

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

Call Item 6

A Bill

SENATE BILL 59

5 By: Senators T. Smith, Baker
6
7

For An Act To Be Entitled

9 AN ACT TO INCREASE THE STATE SALES AND USE TAX
10 RATE BY ONE PERCENT (1%) FOR THE BENEFIT OF THE
11 PUBLIC SCHOOL FUND; TO REDUCE THE STATE SALES TAX
12 ON FOOD TO ZERO PERCENT (0%); AND FOR OTHER
13 PURPOSES.
14

Subtitle

16 AN ACT TO INCREASE THE STATE SALES AND
17 USE TAX BY ONE PERCENT (1%) FOR THE
18 BENEFIT OF THE PUBLIC SCHOOL FUND AND TO
19 REDUCE THE STATE SALES TAX ON FOOD TO
20 ZERO PERCENT (0%).
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 26-52-302, pertaining to additional gross
26 receipts tax, is amended to add a new subsection to read as follows:

27 (d)(1) There is levied an additional excise tax of one percent (1%)
28 upon all taxable sales of property and services subject to the tax levied by
29 the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

30 (2) The tax shall be collected, reported, and paid in the same
31 manner and at the same time as is prescribed by the Arkansas Gross Receipts
32 Act of 1941, as amended, § 26-52-101 et seq., for the collection, reporting,
33 and payment of Arkansas gross receipts taxes.

34 (3) All tax, penalty, and interest collected under this
35 subsection (d) shall be special revenues and shall be deposited in the State
36 Treasury to the credit of the Public School Fund.



1
2 SECTION 2. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended
3 to add a new section as follows:

4 26-52-316. Food and food ingredients.

5 (a) As used in this section:

6 (1) "Dietary supplement" means any product, other than tobacco,
7 intended to supplement the diet that:

8 (A) Contains one (1) or more of the following dietary
9 ingredients:

10 (i) A vitamin;

11 (ii) A mineral;

12 (iii) An herb or other botanical;

13 (iv) An amino acid;

14 (v) A dietary substance for use by humans to
15 supplement the diet by increasing the total dietary intake; and

16 (vi) A concentrate, metabolite, constituent,
17 extract, or combination of any ingredient described in this subdivision

18 (a)(1)(A);

19 (B) Is intended for ingestion in tablet, capsule, powder,
20 softgel, gelcap, or liquid form, or if not intended for ingestion in such a
21 form, is not represented as conventional food and is not represented for use
22 as a sole item of a meal or of the diet; and

23 (C) Is required to be labeled as a dietary supplement,
24 identifiable by the "Supplemental Facts" box found on the label and as
25 required pursuant to 21 C.F.R § 101.36;

26 (2)(A) "Food and food ingredients" means:

27 (i) Substances, whether in liquid, concentrated,
28 solid, frozen, dried, or dehydrated form, that are sold for ingestion or
29 chewing by humans and are consumed for their taste or nutritional value;
30 and

31 (ii) Bakery items, including bread, rolls, buns,
32 biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies,
33 tarts, muffins, bars, cookies, or tortillas.

34 (B) "Food and food ingredients" does not include alcoholic
35 beverages, dietary supplements, prepared foods, food sold through vending
36 machines, or tobacco;

1 (3) "Food sold through vending machines" means food dispensed
2 from a machine or other mechanical device that accepts payment;

3 (4)(A) "Prepared food" means:

4 (i) Food sold in a heated state or heated by the
5 seller;

6 (ii) Two (2) or more food ingredients mixed or
7 combined by the seller for sale as a single item; or

8 (iii)(a) Food sold with eating utensils provided by
9 the seller, including plates, knives, forks, spoons, glasses, cups, napkins,
10 or straws.

11 (b) A plate does not include a container or
12 packaging used to transport the food.

13 (B) "Prepared food" does not include:

14 (i) Food that is only cut, repackaged, or
15 pasteurized by the seller; and

16 (ii) Eggs, fish, meat, poultry, and foods containing
17 these raw animal foods requiring cooking by the consumer as recommended by
18 the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code
19 so as to prevent food-borne illnesses;

20 (5) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco,
21 or any other item that contains tobacco.

22 (b) The gross receipts taxes levied under §§ 26-52-301 and 26-52-302
23 upon the gross receipts or gross proceeds derived from the sale of food and
24 food ingredients shall be levied at the rate of zero percent (0%).

25 (c) The gross receipts or gross proceeds derived from the sale of food
26 and food ingredients shall continue to be subject to all municipal and county
27 gross receipts taxes.

28
29 SECTION 3. Arkansas Code § 26-53-107, pertaining to additional use
30 taxes and which is effective until contingency in Acts 2003, No. 1273, § 88
31 is met, is amended to add a new subsection to read as follows:

32 (d)(1) There is levied an additional excise tax of one percent (1%)
33 upon all tangible personal property subject to the tax levied by the Arkansas
34 Compensating Tax Act of 1949, as amended, § 26-53-101 et seq.

35 (2) The tax shall be collected, reported, and paid in the same
36 manner and at the same time as is prescribed by the Arkansas Compensating Tax

1 Act of 1949, as amended, § 26-53-101 et seq., for the collection, reporting,
 2 and payment of Arkansas compensating taxes.

3 (3) All tax, penalty, and interest collected under this
 4 subsection (d) shall be special revenues and shall be deposited in the State
 5 Treasury to the credit of the Public School Fund.

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 7 SECTION 4. Arkansas Code § 26-53-107, pertaining to additional use
 8 taxes and which is effective when contingency in Acts 2003, No. 1273, § 88 is
 9 met, is amended to add a new subsection to read as follows:

10 (d)(1) There is levied an additional excise tax of one percent (1%)
 11 upon all tangible personal property and taxable services subject to the tax
 12 levied by the Arkansas Compensating Tax Act of 1949, as amended, § 26-53-101
 13 et seq.

14 (2) The tax shall be collected, reported, and paid in the same
 15 manner and at the same time as is prescribed by the Arkansas Compensating Tax
 16 Act of 1949, as amended, § 26-53-101 et seq., for the collection, reporting,
 17 and payment of Arkansas compensating taxes.

18 (3) All tax, penalty, and interest collected under this
 19 subsection (d) shall be special revenues and shall be deposited in the State
 20 Treasury to the credit of the Public School Fund.

21
 22 SECTION 5. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended
 23 to add a new section to read as follows:

24 26-53-145. Food and food ingredients.

25 (a) The compensating taxes levied under §§ 26-53-106 and 26-53-107
 26 shall be levied at the rate of zero percent (0%) on the sales price of food
 27 and food ingredients.

28 (b) All municipal and county use taxes shall continue to apply to the
 29 sales price of food and food ingredients.

30 (c) "Food and food ingredients" has the same meaning as provided in
 31 § 26-52-316(a).

32
 33 SECTION 6. Arkansas Code § 26-52-311(b)(1), concerning rental vehicle
 34 tax, is amended to read as follows:

35 (b)(1) In addition to the rate in subsection (c) of this section, the
 36 rental vehicle tax shall be levied at the ~~same rate as the combined gross~~

1 ~~receipts taxes levied by §§ 26-52-301 and 26-52-302 and any act supplemental~~
 2 ~~thereto~~ rate of five percent (5%) and the rate of any applicable municipal or
 3 county taxes.

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 5 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the
 6 General Assembly of the State of Arkansas that as a result of the Arkansas
 7 Supreme Court decision, Lake View Sch. Dist. No. 25 v. Huckabee, 351 Ark. 31,
 8 91 S.W.3d 472 (2002), additional revenue is necessary for the improvement of
 9 public schools, to provide all Arkansas children an adequate education, and
 10 to equalize funding for schools and teachers; that without additional
 11 revenue, the state will be unable to fulfill its constitutional duty to
 12 provide an adequate and equitable education to Arkansas children; and that
 13 this act is immediately necessary as it will provide needed revenue for the
 14 support and improvement of public schools. Therefore, an emergency is
 15 declared to exist and this act being necessary for the preservation of the
 16 public peace, health, and safety shall become effective on the first day of
 17 the second calendar month following the effective date of this act.