

1 State of Arkansas  
2 84th General Assembly  
3 Second Extraordinary Session, 2003  
4  
5 By: Representatives Verkamp, *Stovall*  
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*As Engrossed: H12/17/03*  
**A Bill**

Call Item 6

HOUSE BILL 1046

**For An Act To Be Entitled**

9 AN ACT TO AMEND ARKANSAS CODE § 26-53-106 TO  
10 ELIMINATE THE REQUIREMENT THAT PROPERTY “COME TO  
11 REST” IN THE STATE OR “BECOME COMMINGLED” WITH  
12 PROPERTY IN THE STATE IN ORDER TO BE SUBJECT TO  
13 USE TAX; AND FOR OTHER PURPOSES.  
14

**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 [Effective until contingency in Acts, 2003, No. 1273, §§ 88 is met.]

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

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



1 ~~this state.~~

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

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

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

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

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25       SECTION 2. 26-53-106. Imposition and rate of tax generally -  
26 Presumptions. [Effective when contingency in Acts 2003, No. 1273, § 88 is  
27 met.]

28       Arkansas Code §26-53-106 is amended to read as follows:

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

35       ~~(b) This tax will not apply with respect to the storage, use,~~  
36 ~~distribution, or consumption of any article of tangible personal property~~

1 ~~purchased, produced, or manufactured outside this state until the~~  
2 ~~transportation of the article has finally come to rest within this state or~~  
3 ~~until the article has become commingled with the general mass of property of~~  
4 ~~this state.~~

5 (e) This tax shall apply to use, storage, distribution, or consumption  
6 of every article of tangible personal property or taxable service except as  
7 provided in this subchapter irrespective of whether the article or similar  
8 articles are manufactured within the State of Arkansas or are available for  
9 purchase within the State of Arkansas and irrespective of any other  
10 condition.

11 ~~(d)(1)(A)~~ (c)(1)(A) For the purpose of the proper administration of  
12 this subchapter and to prevent evasion of the tax and the duty to collect the  
13 tax imposed in this section, it shall be presumed that tangible personal  
14 property or taxable services sold by any vendor for delivery in this state or  
15 transportation to this state are sold for storage, use, distribution, or  
16 consumption in this state unless the vendor selling the tangible personal  
17 property or taxable service has taken from the purchaser a resale certificate  
18 signed by and bearing the name, address, and sales tax permit number of the  
19 purchaser certifying that the property or taxable service was purchased for  
20 resale except that sales made electronically will not require the purchaser's  
21 signature.

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

26 (2) It is further presumed that tangible personal property or taxable  
27 services shipped, mailed, expressed, transported, or brought to this state by  
28 the purchaser were purchased from a vendor for storage, use, distribution, or  
29 consumption in this state.

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31 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
32 General Assembly of the State of Arkansas that as a result of the Arkansas  
33 Supreme Court decision, Lake View School Dist. No. 25 v. Huckabee, 351 Ark.  
34 31, 91 S.W.3d 472 (2002), additional revenue is necessary for the improvement  
35 of public schools, to provide all Arkansas children an adequate education,  
36 and to equalize funding for schools and teachers; that without additional

1 revenue, the state will be unable to fulfill its constitutional duty to  
2 provide an adequate and equitable education to Arkansas children; and that  
3 this act is immediately necessary as it will provide needed revenue for the  
4 support and improvement of public schools. Therefore, an emergency is  
5 declared to exist and this act being immediately necessary for the  
6 preservation of the public peace, health, and safety shall become effective  
7 on the first day of the second calendar month following the effective date of  
8 this act.

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10 */s/ Verkamp, et al*  
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