

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/19/15

A Bill

HOUSE BILL 1156

5 By: Representative Blake
6

For An Act To Be Entitled

8 AN ACT TO IMPOSE A TAX ON E-CIGARETTES; TO CREATE THE
9 E-CIGARETTES TAX ACT; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO IMPOSE A TAX ON E-CIGARETTES; AND TO
12 CREATE THE E-CIGARETTES TAX ACT.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code Title 26, Chapter 57, is amended to add an
20 additional subchapter to read as follows:

21 Subchapter 15 – E-cigarette Excise Tax Act
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23 26-57-1501. Title.

24 This subchapter shall be known as the “E-cigarette Excise Tax Act”.
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26 26-57-1502. Definitions.

27 As used in this subchapter:

28 (1) “Consumable product” means a liquid product that:

29 (A) May or may not contain nicotine;

30 (B) Is vaporized and inhaled when using a vapor product;

31 and

32 (C) Includes without limitation propylene glycol,
33 vegetable glycerin, nicotine from any source, and flavorings; and

34 (2)(A) “E-cigarette” means an electronic oral device of any size
35 or shape that provides a vapor of nicotine, e-liquid, or any other substance
36 that, when used or inhaled, simulates smoking, regardless of whether a



1 visible vapor is produced, including without limitation a device that:

2 (i) Is composed of a:

3 (a) Heating element;

4 (b) Battery;

5 (c) Electronic circuit;

6 (d) Chemical process;

7 (e) Mechanical device; or

8 (f) Combination of a heating element, battery,
9 electronic circuit, chemical process, or mechanical device;

10 (ii) Works in combination with a cartridge,
11 consumable product, other container or liquid delivery device containing
12 nicotine, or any other substance that is manufactured for use with vapor
13 products; and

14 (iii) Is manufactured, distributed, marketed, or
15 sold as any type or derivation of a vapor product, e-cigar, e-pipe, e-
16 cigarette, or any other product name or descriptor.

17 (B) "E-cigarette" does not include a product regulated as
18 a drug or device by the United States Food and Drug Administration under
19 Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 351 et
20 seq.

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22 26-57-1503. Administration.

23 This subchapter shall be administered in accordance with the Arkansas
24 Tax Procedure Act, § 26-18-101 et seq., unless otherwise provided.

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26 26-57-1504. Levy of tax.

27 There is levied an excise tax on e-cigarettes sold in this state in the
28 amount of seven and one-half cents (7 1/2¢) per fluid milliliter (ml) of
29 consumable product sold.

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31 26-57-1505. Collection and reporting of taxes.

32 (a) The excise tax levied under this subchapter shall be paid by:

33 (1) The distributor, wholesaler, or manufacturer when the
34 consumable product is sold; or

35 (2) The retailer if the retailer purchases a consumable product
36 from an unlicensed distributor, wholesaler, or manufacturer.

1 (b) The distributor, wholesaler, manufacturer, or retailer shall file
2 a monthly return and remit the excise tax for the month to the Director of
3 the Department of Finance and Administration on or before the fifteenth day
4 of the month next following the month in which the sale or purchase was made.

5 (c)(1) A return filed under this section shall be made on the forms
6 prescribed and furnished by the director and signed by the person required to
7 collect and remit the excise tax or the person's agent.

8 (2) The return shall contain the information required by the
9 director for the proper administration of this subchapter.

10 (d)(1) An Arkansas consumer who purchases an untaxed consumable
11 product is liable for reporting and remitting the excise due on the
12 consumable product under this subchapter.

13 (2) The excise tax due under this subchapter shall be reported
14 on or before the fifteenth day of the month following the month in which the
15 untaxed purchase of the consumable product was made.

16 (3) The report shall:

17 (A) Be submitted on the form prescribed by the director;

18 and

19 (B) Contain the information required by the director.

20 (4) When a report is filed under this subsection, the consumer
21 shall remit the full amount of the excise tax due on the untaxed purchase of
22 the consumable product to the director.

23 (e) The director may directly assess the excise tax due under this
24 subchapter on any untaxed consumable product against a consumer who purchases
25 the untaxed consumable product and does not report and remit the excise tax
26 due under this subchapter in a timely manner.

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28 26-57-1506. Invoices.

29 (a) The excise tax levied under this subchapter shall be separately
30 stated and identified on each invoice or statement as the "E-cigarette Excise
31 Tax".

32 (b) Each invoice shall state the amount of consumable product sold in
33 fluid milliliters (ml).

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35 26-57-1507. E-cigarette excise tax permit.

36 (a) A distributor, wholesaler, or manufacturer of e-cigarettes or

1 consumable products, whether located within or without the State of Arkansas,
2 that sells or offers e-cigarettes or consumable products for sale to retail
3 dealers within the state shall register with the Director of the Department
4 of Finance and Administration to obtain an e-cigarette excise tax permit for
5 the privilege of conducting such business within the State of Arkansas.

6 (b) A retailer that purchases e-cigarettes or consumable products from
7 an unlicensed manufacturer, wholesaler, or distributor shall register with
8 the director to obtain an e-cigarette excise tax permit for the privilege of
9 conducting such business from the director.

10 (c) A person required to obtain an e-cigarette excise tax permit under
11 this subchapter shall obtain an e-cigarette excise tax permit for each place
12 of business owned or operated by the person.

13 (d) The e-cigarette excise tax permit shall be conspicuously displayed
14 at the place of business for which it was issued.

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16 26-57-1508. Disposition of revenues.

17 The revenues derived from the excise tax collected under this
18 subchapter shall be remitted to the Director of the Department of Finance and
19 Administration, who shall deposit the revenues into the State Treasury to be
20 distributed as follows:

21 (1) Thirty percent (30%) shall be credited to the Child Care and
22 Early Childhood Education Fund Account of the Department of Human Services
23 Fund;

24 (2) Thirty percent (30%) shall be credited to the Miscellaneous
25 Agencies Fund Account to be used exclusively for the benefit of Arkansas
26 Tobacco Control, and any funds distributed under this subdivision (2) shall
27 carry forward to the next fiscal year to be used for the purposes stated in
28 this subdivision (2);

29 (3) Twenty percent (20%) shall be credited to the Department of
30 Veterans Affairs' cash fund deposited into the State Treasury; and

31 (4) Twenty percent (20%) shall be general revenues and shall be
32 credited to the State Apportionment Fund.

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34 26-57-1509. Rules.

35 The Director of the Department of Finance and Administration may
36 promulgate rules to implement this subchapter.

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SECTION 2. Arkansas Code § 19-5-306(7)(B), concerning the funds that make up the Aging and Adult Services Fund Account of the Department of Human Services Fund, is amended to add an additional subdivision to read as follows:

(vi) The revenues specified under § 26-57-1508;

SECTION 3. Arkansas Code § 19-5-306(12)(B), concerning the funds that make up the Child Care and Early Childhood Education Fund Account of the Department of Human Services Fund, is amended to add an additional subdivision to read as follows:

(iv) The revenues specified under § 26-57-1508.

SECTION 4. EFFECTIVE DATE. Sections 1 through 3 of this act are effective on the first day of the second calendar month following the effective date of this act.

/s/Blake