

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1005

5 By: Representative A. Davis
6 By: Senator Irvin
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE TAXATION OF CANDY AND SOFT
10 DRINKS; TO CLARIFY THE APPLICATION OF THE SALES AND
11 USE TAX TO CANDY AND SOFT DRINKS; AND FOR OTHER
12 PURPOSES.
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Subtitle

15 TO CLARIFY THE APPLICATION OF THE SALES
16 AND USE TAX TO CANDY AND SOFT DRINKS.
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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 52, Subchapter 3, is
23 amended to add an additional section to read as follows:

24 26-52-323. Application of tax to candy and soft drinks.

25 The Director of the Department of Finance and Administration shall
26 either:

27 (1)(A) Publish a list of the Universal Product Codes for items
28 that meet the definition of:

29 (i) A candy under § 26-52-103(3) or § 26-53-102(3);

30 or

31 (ii) A soft drink under § 26-52-103(28) or § 26-53-
32 102(22).

33 (B) The list published by the director under subdivision
34 (1)(A) of this section shall provide guidance to retailers, sellers, and
35 vendors regarding which items are defined as a candy or a soft drink but not
36 defined as food and food ingredients under the Arkansas Gross Receipts Act of



1 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, §
 2 26-53-101 et seq.

3 (C) The list published by the director under subdivision
 4 (1)(A) of this section is exempt from the Arkansas Administrative Procedure
 5 Act, § 25-15-201 et seq.; or

6 (2) Not subject a retailer, seller, or vendor to the penalties
 7 under § 26-18-201, § 26-18-202, § 26-18-208, § 26-18-209, § 26-52-512, or §
 8 26-53-125 if the retailer, seller, or vendor:

9 (A) Collects and remits tax payments to the Department of
 10 Finance and Administration on the gross receipts and gross proceeds derived
 11 from the sale of items that meet the definition of:

12 (i) A candy under § 26-52-103(3) or § 26-53-102(3)
 13 at the taxable rate for food and food ingredients under § 26-52-317 or § 26-
 14 53-145; or

15 (ii) A soft drink under § 26-52-103(28) or § 26-53-
 16 102(22) at the taxable rate for food and food ingredients under § 26-52-317
 17 or § 26-53-145; and

18 (B) Demonstrates a good faith effort to collect and remit
 19 tax payments to the department on the gross receipts and gross proceeds
 20 derived from the sale of items that meet the definition of:

21 (i) A candy under § 26-52-103(3) or § 26-53-102(3)
 22 at the taxable rate under § 26-52-301, § 26-52-302, § 26-53-106, or § 26-53-
 23 107; or

24 (ii) A soft drink under § 26-52-103(28) or § 26-53-
 25 102(22) at the taxable rate under § 26-52-301, § 26-52-302, § 26-53-106, or §
 26 26-53-107.

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 29 **APPROVED: 2/18/19**
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