

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**  
4 **By: Representative Critcher**

# A Bill

**ACT 358 OF 1995**  
**HOUSE BILL 1331**

## For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 26, CHAPTER 52, SUBCHAPTER 5 OF THE  
9 ARKANSAS CODE OF 1987 ANNOTATED TO PROVIDE THAT A SELLER  
10 WHO ACCEPTS A VALID RESALE CERTIFICATE FROM A PURCHASER IN  
11 GOOD FAITH WILL BE RELIEVED FROM LIABILITY FOR SALES OR  
12 USE TAX; AND FOR OTHER PURPOSES."

## Subtitle

15 "AN ACT TO RELIEVE THE SELLER OF SALES  
16 OR USE TAX LIABILITY UPON GOOD FAITH  
17 ACCEPTANCE OF A VALID RESALE  
18 CERTIFICATE."

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

23 SECTION 1. Title 26, Chapter 52, Subchapter 5 of the Arkansas Code of  
24 1987 Annotated is amended by adding a new section to read as follows:

25 "26-52-516. (a) The sales tax liability for all sales of tangible  
26 personal property is upon the seller unless, at or before the time of sale,  
27 the seller takes in good faith a certificate of resale from the holder of a  
28 valid retailer's permit who is regularly engaged in the established business  
29 of reselling property of the type being purchased. The resale certificate  
30 must contain the purchaser's sales tax permit number, must state that the  
31 purchase is for resale and must contain any additional information as the  
32 director may require.

33 (b) Where tangible personal property is purchased tax free pursuant to  
34 subsection (a) of this section and the tangible personal property is not  
35 resold by the purchaser, the purchaser is solely liable for reporting and  
36 remitting to the director any tax which should have been paid at the time of

1 purchase. Use or disposition of the property other than for resale shall be  
2 deemed a withdrawal from stock for all purposes, including reporting and  
3 remittance of the tax due, and the tax shall be due from the purchaser at the  
4 time of the withdrawal from stock.

5 (c) The director may provide sale for resale certificates to assist  
6 retailers in properly accounting for nontaxable sales of tangible personal  
7 property. Such certificates must be completed as to the information required  
8 in order to be valid and cannot be used to establish any other exemption from  
9 sales or use tax.

10 (d) Any person repeatedly selling the same type of property to the same  
11 purchaser for resale may accept a blanket certificate covering more than one  
12 (1) transaction.

13 (e) The liability for the tax is not transferred from the seller to the  
14 purchaser if the seller has not accepted a valid exemption certificate in good  
15 faith. If the seller has actual knowledge of information or circumstances  
16 indicating that it is unlikely that the property will be resold, then in order  
17 to act in good faith the seller must make further inquiry to determine the  
18 facts supporting the certificate of resale."

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20 SECTION 2. Ark. Code Ann. §26-53-106(d)(1) is amended to read as  
21 follows:

22 "(d)(1) For the purpose of the proper administration of this subchapter  
23 and to prevent evasion of the tax and the duty to collect the tax imposed in  
24 this section, it shall be presumed that tangible personal property sold by any  
25 vendor for delivery in this state or transportation to this state is sold for  
26 storage, use, distribution, or consumption in this state unless the vendor  
27 selling the tangible personal property has taken from the purchaser a resale  
28 certificate signed by and bearing the name, address and sales tax permit number  
29 of the purchaser certifying that the property was purchased for resale. The  
30 use by the purchaser of a resale certificate and any resulting liability for,  
31 or exemption from, use tax in a transaction involving a resale certificate  
32 shall be governed in all respects by the terms of § 26-52-516."

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34 SECTION 3. All provisions of this act of a general and permanent nature  
35 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

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3 SECTION 4. If any provision of this act or the application thereof to  
4 any person or circumstance is held invalid, such invalidity shall not affect  
5 other provisions or applications of the act which can be given effect without  
6 the invalid provision or application, and to this end the provisions of this  
7 act are declared to be severable.

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9 SECTION 5. All laws and parts of laws in conflict with this act are  
10 hereby repealed.

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12 SECTION 6. EMERGENCY. It is hereby found and determined by the General  
13 Assembly of the State of Arkansas that vendors in the ordinary course of  
14 business have relied to their detriment by accepting resale certificates from  
15 purchasers in good faith, only to later incur tax liability if the property  
16 purchased was not resold by the purchaser; that the purchaser in most cases  
17 will be in the best position to determine whether the resale exemption is  
18 valid but current law does not permit recourse against the purchaser if the  
19 property purchased is not in fact resold; and that the practicalities of  
20 business require that vendors be permitted to relieve themselves of tax  
21 liability upon good faith acceptance of a resale certificate and this act is  
22 designed to afford such relief. Therefore, an emergency is hereby declared to  
23 exist and this act being necessary for the immediate preservation of the  
24 public peace, health and safety shall be in full force and effect from and  
25 after July 1, 1995.

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28 APPROVED: 2-20-95

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