

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 2322

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5 By: Representatives Verkamp, Stovall
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE § 26-53-106 TO
10 CONFORM TO CURRENT UNITED STATES SUPREME COURT
11 PRECEDENT REGARDING THE EXTENT TO WHICH A STATE
12 MAY PERMISSIBLY IMPOSE ITS USE TAX UNDER THE
13 COMMERCE CLAUSE; AND FOR OTHER PURPOSES.
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Subtitle

15 TO ELIMINATE THE REQUIREMENT THAT
16 PROPERTY "COME TO REST" IN THE STATE OR
17 "BECOME COMMINGLED" WITH PROPERTY IN THE
18 STATE IN ORDER TO BE SUBJECT TO USE TAX.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 26-53-106 is amended to read as follows:

25 26-53-106. Imposition and rate of tax generally - Presumptions.

26 (a) There is levied and there shall be collected from every person in
27 this state a tax or excise for the privilege of storing, using, distributing,
28 or consuming within this state any article of tangible personal property
29 purchased for storage, use, distribution, or consumption in this state at the
30 rate of three percent (3%) of the sales price of the property.

31 ~~(b) This tax will not apply with respect to the storage, use,~~
32 ~~distribution, or consumption of any article of tangible personal property~~
33 ~~purchased, produced, or manufactured outside this state until the~~
34 ~~transportation of the article has finally come to rest within this state or~~
35 ~~until the article has become commingled with the general mass of property of~~
36 ~~this state.~~



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1 ~~(e)~~ This tax shall apply to use, storage, distribution, or consumption
2 of every article of tangible personal property, except as provided in this
3 subchapter, irrespective of whether the article or similar articles are
4 manufactured within the State of Arkansas or are available for purchase
5 within the State of Arkansas and irrespective of any other condition.

6 ~~(d)(1)(A)~~(c)(1)(A) For the purpose of the proper administration of
7 this subchapter and to prevent evasion of the tax and the duty to collect the
8 tax imposed in this section, it shall be presumed that tangible personal
9 property sold by any vendor for delivery in this state or transportation to
10 this state is sold for storage, use, distribution, or consumption in this
11 state unless the vendor selling the tangible personal property has taken from
12 the purchaser a resale certificate signed by and bearing the name, address,
13 and sales tax permit number of the purchaser certifying that the property was
14 purchased for resale.

15 (B) The use by the purchaser of a resale certificate and
16 any resulting liability for, or exemption from, use tax in a transaction
17 involving a resale certificate shall be governed in all respects by the terms
18 of § 26-52-517.

19 (2) It is further presumed that tangible personal property
20 shipped, mailed, expressed, transported, or brought to this state by the
21 purchaser was purchased from a vendor for storage, use, distribution, or
22 consumption in this state.

23 (d) The intent of this section is to impose Arkansas use tax to the
24 fullest extent allowed by the Constitution of the United States.

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