



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.

§ 26-62-204. 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.