

1 State of Arkansas  
2 84th General Assembly  
3 First Extraordinary Session, 2003  
4

Call Item 17

# A Bill

HOUSE BILL 1037

5 By: Representative Mahony  
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7

## For An Act To Be Entitled

9 AN ACT TO LEVY A NEW EXCISE TAX OF SEVENTEEN  
10 PERCENT (17%) ON THE SALE OF CIGARETTES BY A  
11 WHOLESALER; TO LEVY AN ADDITIONAL EXCISE TAX OF  
12 SEVENTEEN PERCENT (17%) ON TOBACCO PRODUCTS; AND  
13 FOR OTHER PURPOSES.  
14

## Subtitle

15 AN ACT TO LEVY A NEW SEVENTEEN PERCENT  
16 WHOLESALE CIGARETTE EXCISE TAX AND AN  
17 ADDITIONAL SEVENTEEN PERCENT WHOLESALE  
18 TOBACCO PRODUCTS 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 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 a  
29 new excise tax of seventeen percent (17%) of the gross invoice cost of  
30 cigarettes sold by a wholesaler to a retailer.

31 (2) For purposes of this section:

32 (A) "Gross invoice cost" means the wholesaler's price for  
33 the product sold as listed on the invoice to the retailer before any  
34 deduction for allowances, whether manufacturer promotional allowances or  
35 otherwise, or for discounts of any kind; and

36 (B) "Manufacturer promotional allowances" means any



1 payment or compensation given by a manufacturer of cigarettes to wholesalers  
 2 or to retailers to promote the sale of cigarettes, and which the manufacturer  
 3 requires the wholesaler to pass on to the retailer and the retailer to pass  
 4 on to the retailer's customer.

5 (b)(1) The tax levied under this section shall be paid by the  
 6 wholesaler when the cigarettes are sold to a retailer.

7 (2) The tax levied under this section shall be paid by a  
 8 retailer who purchases cigarettes directly from a manufacturer.

9 (3) The tax shall be reported, remitted, and administered in the  
 10 same manner and at the same time as prescribed in § 26-57-211(b).

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.

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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 26-57-805. Tobacco products tax.

19 (a) In addition to the excise or privilege taxes levied under §§ 26-57-  
 20 208(2), 26-57-803(b) and 26-57-1102(a), there is levied an additional tax on  
 21 tobacco products other than cigarettes on the first sale to wholesalers or  
 22 retailers within the state at seventeen percent (17%) of the manufacturer's  
 23 selling price. The tax shall be computed on the actual manufacturer's invoice  
 24 price before discounts.

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) Retailers, however, 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 tax  
 33 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 revenues derived from the additional tax imposed by this  
10 section shall be credited to the General Revenue Fund Account of the State  
11 Apportionment Fund, there to be distributed with the other gross general  
12 revenue collections for that month.

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

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