

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

Call Item 17

A Bill

HOUSE BILL 1038

4
5 By: Representative Mahony
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For An Act To Be Entitled

9 AN ACT TO LEVY A NEW EXCISE TAX ON THE SALE OF
10 CIGARETTES BY A WHOLESALER; TO LEVY AN ADDITIONAL
11 EXCISE TAX ON TOBACCO PRODUCTS; AND FOR OTHER
12 PURPOSES.

Subtitle

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14 LEVIES A NEW WHOLESALE CIGARETTE EXCISE
15 TAX AND AN ADDITIONAL WHOLESALE TOBACCO
16 PRODUCTS TAX.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended
23 to add an additional section to read as follows:

24 26-57-804. Cigarette Excise Tax.

25 (a)(1) In addition to the excise or privilege taxes levied on
26 cigarettes under §§ 26-57-208, 26-57-802, and 26-57-803, there is levied a
27 new excise tax of twenty-five percent (25%) of the gross invoice cost of
28 cigarettes sold by a wholesaler to a retailer.

29 (2) For the purpose of this section:

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

34 (B) "Manufacturer promotional allowances" means any
35 payment or compensation given by a manufacturer of cigarettes to wholesalers
36 or to retailers to promote the sale of cigarettes, and which the manufacturer



1 requires the wholesaler to pass on to the retailer and the retailer to pass
2 on to the retailer's customer.

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

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

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

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

13 (d) The tax levied by this section shall expire on May 31, 2004.
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15 SECTION 2. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended
16 to add an additional section to read as follows:

17 26-57-805. Tobacco products tax.

18 (a) In addition to the excise or privilege taxes levied under §§ 26-57-
19 208(2), 26-57-803(b) and 26-57-1102(a), there is levied an additional tax on
20 tobacco products other than cigarettes on the first sale to wholesalers or
21 retailers within the state at twenty-five percent (25%) of the manufacturer's
22 selling price. The tax shall be computed on the actual manufacturer's invoice
23 price before discounts.

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

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

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

35 (i) Five percent (5%) of the total tobacco tax due
36 for the first offense;

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

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

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

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

12 (d) The tax levied by this section shall expire on May 31, 2004.

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 14 SECTION 3. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended
 15 to add an additional section to read as follows:

16 26-57-806. Cigarette Excise Tax.

17 (a)(1) Beginning on June 1, 2004, in addition to the excise or
 18 privilege taxes levied on cigarettes under §§ 26-57-208, 26-57-802, and 26-
 19 57-803, there is levied an new excise tax of seventeen percent (17%) of the
 20 gross invoice cost of cigarettes sold by a wholesaler to a retailer.

21 (2) For the purpose of this section:

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

26 (B) "Manufacturer promotional allowances" means any payment
 27 or compensation given by a manufacturer of cigarettes to wholesalers or to
 28 retailers to promote the sale of cigarettes, and which the manufacturer
 29 requires the wholesaler to pass on to the retailer and the retailer to pass
 30 on to the retailer's customer.

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

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

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

1 (c) The revenues derived from the tax imposed by this section shall be
 2 credited to the General Revenue Fund Account of the State Apportionment Fund,
 3 there to be distributed with the other gross general revenue collections for
 4 that month.

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 6 SECTION 4. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended
 7 to add an additional section to read as follows:

8 26-57-807. Tobacco products tax.

9 (a) Beginning June 1, 2004, in addition to the excise or privilege
 10 taxes levied under §§ 26-57-208(2), 26-57-803(b) and 26-57-1102(a), there is
 11 levied an additional tax on tobacco products other than cigarettes on the
 12 first sale to wholesalers or retailers within the state at seventeen percent
 13 (17%) of the manufacturer's selling price. The tax shall be computed on the
 14 actual manufacturer's invoice price before discounts.

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

18 (B) Provided, retailers shall be liable for reporting and
 19 paying these taxes when a retailer purchases tobacco products directly from a
 20 manufacturer or from a wholesaler or distributor not licensed pursuant to §
 21 26-57-214 of the Arkansas Tobacco Products Tax Act of 1977.

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

26 (i) Five percent (5%) of the total tobacco tax due
 27 for the first offense;

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

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

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

35 (c) The revenues derived from the additional tax imposed by this
 36 section shall be credited to the General Revenue Fund Account of the State

1 Apportionment Fund, there to be distributed with the other gross general
2 revenue collections for that month.

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4 SECTION 5. EFFECTIVE DATE. Sections 1 and 2 of this act shall become
5 effective on the first day of the month following the effective date of this
6 act.