

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

Call Item 6

A Bill

HOUSE BILL 1029

5 By: Representative Boyd
6
7

For An Act To Be Entitled

9 AN ACT TO LEVY GROSS RECEIPTS TAX ON SERVICES;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12 TO LEVY GROSS RECEIPTS TAX ON SERVICES.
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
17

18 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended
19 by adding additional sections to read as follows:

20 26-52-316. Accountants and tax preparers.

21 (a) For purposes of this section:

22 (1) "Accountant" means any person, partnership, corporation,
23 limited liability company, or other entity certified or licensed or required
24 to be licensed under § 17-12-301, § 17-12-312, or §§ 17-12-401 -- 17-12-404,
25 or any accountant certified or licensed or required to be licensed by another
26 state who performs services in the State of Arkansas;

27 (2) "Employer" means those who have a right to exercise control
28 as to how, when, and where services are to be performed;

29 (3) "Practice of public accounting" means the performance of
30 professional services as defined in this section or the performance of
31 professional services while using the title or designation of certified
32 public accountant, public accountant, CPA, PA, accountant, or auditor;

33 (4) "Services" means all acts, work, or professional services
34 rendered, furnished, or performed for a valuable consideration by any
35 accountant or tax preparer for a consumer or client other than an employer;
36 and



1 (5) "Tax preparer" means any person, partnership, corporation,
2 limited liability company, or other entity that prepares, files, or assists
3 in the preparation or filing of any state or federal tax return or related
4 document or provides any accounting or bookkeeping services.

5 (b) All fees and compensation collected by any accountant or tax
6 preparer for services performed are subject to the gross receipts tax levied
7 by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

8
9 26-52-317. Advertising agencies and services.

10 (a) The gross receipts or gross proceeds derived from the performance
11 of advertising services by advertising agencies are subject to the Arkansas
12 Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

13 (b)(1) "Advertising agency" means a person or a legal entity that
14 plans, creates and arranges for production of advertising for clients;

15 (2) "Advertising services" includes:

16 (A) Advertising space and time, including advertising
17 space in newspapers, magazines, advertising supplements, and other
18 publications;

19 (B) Television and radio advertising time;

20 (C) Billboard advertising space and time; and

21 (D) Other advertising space and time, including, but not
22 limited to, outdoor structures, displays, banners, broadcasts, devices,
23 vehicles, or airborne devices.

24
25 26-52-318. Architects.

26 (a) For purposes of this section:

27 (1) "Architect" means any person, firm, partnership,
28 corporation, limited liability company, or other entity who is an architect
29 as defined by § 17-15-102 or who engages in the practice of architecture as
30 defined by § 17-15-102 or who is registered as an architect by another state
31 who performs services in the State of Arkansas;

32 (2) "Employer" means those who have a right to exercise control
33 as to how, when, and where services are to be performed; and

34 (3) "Services" means all acts or work rendered, furnished, or
35 performed for a valuable consideration by any person engaged in the practice
36 of architecture for a consumer or client other than an employer.

1 (b) All fees and compensation collected by any architect for services
2 performed are subject to the gross receipts tax levied by the Arkansas Gross
3 Receipts Act of 1941, as amended, § 26-52-101 et seq.

4
5 26-52-319. Attorneys.

6 (a) As used in this section:

7 (1) "Attorney" means any:

8 (A) Person licensed or required to be licensed to practice
9 law in the state or federal courts in Arkansas;

10 (B) Partnership, association, or corporation of licensed
11 attorneys; and

12 (C) Attorney licensed or required to be licensed by
13 another state who provides services in the State of Arkansas;

14 (2) "Employer" means those who have a right to exercise control
15 as to how, when, and where services are to be performed;

16 (3) "Practice of law" means any service related to the legal
17 representation of clients, including, but not limited to, acts included in
18 § 16-22-501(a) that involves conduct regulated by the Arkansas Supreme Court;
19 and

20 (4) "Services" means all acts, work, or representation rendered,
21 furnished, or performed for a valuable consideration by any person engaged in
22 the practice of law for a consumer or client other than an employer.

23 (b) All fees and compensation collected by any attorney for services
24 performed are subject to the gross receipts tax levied by the Arkansas Gross
25 Receipts Act of 1941, as amended, § 26-52-101 et seq.

26 (c)(1) Any attorney required to collect and remit gross receipts tax
27 on fees collected for services under this section shall obtain a sales tax
28 permit for the purpose of identification.

29 (2) The provisions of §§ 26-52-501(a) and 26-18-206 making it
30 unlawful to operate a business without a permit shall not apply to the
31 practice of law by an attorney.

32 (3) The provisions of § 26-18-702 allowing the director to
33 enjoin the operation of a business shall not apply to the practice of law by
34 an attorney.

35
36 26-52-320. Auctioneers.

1 (a) The gross receipts or gross proceeds derived from all auction
 2 sales of new or used tangible personal property by auctioneers licensed or
 3 required to be licensed under the Auctioneer’s Licensing Act, § 17-17-101, et
 4 seq. are subject to the Arkansas Gross Receipts Act of 1941, as amended, §
 5 26-52-101 et seq. unless a sale is exempt from tax under an exemption
 6 provided to the purchaser of the tangible personal property.

7 (b) Auctioneers and consignees are considered the sellers of all items
 8 sold and the exemption for isolated sales provided in § 26-52-401(17) shall
 9 not apply to any sales by auctioneers or consignees.

10
 11 26-52-321. Bail bondsmen.

12 The gross receipts tax levied by the Arkansas Gross Receipts Act of
 13 1941, as amended, § 26-52-101 et seq. is levied on all fees collected by bail
 14 bondsmen licensed or required to be licensed under § 17-19-101 et seq., as
 15 amended.

16
 17 26-52-322. Banks and financial institutions.

18 (a) The gross receipts or gross proceeds derived from service charges
 19 of banks and financial institutions are subject to the Arkansas gross
 20 receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended,
 21 § 26-52-101 et seq.

22 (b) “Service charges” include fees for transferring funds from one (1)
 23 account to another, stop payment charges, debit card replacement charges,
 24 copy and research fees, bill payment fees, returned deposit item fees, fees
 25 for issuing certified checks, and any other charges for bank or financial
 26 institution services.

27
 28 26-52-323. Barbers and cosmetologists.

29 (a) The gross receipts or gross proceeds from all services rendered by
 30 barbers, cosmetologists, or electrologists are subject to the Arkansas Gross
 31 Receipts Act of 1941, as amended, § 26-52-101 et seq.

32 (b) For purposes of this section, "barbering" means those services
 33 specified in § 17-20-102 without regard to whether the services are performed
 34 by a person licensed by the State Board of Barber Examiners.

35 (c) For purposes of this section, "cosmetologist" means a person who
 36 practices the art of cosmetology, including electrolysis, and is licensed or

1 required to be licensed under § 17-26-101 et seq.

2

3 26-52-324. Brokerage fees.

4 The gross receipts or gross proceeds derived from fees charged by
5 brokers licensed to buy and sell stocks, bonds, or other securities are
6 subject to the Arkansas gross receipts tax levied by the Arkansas Gross
7 Receipts Act of 1941, as amended, § 26-52-101 et seq.

8

9 26-52-325. Charter services.

10 The gross receipts or gross proceeds derived from the service of
11 renting an aircraft with a pilot's service, renting a bus with a driver's
12 service, or renting a motor vehicle, including limousines, with a driver's
13 service are subject to the gross receipts tax levied by the Arkansas Gross
14 Receipts Act of 1941, as amended, § 26-52-101 et seq.

15

16 26-52-326. Commercial art and design.

17 The gross receipts or gross proceeds derived from the service of
18 creating or designing commercial art or graphic designs for a customer are
19 subject to the gross receipts tax levied by Arkansas Gross Receipts Tax Act
20 of 1941, as amended, § 26-52-101 et seq.

21

22 26-52-327. Computer consultants.

23 (a) For purposes of this section:

24 (1) "Computer consultant" means any person, firm, partnership,
25 corporation, limited liability company, or other entity who installs,
26 maintains, repairs, or updates computer hardware or software or who provides
27 technical support or assistance in the purchase, installation, maintenance,
28 repair or updating of computer hardware or software;

29 (2) "Employer" means those who have a right to exercise control
30 as to how, when, and where services are to be performed; and

31 (3) "Services" means all acts or work rendered, furnished, or
32 performed for a valuable consideration by any person engaged in computer
33 consulting for a consumer or client other than an employer.

34 (b) All fees and compensation collected by any computer consultant for
35 services performed are subject to the gross receipts tax levied by the
36 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

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26-52-328. Court reporting services.

(a) The gross receipts or gross proceeds derived from court reporting services are subject to the Arkansas gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

(b)(1) "Court reporting services" means the recording or transcription of proceedings, including depositions, meetings, and mediation or arbitration hearings by video, audio, stenographic, or other means.

(2) "Court reporting services" does not include services rendered, furnished, or performed for a valuable consideration by a court reporter for a consumer or client other than an employer.

26-52-329. Data processing services.

(a) The gross receipts or gross proceeds derived from data processing services are subject to the Arkansas gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

(b)(1) "Data processing services" includes word processing, data entry, data retrieval, data search, information compilation, payroll and business accounting data production, and other computerized data and information storage or manipulation.

(2) "Data processing service" also includes the use of a computer or computer time for data processing whether the processing is performed by the provider of the computer or computer time or by the purchaser or other beneficiary of the service.

26-52-330. Dry cleaning and laundry.

(a) The gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq., is levied on the gross receipts or gross proceeds derived from laundry and dry cleaning services, including, but not limited to:

(1) Cleaning, pressing, repairing, altering, and storing clothes; and

(2) Carpet, drapery, upholstery, and industrial cleaning.

(b) "Laundry and dry cleaning services" includes services provided by coin-operated facilities operated by the customer.

1 26-52-331. Funeral services.

2 The gross receipts or gross proceeds derived from the rendering,
 3 furnishing, or performance of funeral services are subject to Arkansas gross
 4 receipts tax as levied by the Arkansas Gross Receipts Act of 1941, as
 5 amended, § 26-52-101 et seq.

6
 7 26-52-332. Employment fees.

8 (a) All fees and compensation collected by an employment agency,
 9 employment placement agency, or temporary-help firm are subject to the gross
 10 receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended,
 11 § 26-52-101 et seq.

12 (b) As used in this section:

13 (1) "Employment agency" means any person engaged in the business
 14 of providing or supplying personnel, on a temporary or long-term basis, to
 15 perform work or labor under the supervision or control of another, when the
 16 personnel so supplied receive their wages, salary, or other compensation from
 17 the provider of the service;

18 (2) "Employment placement agency" means any person engaged in
 19 the business of locating or finding employment for a person or finding or
 20 locating an employee to fill an available position; and

21 (3) "Temporary-help firm" means a person who employs individuals
 22 for the purpose of assigning those individuals to work for the clients of the
 23 temporary-help firm to support or supplement a client's workforce during
 24 employee absences, temporary skill shortages, seasonal workloads, special
 25 assignments and projects, and other similar work situations.

26
 27 26-52-333. Engineers.

28 (a) For purposes of this section:

29 (1) "Engineer" means any person, firm, partnership, corporation,
 30 limited liability company, or other entity who is a professional engineer as
 31 defined by § 17-30-101 or who engages in the practice of engineering as
 32 defined by § 17-30-101 or who is registered as an engineer by another state
 33 who performs services in the State of Arkansas;

34 (2) "Employer" means those who have a right to exercise control
 35 as to how, when, and where services are to be performed; and

36 (3) "Services" means all acts or work rendered, furnished, or

1 performed for a valuable consideration by any person engaged in the practice
2 of engineering for a consumer or client other than an employer.

3 (b) All fees and compensation collected by any engineer for services
4 performed are subject to the gross receipts tax levied by the Arkansas Gross
5 Receipts Act of 1941, as amended, § 26-52-101 et seq.

6
7 26-52-334. Environmental consultants.

8 (a) For purposes of this section:

9 (1) "Environmental consultant" means any person, firm,
10 partnership, corporation, limited liability company, or other entity who
11 provides environmental consulting services;

12 (2) "Environmental consulting services" includes services
13 provided by environmental scientists, engineers, and other experts and
14 establishments that primarily engage in providing advice and assistance to
15 businesses and other organizations on environmental issues, such as the
16 control of environmental contamination from pollutants, toxic substances, and
17 hazardous materials;

18 (3) "Employer" means those who have a right to exercise control
19 as to how, when, and where services are to be performed; and

20 (4) "Services" means all acts or work rendered, furnished, or
21 performed for a valuable consideration by any person engaged in environmental
22 consulting for a consumer or client other than an employer.

23 (b) All fees and compensation collected by any environmental
24 consultant for services performed are subject to the gross receipts tax
25 levied by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et
26 seq.

27
28 26-52-335. Interior designers.

29 (a) For purposes of this section:

30 (1) "Interior designer" means any person, firm, partnership,
31 corporation, limited liability company, or other entity who provides the
32 service of designing or decorating the interiors of houses or buildings,
33 counseling with respect to designing or decoration, or the procurement of
34 furniture, fixtures, or home or building decorations;

35 (2) "Employer" includes those who have a right to exercise
36 control as to how, when, and where services are to be performed; and

1 (3) "Services" means all acts or work rendered, furnished, or
2 performed for a valuable consideration by any person engaged in interior
3 design for a consumer or client other than an employer.

4 (b) All fees and compensation collected by any interior designer for
5 services performed are subject to the gross receipts tax levied by the
6 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

7
8 26-52-336. Investment counseling.

9 The gross receipts or gross proceeds derived from the rendering,
10 furnishing, or performance of services by persons engaged in the business of
11 counseling others relative to investments in or disposition of property
12 rights, whether real, personal, tangible or intangible are subject to
13 Arkansas gross receipts tax as levied by the Arkansas Gross Receipts Act of
14 1941, as amended, § 26-52-101 et seq.

15
16 26-53-337. Landscape architects.

17 (a) For purposes of this section:

18 (1) "Landscape architect" means any person, firm, partnership,
19 corporation, limited liability company, or other entity who is a landscape
20 architect as defined by § 17-36-102 or who engages in landscape architecture
21 as defined by § 17-36-102, or who is licensed as a landscape architect by
22 another state who performs services in the State of Arkansas;

23 (2) "Employer" means those who have a right to exercise control
24 as to how, when, and where services are to be performed; and

25 (3) "Services" means all acts or work rendered, furnished, or
26 performed for a valuable consideration by any person engaged in landscape
27 architecture for a consumer or client other than an employer.

28 (b) All fees and compensation collected by any landscape architect for
29 services performed are subject to the gross receipts tax levied by the
30 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

31
32 26-52-338. Lobbyists.

33 The gross receipts or gross proceeds derived from lobbying as defined
34 in § 21-8-402 are subject to the Arkansas gross receipts tax levied by the
35 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

1 26-52-339. Locksmith services.

2 (a) The gross receipts or gross proceeds derived from locksmith
 3 services are subject to the Arkansas gross receipts tax levied by the
 4 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

5 (b)(1) "Locksmith services" means repairing, servicing, or installing
 6 locks and locking devices, whether the locks and locking devices are:

7 (A) Incorporated into real property;

8 (B) Incorporated into tangible personal property; or

9 (C) Locks separate and apart from other property.

10 (2) "Locksmith services" also includes unlocking locks or
 11 locking devices for another person.

12
 13 26-52-340. Management consultants.

14 (a) For purposes of this section:

15 (1) "Management consultant" means any person, firm, partnership,
 16 corporation, limited liability company, or other entity who provides
 17 management consulting services;

18 (2) "Management consulting" means furnishing advice and
 19 assistance to businesses and other organizations on management issues, such
 20 as strategic and organizational planning; financial planning and budgeting;
 21 marketing objectives and policies; human resource policies, practices and
 22 planning; production scheduling; and control planning;

23 (3) "Employer" means those who have a right to exercise control
 24 as to how, when, and where services are to be performed; and

25 (4) "Services" means all acts or work rendered, furnished, or
 26 performed for a valuable consideration by any person engaged in management
 27 consulting for a consumer or client other than an employer.

28 (b) All fees and compensation collected by any management consultant
 29 for services performed are subject to the gross receipts tax levied by the
 30 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

31
 32 26-52-341. Massage therapists.

33 The excise tax levied by Arkansas Gross Receipts Act of 1941, as
 34 amended, § 26-52-101 et seq. is levied on all services performed by massage
 35 therapists licensed or required to be licensed under § 17-86-102 et seq.

1 26-52-342. Meeting rooms.

2 The gross receipts or gross proceeds from the rental of meeting rooms
 3 for meetings, conferences, conventions, social functions, and other events
 4 are subject to the Arkansas gross receipts tax levied by the Arkansas Gross
 5 Receipts Act of 1941, as amended, § 26-52-101 et seq.

6
 7 26-52-343. Moving and storage.

8 (a)(1) The gross receipts or gross proceeds from mini-storage are
 9 subject to the Arkansas gross receipts tax levied by the Arkansas Gross
 10 Receipts Act of 1941, as amended, § 26-52-101 et seq.

11 (2)(A) "Mini-storage" means a commercial operation that provides
 12 individual storage units of various sizes to persons for the purpose of
 13 storing tangible personal property.

14 (B) "Mini-storage" includes a secured area where vehicles,
 15 boats, recreational vehicles, camping trailers, and other types of tangible
 16 personal property are stored.

17 (b) The gross receipts or gross proceeds from docking or storage
 18 spaces for boats in boat docks or marinas are subject to the Arkansas gross
 19 receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended,
 20 § 26-52-101 et seq.

21 (c) The gross receipts or gross proceeds derived from the service of
 22 moving, storing, and packing tangible personal property belonging to other
 23 persons are subject to the Arkansas gross receipts tax levied by the Arkansas
 24 Gross Receipts Tax Act of 1941, as amended, § 26-52-101 et seq.

25
 26 26-52-344. Personal instruction services.

27 (a) The gross receipts or gross proceeds derived from personal
 28 instruction services are subject to the Arkansas gross receipts tax levied by
 29 the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

30 (b) "Personal instruction services" includes teaching an individual or
 31 group of individuals:

32 (1) To play a musical instrument or to dance;

33 (2) To paint, sculpt, draw, make pottery or jewelry, or
 34 otherwise engage in artistic or creative activities;

35 (3) To mime, act, or otherwise engage in dramatic activities;

36 (4) Tae kwon do, tae bo, kung fu, karate, or other martial arts;

1 (5) To play or improve skills in baseball, football, basketball,
2 soccer, volleyball, golf, tennis, or other sports;

3 (6) To drive a motor vehicle;

4 (7) To fly an airplane, glider, or other aircraft; or

5 (8) To operate a boat, jet ski, or other watercraft.

6
7 26-52-345. Pest control.

8 (a) The gross receipts or gross proceeds derived from providing pest
9 control services are subject to the Arkansas Gross Receipts Act of 1941, as
10 amended, § 26-52-101 et seq.

11 (b) For purposes of this section, “pest control services” means those
12 services enumerated in § 17-37-102(13), without regard to whether the
13 services are performed by a person licensed by the State Plant Board.

14
15 26-52-346. Private investigators.

16 The gross receipts or gross proceeds derived from all services
17 performed or rendered by private investigators licensed or required to be
18 licensed under the Private Investigators and Private Security Agencies Act, §
19 17-40-101 et seq. are subject to the Arkansas Gross Receipts Act of 1941, as
20 amended, § 26-52-101 et seq.

21
22 26-52-347. Process servers.

23 The gross receipts or gross proceeds derived from all fees collected by
24 any person serving a summons, process, or order are subject to the Arkansas
25 Gross Receipts Act of 1941, as amended, § 26-52-101, et seq.

26
27 26-52-348. Real estate fees and commissions.

28 (a) The gross receipts tax levied by the Arkansas Gross Receipts Act
29 of 1941, as amended, § 26-52-101 et seq. is levied on the gross receipts or
30 gross proceeds derived from real estate broker services, real estate
31 settlement charges and closing fees, and real estate management services
32 related to the sale, lease, exchange, management of Arkansas real property,
33 whether the services are performed by a person licensed by the Arkansas Real
34 Estate Commission or otherwise.

35 (b) As used in this section:

36 (1) “Real estate broker services” means those activities listed

1 in § 17-42-103 for which a fee is paid; and

2 (2) "Real estate settlement charges and closing fees" includes
 3 all fees for services related to the sale of Arkansas real property,
 4 including abstract fees, appraisal fees, title search fees, closing fees, but
 5 not including title insurance premiums.

6
 7 26-52-349. Secretarial and word processing services.

8 (a) The gross receipts or gross proceeds derived from secretarial and
 9 word processing services are subject to the Arkansas gross receipts tax
 10 levied by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et
 11 seq.

12 (b) "Secretarial and word processing services" includes:

13 (1) Document preparation, printing, or copying;

14 (2) Preparation of documents for mailing or distribution; and

15 (3) Document filing or storage, including transfer of
 16 information to a hard drive, diskette, CD-Rom, or other electronic media.

17
 18 26-52-350. Security services and alarm monitoring.

19 (a) The gross receipts derived from the sale of all security services,
 20 security guard services, and alarm monitoring services are subject to the
 21 Arkansas gross receipts tax levied by the Arkansas Gross Receipts Act of
 22 1941, as amended, § 26-52-101 et seq.

23 (b) The security services or security guard services of off-duty
 24 police officers and off-duty firefighters are exempt from the tax levied by
 25 subsection (a) of this section.

26
 27 26-52-351. Surveying and mapping services.

28 (a) The gross receipts or gross proceeds derived from surveying and
 29 mapping services are subject to the Arkansas gross receipts tax levied by the
 30 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

31 (b) "Surveying and mapping services" includes the:

32 (1) Determination of the location of:

33 (A) Land boundaries and land boundary corners; or

34 (B) Boundaries of archeological sites;

35 (2) Preparation of plats or maps showing the shape and areas of
 36 tracts of land and their subdivisions into smaller tracts;

1 (3) The preparation of plats or maps showing the location of
 2 streets, roads, and the right-of-way of tracts to give access to smaller
 3 tracts; or

4 (4) Preparation of any other plats or maps concerning land.

5
 6 26-52-352. Travel services.

7 The gross receipts or gross proceeds derived from all services rendered
 8 in making travel arrangements by travel agencies or other reservation
 9 services are subject to the Arkansas gross receipts tax levied by the
 10 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

11
 12 26-52-353. Tourism.

13 (a) The gross receipts or gross proceeds derived from camping fees,
 14 fees charged for excursion tours, and fees charged for hunting and fishing
 15 guide services are subject to the Arkansas Gross Receipts Act of 1941, as
 16 amended, § 26-52-101 et seq.

17 (b) For purposes of this section:

18 (1) "Camping fees" means fees for furnishing camping spaces or
 19 trailer spaces at public or privately-owned campgrounds, except for federal
 20 campgrounds, on less than a month-to-month basis; and

21 (2) "Excursion tours" means river boat and lake boat cruises and
 22 excursions, local sightseeing and excursion tours, helicopter tours, and
 23 excursion railroads.

24
 25 26-52-354. Veterinary services.

26 The gross receipts or gross proceeds derived from all services
 27 performed or rendered by veterinarians licensed or required to be licensed
 28 under the Arkansas Veterinary Medical Practice Act, § 17-101-101, et seq.
 29 are subject to the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-
 30 101 et seq.

31
 32 26-52-355. Water well construction services.

33 (a) All fees and compensation collected by any water well driller or
 34 water well contractor for services performed in Arkansas are subject to the
 35 gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, as
 36 amended, § 26-52-101 et seq.

1 **(b) "Water well driller" means any person who engages for compensation**
 2 **in well construction.**

3 **(c) "Water well contractor" means any person who engages in the**
 4 **business of well construction or pump installation or repair, exclusive of**
 5 **surveying or other acts preparatory to the construction of a water well.**

7 SECTION 2. Arkansas Code § 26-52-301(2), establishing an excise tax on
 8 property and services, is amended to read as follows:

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

14 **(B) Any other utility or public service except**
 15 **transportation services;**

17 SECTION 3. Arkansas Code § 26-52-301(3)(C)(i), concerning sales tax on
 18 various services and which is effective until contingency in Acts 2003, No.
 19 1273, § 88 is met, is amended to read as follows:

20 **(3)(C)(i) Service of initial installation, inspection,**
 21 **alteration, addition, cleaning, refinishing, replacement, and repair of motor**
 22 **vehicles, aircraft, farm machinery and implements, motors of all kinds, tires**
 23 **and batteries, boats, electrical appliances and devices, furniture, rugs,**
 24 **upholstery, household appliances, televisions and radios, jewelry, watches**
 25 **and clocks, engineering instruments, medical and surgical instruments,**
 26 **machinery of all kinds, bicycles, office machines and equipment, shoes, tin**
 27 **and sheetmetal, mechanical tools, guns, and shop equipment.**

29 SECTION 4. Arkansas Code § 26-52-301(3)(C)(i), concerning sales tax on
 30 various services and which is effective when contingency in Acts 2003, No.
 31 1273, § 88 is met, is amended to read as follows:

32 **(3)(C)(i) Service of initial installation, inspection,**
 33 **alteration, addition, cleaning, refinishing, replacement, and repair of motor**
 34 **vehicles, aircraft, farm machinery and implements, motors of all kinds, tires**
 35 **and batteries, boats, electrical appliances and devices, furniture, rugs,**
 36 **upholstery, household appliances, televisions and radios, jewelry, watches**

1 and clocks, engineering instruments, medical and surgical instruments,
2 machinery of all kinds, bicycles, office machines and equipment, shoes, tin
3 and sheetmetal, mechanical tools, guns, and shop equipment.

4
5 SECTION 5. Arkansas Code § 26-52-301(3)(C)(viii), pertaining to gross
6 receipts tax on services and which is effective until contingency in Acts
7 2003, No. 1273, § 88 is met, is amended to read as follows:

8 (viii)(a) ~~Additionally, the~~ The gross receipts tax levied
9 in this section shall ~~not~~ apply to the alteration, addition, cleaning,
10 refinishing, replacement, or repair of nonmechanical, passive, or manually
11 operated components of buildings or other improvements or structures affixed
12 to real estate, including, but not limited to, the following:

- 13 (1) Walls;
- 14 (2) Floors;
- 15 (3) Ceilings;
- 16 (4) Doors;
- 17 (5) Locks;
- 18 (6) Windows;
- 19 (7) Glass;
- 20 (8) Heat and air ducts;
- 21 (9) Roofs;
- 22 (10) Wiring;
- 23 (11) Breakers;
- 24 (12) Breaker boxes;
- 25 (13) Electrical switches and receptacles;
- 26 (14) Light fixtures;
- 27 (15) Pipes;
- 28 (16) Plumbing fixtures;
- 29 (17) Fire and security alarms;
- 30 (18) Intercoms;
- 31 (19) Sprinkler systems;
- 32 (20) Parking lots;
- 33 (21) Fences;
- 34 (22) Gates;
- 35 (23) Fireplaces; and
- 36 (24) Similar components which become a part of

1 real estate after installation.

2 (b) Contractors are deemed to be consumers or users
3 of all tangible personal property used or consumed by them in providing
4 contracting services. ~~such nontaxable services, in the same manner as when~~
5 ~~performing any other contract.~~

6 (c) Subdivision (3)(C)(viii) of this section shall
7 not apply to any services subject to tax pursuant to the terms of subdivision
8 (3)(E) of this section.

9 (d) The gross receipts tax levied in this section
10 shall apply to all labor charges incurred by a contractor or subcontractor in
11 performance of a contract, including new construction of a building, either
12 residential or commercial.

13
14 SECTION 6. Arkansas Code § 26-52-301(3)(C)(viii), pertaining to gross
15 receipts tax on services and which is effective when contingency in Acts
16 2003, No. 1273, § 88 is met, is amended to read as follows:

17 (viii)(a) ~~Additionally, the~~ The gross receipts tax
18 levied in this section shall not apply to the alteration, addition, cleaning,
19 refinishing, replacement, or repair of nonmechanical, passive, or manually
20 operated components of buildings or other improvements or structures affixed
21 to real estate, including, but not limited to, the following:

- 22 (1) Walls;
- 23 (2) Floors;
- 24 (3) Ceilings;
- 25 (4) Doors;
- 26 (5) Locks;
- 27 (6) Windows;
- 28 (7) Glass;
- 29 (8) Heat and air ducts;
- 30 (9) Roofs;
- 31 (10) Wiring;
- 32 (11) Breakers;
- 33 (12) Breaker boxes;
- 34 (13) Electrical switches and
- 35 receptacles;
- 36 (14) Light fixtures;

- 1 (15) Pipes;
- 2 (16) Plumbing fixtures;
- 3 (17) Fire and security alarms;
- 4 (18) Intercoms;
- 5 (19) Sprinkler systems;
- 6 (20) Parking lots;
- 7 (21) Fences;
- 8 (22) Gates;
- 9 (23) Fireplaces; and
- 10 (24) Similar components which become a
- 11 part of real estate after installation.

12 (b) Contractors are deemed to be consumers or
 13 users of all tangible personal property used or consumed by them in providing
 14 contracting services. ~~such nontaxable services, in the same manner as when~~
 15 ~~performing any other contract.~~

16 (c) Subdivision (3)(C)(viii) of this section
 17 shall not apply to any services subject to tax pursuant to the terms of
 18 subdivision (3)(E) of this section.

19 (d) The gross receipts tax levied in this section
 20 shall apply to all labor charges incurred by a contractor or subcontractor in
 21 performance of a contract, including new construction of a building, either
 22 residential or commercial.

23
 24 SECTION 7. Arkansas Code § 26-52-301(3)(D), pertaining to the sales
 25 tax exclusion for services purchased by radio or television companies and
 26 which is effective until contingency in Acts 2003, No. 1273, § 88 is met,, is
 27 amended to read as follows:

28 (D)~~(i)~~ Service of cable television, community antenna
 29 television, and any and all other distribution of television, video, or radio
 30 services with or without the use of wires provided to subscribers or paying
 31 customers or users, including all service charges and rental charges, whether
 32 for basic service, premium channels, or other special service, and including
 33 installation and repair service charges and any other charges having any
 34 connection with the providing of the said services; and

35 ~~(ii) The tax levied by this section does not apply to services~~
 36 ~~purchased by radio or television companies for use in providing their~~

1 ~~services; and~~

2

3 SECTION 8. Arkansas Code § 26-52-301(3)(D), pertaining to the sales
4 tax exclusion for services purchased by radio or television companies and
5 which is effective when contingency in Acts 2003, No. 1273, § 88 is met, is
6 amended to read as follows:

7 (D)~~(i)~~ Service of cable television, community antenna
8 television, and any and all other distribution of television, video, or radio
9 services with or without the use of wires provided to subscribers or paying
10 customers or users, including all service charges and rental charges, whether
11 for basic service, premium channels, or other special service, and including
12 installation and repair service charges and any other charges having any
13 connection with the providing of the said services; and

14 ~~(ii) The tax levied by this section does not apply~~
15 ~~to services purchased by radio or television companies for use in providing~~
16 ~~their services; and~~

17

18 SECTION 9. Arkansas Code § 26-52-301(3)(E), pertaining to gross
19 receipts tax on services and which is effective until contingency in Acts
20 2003, No. 1273, § 88 is met, is amended to read as follows:

21 (E)(i) Service of providing transportation or delivery of
22 money, property, or valuables by armored car; service of providing cleaning
23 or janitorial work, including cleaning the outside of a building and its
24 grounds; pet grooming and pet boarding or kennel services; taxidermy
25 services; service of providing wrecker and towing services; service of
26 boarding or training horses; service of pool cleaning and servicing; pager
27 services; telephone answering services; lawn care and landscaping services;
28 service of parking a motor vehicle or allowing the motor vehicle to be
29 parked; service of storing a motor vehicle; service of storing furs; service
30 of providing indoor tanning at a tanning salon.

31 ~~(ii) [Repealed].~~

32 ~~(iii)~~(ii) For purposes of this section:

33 (a) "Landscaping" means: the installation,
34 preservation, or enhancement of ground covering by planting trees, bushes and
35 shrubbery, grass, flowers, and other types of decorative plants; and

36 (1) The activity of arranging or modifying

1 areas of land and natural scenery for an improved or aesthetic effect;

2 (2) The addition, removal, or arrangement of
3 natural forms, features, and plantings; and

4 (3) The addition, removal, or modification of
5 retaining walls, ponds, sprinkler systems, or other landscape construction
6 services;

7 (b) "Lawn care" means:

8 (1) the The maintenance, preservation,
9 pruning, cutting, trimming, or enhancement of ground covering of
10 nonresidential property, including shrubs, trees, grass, flowers, bushes, and
11 other decorative plants, and does not include planting trees, bushes and
12 shrubbery, grass, flowers, and other types of decorative plants; and

13 (2) Trimming of trees on residential and
14 nonresidential property; and

15 (c) "Residential" means a single family residence
16 used solely as the principal place of residence of the owner;

17
18 SECTION 10. Arkansas Code § 26-52-301(3)(E), pertaining to gross
19 receipts tax on services and which is effective when contingency in Acts
20 2003, No. 1273, § 88 is met, is amended to read as follows:

21 (E)(i) Service of providing transportation or delivery of
22 money, property, or valuables by armored car; service of providing cleaning
23 or janitorial work, including cleaning the outside of a building and its
24 grounds; pet grooming and pet boarding or kennel services; taxidermy
25 services; service of providing wrecker and towing services; service of
26 boarding or training horses; service of pool cleaning and servicing; pager
27 services; telephone answering services; lawn care and landscaping services;
28 service of parking a motor vehicle or allowing the motor vehicle to be
29 parked; service of storing a motor vehicle; service of storing furs; service
30 of providing indoor tanning at a tanning salon.

31 ~~(ii) [Repealed].~~

32 ~~(iii)~~(ii) For purposes of this section:

33 (a) "Landscaping" means: ~~the installation,~~
34 ~~preservation, or enhancement of ground covering by planting trees, bushes and~~
35 ~~shrubbery, grass, flowers, and other types of decorative plants; and~~

36 (1) The activity of arranging or

1 modifying areas of land and natural scenery for an improved or aesthetic
2 effect;

3 (2) The addition, removal, or
4 arrangement of natural forms, features, and plantings; and

5 (3) The addition, removal, or
6 modification of retaining walls, ponds, sprinkler systems, or other
7 landscape construction services;

8 (b) "Lawn care" means:

9 (1) the The maintenance, preservation,
10 pruning, cutting, trimming, or enhancement of ground covering of
11 nonresidential property, including shrubs, trees, grass, flowers, bushes, and
12 other decorative plants, and does not include planting trees, bushes and
13 shrubbery, grass, flowers, and other types of decorative plants.

14 (2) Trimming of trees on residential and
15 nonresidential property; and

16 (c) "Residential" means a single family
17 residence used solely as the principal place of residence of the owner;

18

19 SECTION 11. Arkansas Code § 26-52-301(6), concerning gross receipts
20 subject to gross receipts tax and which is effective until contingency in
21 Acts 2003, No. 1273, § 88 is met, is amended to read as follows:

22 (6)(A) ~~Dues and membership fees to~~ Dues or fees for joining,
23 membership, or initiation in:

24 (i) Health spas, health clubs, and fitness clubs;
25 ~~and~~

26 (ii) Private clubs within the meaning of § 3-9-
27 202(10) which hold any permit from the Alcoholic Beverage Control Board
28 allowing the sale, dispensing, or serving of alcoholic beverages of any kind
29 on the premises; and

30 (iii)(a) Private clubs that do not hold a permit
31 from the Alcoholic Beverage Control Board.

32 (b) "Private club" includes a country club,
33 golf club, city club, yacht club, dinner club, social club, theater club, or
34 dance club if the club:

35 (1) Restricts access to facilities,
36 amenities, or activities to members or guests of members;

1 (2) Is organized for social, pleasure,
2 or recreational purposes; or

3 (3) Provides facilities for member
4 activities.

5 (c) Semiprivate athletic or recreational clubs
6 that do not hold a permit from the Alcoholic Beverage Control Board, if the
7 club:

8 (1) Permits public, nonmember access to
9 facilities for a fee;

10 (2) Offers club memberships; or

11 (3) Provides facilities for member
12 activities.

13 (B)(i) Except as provided in subdivision (B)(ii) of this
14 section, the gross receipts derived from services provided by or through a
15 health spa, health club, fitness club, or private club shall not be subject
16 to gross receipts tax unless the service is specifically enumerated as a
17 taxable service under this chapter.

18 (ii) The gross receipts derived by a private club
19 from the charges to members for the preparation and serving of mixed drinks
20 or for the cooling and serving of beer and wine shall be subject to gross
21 receipts tax as well as any supplemental taxes as provided by law.

22
23 SECTION 12. Arkansas Code § 26-52-301(6), concerning gross receipts
24 subject to gross receipts tax and which is effective when contingency in Acts
25 2003, No. 1273, § 88 is met, is amended to read as follows:

26 (6)(A) ~~Dues and membership fees to~~ Dues or fees for joining,
27 membership, or initiation in:

28 (i) Health spas, health clubs, and fitness clubs;
29 ~~and~~

30 (ii) Private clubs within the meaning of § 3-9-
31 202(10) which hold any permit from the Alcoholic Beverage Control Board
32 allowing the sale, dispensing, or serving of alcoholic beverages of any kind
33 on the premises; and

34 (iii)(a) Private clubs that do not hold a permit
35 from the Alcoholic Beverage Control Board.

36 (b) "Private club" includes a country club,

1 golf club, city club, yacht club, dinner club, social club, theater club, or
2 dance club if the club:

3 (1) Restricts access to facilities,
4 amenities, or activities to members or guests of members;

5 (2) Is organized for social, pleasure,
6 or recreational purposes; or

7 (3) Provides facilities for member
8 activities.

9 (c) Semiprivate athletic or recreational clubs
10 that do not hold a permit from the Alcoholic Beverage Control Board, if the
11 club:

12 (1) Permits public, nonmember access to
13 facilities for a fee;

14 (2) Offers club memberships; or

15 (3) Provides facilities for member
16 activities.

17 (B)(i) Except as provided in subdivision (B)(ii) of this
18 section, the gross receipts derived from services provided by or through a
19 health spa, health club, fitness club, or private club shall not be subject
20 to gross receipts tax unless the service is specifically enumerated as a
21 taxable service under this chapter.

22 (ii) The gross receipts derived by a private club
23 from the charges to members for the preparation and serving of mixed drinks
24 or for the cooling and serving of beer and wine shall be subject to gross
25 receipts tax as well as any supplemental taxes as provided by law.

26

27 SECTION 13. Arkansas Code § 26-52-304(a), pertaining to computer
28 software and services, is amended to read as follows:

29 (a) The excise tax levied by the Arkansas Gross Receipts Act of 1941,
30 as amended, § 26-52-101, et seq., ~~and by any act supplemental thereto,~~ is
31 levied on gross receipts or gross proceeds received from the following:

32 (1) Sales of computer software or licenses to use software,
33 ~~which shall be taxed as sales of tangible personal property whether or not~~
34 the software or license is delivered in a tangible or intangible manner.

35 Software shall include ~~tapes, disks, cards, or other devices or materials~~
36 ~~which contain~~ instructions for a computer and dictate different operations or

1 functions to be performed by the computer;

2 (2) Service of repairing or maintaining computer equipment or
 3 hardware in any form; and

4 (3) Service of programming, writing, creating, producing,
 5 designing, modifying, installing, implementing, or maintaining computer
 6 software or processing of data.

7
 8 SECTION 14. Arkansas Code § 26-52-401(4), providing a sales tax
 9 exemption for the sale of newspapers, is repealed.

10 ~~(4) Gross receipts or gross proceeds derived from the sale of~~
 11 ~~newspapers;~~

12
 13 SECTION 15. Arkansas Code § 26-52-401(13) and (14), providing a sales
 14 tax exemption for advertising space and publications sold through
 15 subscription, are repealed.

16 ~~(13) Gross proceeds derived from sales of advertising space in~~
 17 ~~newspapers and publications and billboard advertising services;~~

18 ~~(14) Gross receipts or gross proceeds derived from sales of~~
 19 ~~publications sold through regular subscription, regardless of the type or~~
 20 ~~content of the publication or the place printed or published;~~

21
 22 SECTION 16. Arkansas Code § 26-53-109(a), pertaining to use tax, is
 23 amended to read as follows:

24 (a) The excise tax levied by the Arkansas Compensating Tax Act, § 26-
 25 53-101 et seq., and by any act supplemental thereto, is levied on the
 26 privilege of storing, using, distributing, or consuming within this state any
 27 computer software or license to use software which shall be treated as a use,
 28 storage, distribution, or consumption of tangible personal property for
 29 purposes of tax, whether the software or license is delivered in a tangible
 30 or intangible manner. Computer software shall include ~~tapes, disks, cards,~~
 31 ~~or other devices or materials which contain~~ instructions for a computer and
 32 dictate different operations or functions to be performed by the computer.
 33

34 SECTION 17. Arkansas Code § 26-57-1203(9), concerning definitions
 35 related to vending devices, is amended to read as follows:

36 (9) "Operator" means the person who (as owner, lessee, bailee or

1 otherwise) is responsible for removing money from the vending device and who
 2 is the person ~~who would otherwise be~~ responsible for reporting and paying the
 3 applicable gross receipts (sales) taxes on sales made through the vending
 4 device.

5

6 SECTION 18. Arkansas Code § 26-57-1204(a) is amended to read as
 7 follows:

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

18

19 SECTION 19. Arkansas Code § 26-57-1204(b) is amended to read as
 20 follows:

21 (b) The operator of vending devices, ~~who makes the election to pay the~~
 22 ~~decal fees provided by this subchapter,~~ shall be responsible for applying to
 23 the Director of the Department of Finance and Administration for the issuance
 24 of an annual or special vending device decal for such vending device and
 25 shall, at the same time, pay to the Director of the Department of Finance and
 26 Administration the annual or special vending device decal fee provided for by
 27 this subchapter, before such vending device is made available for use and
 28 operation by the general public.

29

30 SECTION 20. Arkansas Code § 26-57-1204(d) is amended to read as
 31 follows:

32 (d)(1) The annual or special vending device decals, and the
 33 application provided for herein, shall be in such form as prescribed by the
 34 Director of the Department of Finance and Administration. These decals and
 35 applications shall contain on their faces such information and descriptions
 36 as shall be required by regulations adopted by the Director of the Department

1 of Finance and Administration to properly and reasonably implement the
2 provisions of this subchapter.

3 (2) Any number of vending devices may be included in one (1)
4 application, but all vending devices operated by the applying operator must
5 be made subject to this ~~alternative~~ decal fee. ~~Such operator may not choose~~
6 ~~to have part of his or her vending devices covered by the decal fee provided~~
7 ~~by this subchapter, while other vending devices operated by the same operator~~
8 ~~during the decal registration year would be subject to the general or special~~
9 ~~sales taxes that would be otherwise applicable to the sale of tangible~~
10 ~~personal property from such vending devices.~~

11

12 SECTION 21. Arkansas Code § 26-57-1206 is amended to read as follows:

13 26-57-1206. Annual decal fee - Special decal - ~~In lieu of sales tax,~~
14 ~~{Effective January 1, 1998.}~~

15 (a)(1) Every person who is the operator of a vending device, ~~who~~
16 ~~elects to have the operation of such vending device covered by the provisions~~
17 ~~of this subchapter,~~ and who makes available to the general public for use and
18 operation vending devices described in this subchapter, shall pay to the
19 Director of the Department of Finance and Administration (for the benefit of
20 the state and its municipalities and counties) the following annual vending
21 device decal fee for each vending device before such vending device may be
22 placed in service within the state for use by members of the public:

23 (A) For each coin-operated vending device requiring a coin
24 or thing of value of twenty-five cents (25¢) or more for a sale, seventy
25 dollars (\$70.00);

26 (B) For each coin-operated vending device requiring a coin
27 or thing of value of less than twenty-five cents (25¢) for a sale, fifteen
28 dollars (\$15.00);

29 (C) For each coin-operated bulk vending device requiring a
30 coin or thing of value of more than twenty-five cents (25¢) for a sale, seven
31 dollars and fifty cents (\$7.50);

32 (D) For each coin-operated bulk vending device requiring a
33 coin or thing of value of twenty-five cents (25¢) or less for a sale, two
34 dollars and fifty cents (\$2.50); and

35 (E) For each coin-operated manually powered vending
36 devices, coin-operated tabletop snack vending device, or other manually

1 powered coin-operated vending device requiring a coin or thing of value of
 2 twenty-five cents (25¢) or more for a sale, thirty dollars (\$30.00).

3 (2) The annual vending device decal issued by the Director of
 4 the Department of Finance and Administration, after payment of the
 5 appropriate annual vending device decal fee, shall bear on its face the year
 6 of its issue, and such annual decal must be affixed to each vending device in
 7 a place that is clearly visible to the user of such device before each such
 8 vending device may be placed for public use or operation in this state by the
 9 operator.

10 (3) Such annual vending device decal shall not be transferred
 11 from one (1) vending device to another, unless the person who is the operator
 12 of such vending device shall establish to the satisfaction of the Director of
 13 the Department of Finance and Administration that the vending device to which
 14 the annual vending device decal is to be transferred is a vending device that
 15 is replacing the vending device to which such annual decal was originally
 16 affixed.

17 (b) In those instances where it is shown to the satisfaction of the
 18 Director of the Department of Finance and Administration that a vending
 19 device upon which an annual vending device decal fee is otherwise due will be
 20 placed in service for use by members of the general public for a definite,
 21 but limited, period of time that is less than one (1) year, such as where the
 22 vending device shall be placed for public use in connection with fairs,
 23 carnivals, and places of amusement that operate only during certain seasons
 24 of the year, the Director of the Department of Finance and Administration
 25 shall issue a special vending device decal and collect a special vending
 26 device decal fee for such vending devices as hereinafter computed:

27 (1) Such special decal may be issued for any number of thirty-
 28 day periods, less than a full year, and such special decal shall indicate on
 29 its face that it is a special decal, not an annual decal, and such special
 30 decal shall be for one (1) or more thirty-day periods, but such special decal
 31 state on its face the precise dates for which it has been issued and such
 32 special decal shall not be transferred from one (1) vending device to
 33 another.

34 (2) The special vending device decal fee shall be computed and
 35 paid by the person who is the operator of such vending device on the basis of
 36 one-fifth (1/5) of the annual vending device decal fee charged by this

1 subchapter for the type of vending device operated, for each thirty-day
 2 period for which such special decal is ~~issue~~ issued.

3 (3) In the event the vending device is made available to the
 4 public for a period beyond that for which the special decal is issued, then a
 5 full year's fee and penalty, as set out in § 26-57-1206, shall be due on such
 6 vending device from the person who is the operator of such vending device.

7 (c)(1) The annual or special vending device decal fees required to be
 8 paid by subsections (a) and (b) of this section shall be paid by the person
 9 who is the operator of such vending device in ~~lieu of the~~ in addition to the
 10 requirement that such person collect and remit ~~-(1)~~ the state and local gross
 11 receipts (sales) taxes levied pursuant to the provisions of the Arkansas
 12 Gross Receipts Act of 1941, as amended, § 26-52-101 et. seq., or any
 13 provision of Chapters 74 and 75 of Title 26, or any other provision of this
 14 Code which provides for the levy of a local sales tax; ~~or (2) the special~~
 15 ~~sales taxes levied pursuant to the provisions the Vending Devices Sales Tax~~
 16 ~~Act of 1995, § 26-57-1001, et seq.~~

17 (2) Where gross receipts or gross proceeds are received by a
 18 person who is the operator of a vending device from the sale of any item of
 19 tangible personal property, through the vending device, where the annual or
 20 special vending device decal fee has been paid and such decal is affixed to
 21 the vending device, then it is the intent of the General Assembly that such
 22 gross proceeds or gross receipts shall ~~not~~ be subject to ~~any~~ the state or
 23 local gross receipts (sales) taxes imposed in this state.

24 (d) Any sales made by the operator of a coin-operated vending device
 25 that is made without the use of a vending device, e.g., office coffee
 26 service, manual hot foods lines, catering events, etc., shall be subject to
 27 the state and local gross (sales) taxes levied pursuant to the provisions of
 28 the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101, et seq, or
 29 any provision of Chapters 74 and 75 of Title 26, or any other provision of
 30 the Code that provides for the levy of a local sales tax.

31 ~~(e) For all vending devices that the operator does not elect to have~~
 32 ~~covered by the decal fee provided by this section, the operator of that~~
 33 ~~vending device shall acquire from the Director of the Department of Finance~~
 34 ~~and Administration an identifying decal that the operator shall affix to the~~
 35 ~~vending device in a prominent place so as to establish to the consuming~~
 36 ~~public that such vending device is not covered by the provisions of this~~

1 ~~subchapter. The Director of the Department of Finance and Administration~~
2 ~~shall establish, by reasonable regulations, the amount to be charged for such~~
3 ~~identifying decal, which amount shall not exceed the cost of producing such~~
4 ~~decals.~~

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

9
10 SECTION 22. Arkansas Code § 26-57-1208(a), concerning the distribution
11 of vending decal fees, is amended to read as follows:

12 (a)(1) It is hereby declared to be the purpose of this subchapter to
13 provide revenues for general governmental functions of the state, and its
14 counties and municipalities, ~~in lieu of the state and local gross receipts~~
15 ~~(sales) taxes or vending devices sales taxes that would otherwise be due and~~
16 ~~owing from the person who is the operator of such vending devices. For that~~
17 ~~purpose and to that end, it is expressly provided that the.~~

18 (2) The revenue derived by the Director of the Department of
19 Finance and Administration from the sale of annual or special vending device
20 decal fees, including penalties, shall be deposited by the director into the
21 State Treasury and credited as follows.

22
23 SECTION 23. Arkansas Code § 26-57-1217 is repealed.

24 ~~26-57-1217. Purpose. [Effective January 1, 1998.]~~
25 ~~The purpose for the enactment of this "Vending Devices Decal Act of~~
26 ~~1997" is to provide a simplified method for the operators of such vending~~
27 ~~devices to be able to pay their proportionate amount of state and local~~
28 ~~taxes, without being required to maintain complex financial records that~~
29 ~~would otherwise be required of such operators (who are in the unique position~~
30 ~~among retailers in this state of not being able to pass the cost of sales~~
31 ~~taxes directly on to their customers), and to assure that the State of~~
32 ~~Arkansas and its cities and counties collect their fair share of taxes from~~
33 ~~what is almost entirely a cash business.~~

34
35 SECTION 24. EMERGENCY CLAUSE. It is found and determined by the
36 General Assembly of the State of Arkansas that as a result of the Arkansas

1 Supreme Court decision, Lakeview Sch. Dist. No. 25 v. Huckabee, 351 Ark. 31,
2 91 S.W.3d 472 (2002), additional revenue is necessary for the improvement of
3 public schools, to provide all Arkansas children an adequate education, and
4 to equalize funding for schools and teachers; that without additional
5 revenue, the state will be unable to fulfill its constitutional duty to
6 provide an adequate and equitable education to Arkansas children; and that
7 this act is immediately necessary as it will provide needed revenue for the
8 support and improvement of public schools. Therefore, an emergency is
9 declared to exist and this act being necessary for the preservation of the
10 public peace, health, and safety shall become effective on the first day of
11 the second calendar month following the effective date of this act.

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