determine whether the taxes imposed by this chapter have been paid or whether the vehicle is being operated in compliance with the provisions of this chapter.

(b) If after examination or investigation it is determined by the director or his or her authorized representative that the tax imposed by this chapter has not been paid with respect to the alternative fuels being used in the vehicle, the director or his or her representative shall immediately assess the tax due, together with the penalty hereinafter provided, to the owner of the vehicle and give the owner written notice of the assessment by handing it to the driver of the vehicle.

(c) The director or his or her representative is empowered to impound any vehicle found to be operating in violation of this chapter by a person other than a person who has furnished the bond required of users by § 26-62-204 until such time as any tax assessed as provided herein has been paid.

**Credits:** Acts of 1993, Act 1119, § 20, eff. July 1, 1993.

**§ 26-62-213. Motor vehicle violations**

(a) It is unlawful and a violation of this chapter to operate with alternative fuels any motor vehicle licensed for highway operation on which an odometer or hub meter is not kept at all times in good operating condition to correctly measure and register the miles traveled by the motor vehicle.

(b) It shall be unlawful for any person to operate with alternative fuels any vehicle of Arkansas domestic registry unless he or she has in his or her possession an invoice, if required, for the alternative fuels and the invoice meets the requirements of § 26-62-207, or, if the user has purchased such alternative fuels pursuant to § 26-62-203, he or she has in his or her possession the required documents mandated by the provisions of § 26-62-207(e).

(c)(1) In addition to any other penalties which may be incurred, there is levied a specific penalty of twenty-five dollars (\$25.00) for each violation of the provisions of this section.

(2) This penalty shall be assessed by the Director of the Department of Finance and Administration or his or her representative and shall be collected in the same manner as is provided for the collection of tax in § 26-62-212.

**Credits:** Acts of 1993, Act 1119, § 21, eff. July 1, 1993.

**§ 26-62-214. Conversion of motor vehicles**

(a) Any alternative fuels supplier, garage, mechanic, owner, or operator of a motor vehicle who converts or causes a vehicle to be converted to enable the vehicle to be operated on any type of alternative fuels shall report the conversion to the Director of the Department of Finance and Administration on forms prescribed by the director, which shall include, but not be limited to, the model, make, license number, and vehicle identification number of the converted vehicle within ten (10) days after the conversion.

(b) The converting or equipping of a vehicle for natural gas propulsion shall be in compliance with rules and regulations to be made and promulgated by the director.

(c)(1) It shall be unlawful for any person to operate any motor vehicle which has been converted or equipped to use alternative fuels unless the vehicle has been reported to the director and any permit, if required by this chapter of that person, has been obtained.

(2) If any owner or operator fails to report a conversion of a vehicle to the director within the time prescribed above, such person shall be assessed a penalty of two hundred fifty dollars (\$250) which

shall be in addition to any criminal penalty in this chapter.

**Credits:** Acts of 1993, Act 1119, § 22, eff. July 1, 1993.