

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
4

As Engrossed: H3/28/03 H4/11/03

A Bill

HOUSE BILL 2662

5 By: Representative Mahony
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7

For An Act To Be Entitled

9 AN ACT TO LEVY A NEW SEVEN PERCENT (7%) TOBACCO
10 EXCISE TAX ON CIGARETTES;
11 TO LEVY AN ADDITIONAL TOBACCO PRODUCTS TAX
12 OF FIFTEEN PERCENT (15%); AND FOR OTHER
13 PURPOSES.
14

Subtitle

15 AN ACT TO LEVY A NEW SEVEN PERCENT (7%)
16 TOBACCO EXCISE TAX ON CIGARETTES AND TO
17 LEVY AN ADDITIONAL TOBACCO PRODUCTS TAX
18 OF FIFTEEN PERCENT (15%).
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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 Title 26, Chapter 57, Subchapter 8 is amended
25 to add an additional section to read as follows:

26 26-57-804. Cigarette Excise Tax.

27 (a)(1) In addition to the excise or privilege taxes levied on
28 cigarettes under §§ 26-57-208, 26-57-802, and 26-57-803, there is levied an
29 new tax of seven percent (7%) of the gross invoice cost of cigarettes sold by
30 a wholesaler to a retailer.

31 (2) The tax on cigarettes shall be collected by the wholesaler
32 acting as agent of the state from the retailer, who in turn shall pass on the
33 tax to the consumer, if the retailer elects.

34 (3) The term "gross invoice cost" means the wholesaler's price
35 for the product sold as listed on the invoice to the retailer before any
36 deduction for allowances, whether manufacturer promotional allowances or



1 otherwise, or for discounts of any kind.

2 (4) The term "manufacturer promotional allowances" means any
3 payment or compensation given by a manufacturer of cigarettes to wholesalers
4 or to retailers to promote the sale of cigarettes, and which the manufacturer
5 requires the wholesaler to pass on to the retailer and the retailer to pass
6 on to the retailer's customer.

7 (b) The tax levied under this section shall be imposed, reported,
8 remitted, and administered in the same manner and at the same time as other
9 taxes levied on cigarettes in the Arkansas Tobacco Products Tax Act of 1977,
10 § 26-57-201 et seq.

11 (c) The revenues derived from the tax imposed by this section shall be
12 credited to the General Revenue Fund of the State Apportionment Fund, there
13 to be distributed with the other gross general revenue collections for that
14 month in accordance with the provisions of § 19-5-201 et seq.

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16 SECTION 2. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended
17 to add an additional section to read as follows:

18 26-57-804. (a)(1) In addition to the excise or privilege taxes levied
19 under §§ 26-57-208(2), 26-57-803(b) and 26-57-1102(a), there is levied an
20 additional tax on tobacco products other than cigarettes on the first sale to
21 wholesalers or retailers within the state at fifteen percent (15%) of the
22 manufacturer's selling price.

23 (2) The tax shall be computed on the actual manufacturer's
24 invoice price before discounts and deals.

25 (b)(1)(A) The taxes levied by this section shall be reported and paid
26 by wholesalers licensed pursuant to § 26-57-214 of the Arkansas Tobacco
27 Products Tax Act of 1977.

28 (B) Provided, retailers shall be liable for reporting and
29 paying these taxes when a retailer purchases tobacco products directly from a
30 manufacturer or from a wholesaler or distributor not licensed pursuant to §
31 26-57-214 of the Arkansas Tobacco Products Tax Act of 1977.

32 (2)(A) Any taxpayer who fails to report and remit the tobacco
33 tax due on tobacco products purchased from manufacturers, distributors or
34 wholesalers who are not licensed under §26-57-214 of the Arkansas Tobacco
35 Products Tax Act of 1977 shall be subject to the following penalties:

36 (i) Five percent (5%) of the total tobacco tax due

1 for the first offense;

2 (ii) Twenty percent (20%) of the total tobacco tax
3 due for the second offense; and

4 (iii) Twenty-five percent (25%) of the total tobacco
5 tax due for the third and any subsequent offenses.

6 (B) In addition, the taxpayer's retail cigarette/tobacco
7 permit shall be revoked for a period of ninety (90) days for the third and
8 any subsequent offenses.

9 (c) The additional tax levied by this section shall be in effect on
10 and after July 1, 2003 and shall apply to any inventory or stocks of tobacco
11 products other than cigarettes held by a wholesaler or retailer on that date.

12 (d) The revenues derived from the additional tax imposed by this
13 section shall be credited to the General Revenue Fund Account of the State
14 Apportionment Fund, there to be distributed with the other gross general
15 revenue collections for that month in accordance with the provisions of § 19-
16 5-201 et seq.

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18 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
19 General Assembly of the State of Arkansas that revenue available for the
20 support of necessary state services has declined during the last twelve
21 months as a result of the nationwide economic slow down; that without
22 additional revenue some state services will be reduced or eliminated; that
23 some Arkansans will suffer as a result of service reductions or cuts; and
24 that this bill will provide the necessary revenue to avoid state service
25 reductions or cuts. Therefore, an emergency is declared to exist and this
26 act being immediately necessary for the preservation of the public peace,
27 health, and safety shall become effective on July 1, 2003.

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29 /s/ Mahony
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