

Hall of the House of Representatives
84th General Assembly - Second Extraordinary Session, 2003
Amendment Form

Subtitle of House Bill No. 1029
"TO LEVY GROSS RECEIPTS TAX ON SERVICES."

Amendment No. 1 to House Bill No. 1029.

Amend House Bill No. 1029 as originally introduced:

Page 15, delete line 8, and substitute the following:
"property and services and that is effective until contingency in Acts 2003,
No. 1273, § 88 is met, is amended to read as follows:"

AND

Page 15, delete line 15, substitute the following:
"transportation services;

SECTION 3. Arkansas Code § 26-52-301(2), establishing an excise tax on property and services and that is effective when contingency in Acts 2003, No. 1273, § 88 is met, is amended to read as follows:

(2)(A) Natural or artificial gas, electricity, water, ice, steam, sewer services, sanitation services, garbage collection, and solid and liquid waste collection and disposal ~~or any other utility or public service, except transportation services, sewer services, and sanitation or garbage collection services;~~

(B) Any other utility or public service except transportation services;"

AND

Page 15, line 17, delete "SECTION 3." and substitute "SECTION 4."

AND

Page 15, line 29, delete "SECTION 4." and substitute "SECTION 5."

AND

Page 16, line 5, delete "SECTION 5." and substitute "SECTION 6."

AND



Page 17, line 14, delete "SECTION 6." and substitute "SECTION 7."

AND

Page 17, delete line 18, and substitute:
"levied in this section shall ~~not~~ apply to the alteration, addition,
cleaning,"

AND

Page 18, line 24, delete "SECTION 7." and substitute "SECTION 8."

AND

Page 19, line 3, delete "SECTION 8." and substitute "SECTION 9."

AND

Page 19, line 18, delete "SECTION 9." and substitute "SECTION 10."

AND

Page 20, line 18, delete "SECTION 10." and substitute "SECTION 11."

AND

Page 21, line 19, delete "SECTION 11." and substitute "SECTION 12."

AND

Page 22, line 23, delete "SECTION 12." and substitute "SECTION 13."

AND

Page 23, line 27, delete "SECTION 13." and substitute "SECTION 14."

AND

Page 24, line 8, delete "SECTION 14." and substitute "SECTION 15."

AND

Page 24, line 13, delete "SECTION 15." and substitute "SECTION 16."

AND

Page 24, line 22, delete "SECTION 16." and substitute "SECTION 17."

AND

Page 24, line 34, delete "SECTION 17." and substitute "SECTION 18."

AND

Page 25, line 6, delete "SECTION 18." and substitute "SECTION 19."

AND

Page 25, delete lines 8 through 17, and substitute:

~~"(a)(1) Any person who is the operator of a vending device in this state that is made available for use and operation by the general public (whether the operator is the owner of such vending device, or a lessee, renter, bailee, etc. of the owner of such vending device) may, in lieu of paying sales taxes under the provisions of § 26-52-101, et seq., or under the provisions of § 26-57-1001, et seq. elect to pay the decal fees provided by § 26-57-1206. If such election is not made by the operator, then the general or special sales taxes that are otherwise applicable to the operation of these vending devices shall be imposed upon the sale of tangible personal property from such vending devices. shall:~~

(A) Pay the decal fees provided by § 26-57-1206; and

(B) Collect and remit the state gross receipts taxes levied under Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. and Amendment 75 of the Arkansas Constitution, and any applicable city and county gross receipts taxes.

(2) The provisions of subdivision (a)(1) of this section shall apply whether the operator of a vending device is the owner of the vending device, or is the lessee, renter, or bailee of the owner of the vending device."

AND

Page 25, line 19, delete "SECTION 19." and substitute "SECTION 20."

AND

Page 25, line 30, delete "SECTION 20." and substitute "SECTION 21."

AND

Page 26, line 12, delete "SECTION 21." and substitute "SECTION 22."

AND

Page 29, delete lines 5 through 8, and substitute the following:

~~"(f) Operators who elect to pay tax at the wholesale level and which have been issued an identification number by the Department of Finance and Administration as of March 31, 1997, shall be entitled to utilize that identification number for all vending devices owned by that operator."~~

AND

Page 29, delete lines 10 through 21 and substitute the following:

"SECTION 23. Arkansas Code § 26-57-1208 is repealed.

~~26-57-1208. Distribution of revenue.~~

~~(a) It is hereby declared to be the purpose of this subchapter to provide revenues for general governmental functions of the state, and its counties and municipalities, in lieu of the state and local gross receipts (sales) taxes or vending devices sales taxes that would otherwise be due and owing from the person who is the operator of such vending devices. For that purpose and to that end, it is expressly provided that the revenue derived by the Director of the Department of Finance and Administration from the sale of annual or special vending device decal fees, including penalties, shall be deposited by the director into the State Treasury and credited as follows.~~

~~(b) The vending device decal fees imposed by § 26-57-1206, or any proportionate amount thereof, shall be divided.~~

~~(1) With eighty percent (80%) of such amount being deposited to the credit of the General Revenue Fund Account of the State Apportionment Fund provided by § 19-5-202; and~~

~~(2) With twenty percent (20%) of such amount being deposited by the Treasurer of the State in the Identification Pending Trust Fund for Local Sales and Use Taxes in accordance with the provisions of §§ 26-74-221 and 26-75-223, and all revenues deposited into that fund shall be distributed to the cities and counties of this state in accordance with the provisions of §§ 26-74-221(a)(2)(C)(ii) and 26-75-223(a)(2)(C)(ii)."~~

AND

Page 29, line 23, delete "SECTION 23." and substitute "SECTION 24."

AND

Page 29, delete line 33 and substitute the following:

~~"what is almost entirely a cash business.~~

SECTION 25. Arkansas Code § 26-57-1001 through 26-57-1005 are repealed.

~~26-57-1001. Definitions.~~

~~For the purposes of this subchapter, the following definitions shall apply:~~

~~(1) "Director" shall mean the Director of the Department of Finance and Administration or his authorized agents;~~

~~(2) "Person" shall mean any individual, partnership, corporation, limited liability corporation, association, organization, or nonprofit corporation, and any county or municipal subdivision of this state;~~

~~(3)(A) "Vending device" shall mean any machine or manual device which dispenses tangible personal property after a coin or thing of value is inserted.~~

~~(B) The term "vending device" shall not include devices used exclusively for the purpose of selling cigarettes, newspapers, magazines, or postage stamps; and~~

~~(4) "Vending device operator" shall mean any person who sells tangible personal property through vending devices, and who elects to pay the taxes imposed by § 26-57-1002.~~

~~26-57-1002. Registration — Records — Amount of tax.~~

~~(a) Any person who sells tangible personal property through vending devices may elect to register with the director as a vending device operator and pay the state and local sales and use taxes as provided in this section.~~

~~(b) Any person who elects to register as a vending device operator shall obtain a gross receipts tax permit from the director as provided in § 26-52-201 et seq.~~

~~(c)(1) All tangible personal property purchased by a vending device operator for resale through a vending device shall be purchased exempt from the Arkansas gross receipts tax, § 26-52-101 et seq., the Arkansas compensating use tax, § 26-53-101 et seq., and any local sales and use taxes pursuant to the sale for resale exemption provided for in § 26-52-401(12).~~

~~(2) The vending device operator shall maintain suitable records reflecting all purchases of tangible personal property during each calendar month for resale through a vending device.~~

~~(d)(1)(A) A tax of four and one-half percent (4.5%) is hereby levied on the purchase price of all tangible personal property purchased or withdrawn from inventory during each calendar month by a vending device operator for resale through a vending device.~~

~~(B) This tax shall be in lieu of any state gross receipts tax on the gross receipts or gross proceeds derived from the sale of the property by the vending device operator through a vending device.~~

~~(2)(A) An additional tax of one percent (1%) is hereby levied on the purchase price of all tangible personal property purchased or withdrawn from inventory during each calendar month for resale through a vending device.~~

~~(B) This tax shall be in lieu of any local gross receipts taxes imposed by any city or county of this state on the gross receipts or gross proceeds derived from the sale of the property by the vending device operator through a vending device.~~

~~(c) The taxes levied by subsection (d) of this section shall be reported and paid in the same manner and at the same time as prescribed by law for the reporting and payment of the Arkansas gross receipts tax, § 26-52-101 et seq.~~

~~(f) When calculating the taxes due under this section, a vending device operator shall be allowed to deduct any manufacturer's rebates received which lower the final purchase price paid by the vending device operator for property sold through a vending device.~~

~~(g) Any vending device operator who manufactures the product which is withdrawn from stock for sale through a vending device shall calculate the tax due by multiplying the tax rate set out in subsection (d) of this section by the selling price for which the person would sell the product to another vending device operator for resale through a vending device.~~

~~26-57-1003. Election not to register.~~

~~(a) Any person selling tangible personal property through a vending device, and who elects not to register as a vending device operator, shall:~~

~~(1) Surrender any gross receipts tax permits issued by the director, unless the permit is needed to report taxable sales other than sales through a vending device; and~~

~~(2)(A) Pay the Arkansas gross receipts tax, § 26-52-101 et seq., the Arkansas compensating use tax, § 26-53-101 et seq., and any applicable local sales and use taxes to their vendor on all purchases of tangible~~

~~personal property purchased for resale through a vending device.~~

~~(B)(i) The sale for resale exemption provided in § 26 52-401(12) shall not apply to purchases of tangible personal property for resale through vending devices unless the purchaser is registered with the director as a vending device operator.~~

~~(ii) However, any person not registered as a vending device operator who maintains property in inventory for subsequent resale on which the state and local sales and use taxes have not been paid, and who subsequently withdraws that property from inventory for sale through a vending device, shall report and pay the state and local sales and use taxes on their purchase price of such property withdrawn from inventory.~~

~~(b) Any person selling property through vending devices who has paid the state and local sales and use taxes in the manner provided by this section shall not be required to collect and remit state or local sales tax on sales of tangible personal property through the vending device.~~

~~(c) Any person who elects to pay tax on tangible personal property sold through vending devices in accordance with the provisions of this section and who manufactures the product which is withdrawn from stock for resale through a vending device shall pay the taxes due under this section by multiplying the tax rate by the selling price for which the person would sell the product to another for resale through a vending device.~~

~~26 57 1004. Identification of taxpayer — Presumption of nonpayment.~~

~~(a) All persons who sell tangible personal property through vending devices shall affix the name and identification number, if any, of the person responsible for the payment of the taxes imposed by §§ 26 57 1002 and 26 57 1003.~~

~~(b)(1)(A) If any vending device does not have the information required by subsection (a) of this section affixed thereto, there shall be a presumption that the taxes imposed by this subchapter have not been paid.~~

~~(B) The director shall seal any vending device subject to this presumption in such a manner as to prevent any further sales through the device and shall assess and collect a penalty of fifty dollars (\$50.00) per vending device against the person selling tangible personal property through the device.~~

~~(2) The presumption in subdivision (b)(1) of this section shall be overcome if the person selling property through the vending device affixes the information required by this section to the device and proves that the taxes imposed by §§ 26 57 1002 and 26 57 1003 have been paid.~~

~~26 57 1005. Disposition of revenues.~~

~~(a) The revenues derived from § 26 57 1002(d)(1) shall be general revenues and shall be deposited in the State Treasury in the same manner as the Arkansas gross receipts tax, § 26 52 101 et seq.~~

~~(b) All revenues derived from § 26 57 1002(d)(2) shall be deposited by the Treasurer of State in the Identification Pending Trust Fund for Local Sales and Use Taxes in accordance with the provisions of §§ 26 74 221 and 26 75 223, and all revenues deposited in that fund shall be distributed to the cities and counties of this state in accordance with the provisions of §§ 26 74 221(a)(2)(C)(ii) and 26 75 223(a)(2)(C)(ii)."~~

AND

Page 29, line 35, delete "SECTION 24." and substitute "SECTION 26."

AND

Page 30, delete line 11, and substitute the following:

"the second calendar month following the effective date of this act, with the exception of sections 18 through 25 pertaining to the provisions of Arkansas Code § 26-57-1001 et seq., which shall become effective July 1, 2004."

The Amendment was read _____

By: Representative Boyd
KWH/VFF - 12-19-2003 10:51
VFF011

Chief Clerk