

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

# A Bill

HOUSE BILL 1442

5 By: Representative A. Davis  
6 By: Senator J. Dismang  
7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE FUNDING FOR A NATIONAL CANCER  
10 INSTITUTE-DESIGNATED CANCER CENTER IN THE STATE  
11 THROUGH CHANGES IN THE LAWS RELATING TO THE SALE AND  
12 TAXATION OF CERTAIN PRODUCTS; TO REGULATE THE SALE  
13 AND TAXATION OF TOBACCO PRODUCTS, CIGARETTE PAPER, E-  
14 CIGARETTES, AND MEDICAL MARIJUANA; TO AMEND THE  
15 UNFAIR CIGARETTE SALES ACT; TO AMEND THE ARKANSAS  
16 TOBACCO PRODUCTS TAX ACT OF 1977; TO CREATE AN  
17 ADDITIONAL TAX ON CIGARETTE PAPER; TO CREATE A TAX ON  
18 E-CIGARETTES; TO INCREASE THE SPECIAL PRIVILEGE TAX  
19 ON MEDICAL MARIJUANA; TO DEDICATE THE ADDITIONAL TAX  
20 REVENUE TO THE UNIVERSITY OF ARKANSAS FOR MEDICAL  
21 SCIENCES NATIONAL CANCER INSTITUTE DESIGNATION TRUST  
22 FUND TO ASSIST THE UNIVERSITY OF ARKANSAS FOR MEDICAL  
23 SCIENCES IN OBTAINING STATUS AS A NATIONAL CANCER  
24 INSTITUTE-DESIGNATED CANCER CENTER; AND FOR OTHER  
25 PURPOSES.  
26  
27

## Subtitle

29 TO PROVIDE FUNDING FOR A NATIONAL CANCER  
30 INSTITUTE-DESIGNATED CANCER CENTER IN THE  
31 STATE THROUGH CHANGES IN THE LAWS  
32 RELATING TO THE SALE AND TAXATION OF  
33 TOBACCO PRODUCTS, CIGARETTE PAPER, E-  
34 CIGARETTES, AND MEDICAL MARIJUANA.  
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1 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

2  
3 SECTION 1. Arkansas Code § 4-75-702(4)(B), concerning the definition  
4 of "cost to retailer" used under the Unfair Cigarette Sales Act, is amended  
5 to read as follows:

6 (B) In the absence of the filing with the Arkansas Tobacco  
7 Control Board of proof satisfactory to the board of a lesser or higher cost  
8 of doing business by the retailer making the sale, the cost of doing business  
9 by the retailer shall be presumed to be ~~seven and one-half percent (7½%)~~ nine  
10 and five-tenths percent (9.5%) of the basic cost of cigarettes to the  
11 retailer.

12  
13 SECTION 2. Arkansas Code § 19-6-301, concerning the enumeration of  
14 special revenues, is amended to add additional subdivisions to read as  
15 follows:

16 (263) The e-liquid excise tax collected under § 26-57-1603; and

17 (264) The additional tax on cigarette paper collected under §  
18 26-57-808.

19  
20 SECTION 3. Arkansas Code § 26-57-259(a), concerning nonpreemption  
21 under the Arkansas Tobacco Products Tax Act of 1977, is amended to read as  
22 follows:

23 (a)(1) This ~~aet~~ subchapter and the rules and other actions of the  
24 Arkansas Tobacco Control Board shall not be construed or interpreted so as to  
25 preempt or in any other manner qualify or limit the enactment and enforcement  
26 of any federal, or state, ~~county, municipal, or other local~~ regulation of the  
27 manufacture, sale, storage, or distribution of tobacco products that is more  
28 restrictive than this ~~aet~~ subchapter or the rules and regulations promulgated  
29 by the board.

30 (2)(A) This subchapter and the rules and other actions of the  
31 board shall preempt the enactment and enforcement of any county, municipal,  
32 or other local regulation of the manufacture, sale, storage, or distribution  
33 of tobacco products that is more restrictive than this subchapter or the  
34 rules promulgated by the board.

35 (B) A county, municipal, or other local regulation of the  
36 manufacture, sale, storage, or distribution of tobacco products that is more

1 restrictive than this subchapter or the rules promulgated by the board and  
2 that exists as of the effective date of this act is not preempted under this  
3 subdivision (a)(2).

4  
5 SECTION 4. Arkansas Code Title 26, Chapter 57, Subchapter 2, is  
6 amended to add an additional section to read as follows:

7 26-57-268. Modified risk tobacco products – Reduced rate of taxation.

8 Notwithstanding any other provision of the law to the contrary, a tax  
9 imposed under this chapter shall be reduced by the following amounts:

10 (1) Fifty percent (50%) for a product for which a modified risk  
11 tobacco product order has been issued by the United States Secretary of  
12 Health and Human Services under 21 U.S.C. § 387k(g)(1), as it existed on  
13 January 1, 2019; and

14 (2) Twenty-five percent (25%) for a product for which a modified  
15 risk tobacco product order has been issued by the United States Secretary of  
16 Health and Human Services under 21 U.S.C. § 387k(g)(2), as it existed on  
17 January 1, 2019.

18  
19 SECTION 5. Arkansas Code Title 26, Chapter 57, Subchapter 8, is  
20 amended to add an additional section to read as follows:

21 26-57-808. Additional tax on cigarette paper – Distribution of  
22 revenues.

23 (a) In addition to the excise tax levied under § 26-57-801, there is  
24 levied an additional tax of fifty cents (50¢) per package of approximately  
25 thirty-two (32) sheets of cigarette paper sold in the state.

26 (b) The additional tax levied under this section shall be imposed,  
27 reported, remitted, and administered in the same manner and at the same time  
28 as other taxes levied on cigarette paper under this subchapter and the  
29 Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq.

30 (c) The revenues collected under this section shall be special  
31 revenues and shall be credited to the University of Arkansas for Medical  
32 Sciences National Cancer Institute Designation Trust Fund.

33  
34 SECTION 6. Arkansas Code § 26-57-1504 is amended to read as follows:  
35 26-57-1504. Levy of tax.

36 A cultivation facility, dispensary, or other marijuana business shall

1 collect and remit a special privilege tax of ~~four percent (4%)~~ six percent  
 2 (6%) from the gross receipts or gross proceeds derived from each sale of  
 3 usable marijuana on forms and in a manner specified by the Director of the  
 4 Department of Finance and Administration.

5  
 6 SECTION 7. Arkansas Code Title 26, Chapter 57, Subchapter 15, is  
 7 amended to add an additional section to read as follows:

8 26-57-1508. Distribution of proceeds.

9 (a) The special privilege tax revenues received by the Department of  
 10 Finance and Administration from the sale of usable marijuana under Arkansas  
 11 Constitution, Amendment 98, shall be distributed as provided in Arkansas  
 12 Constitution, Amendment 98, § 17.

13 (b)(1) The Director of the Department of Finance and Administration  
 14 shall certify annually the amount of revenue transferred to the General  
 15 Revenue Fund Account of the State Apportionment Fund under Arkansas  
 16 Constitution, Amendment 98, § 17(c).

17 (2) The Treasurer of State, before making the percentage  
 18 distributions of general revenues as provided by law, shall deduct from the  
 19 General Revenue Fund Account of the State Apportionment Fund an amount equal  
 20 to the amount certified under subdivision (b)(1) of this section for transfer  
 21 to the University of Arkansas for Medical Sciences National Cancer Institute  
 22 Designation Trust Fund.

23  
 24 SECTION 8. Arkansas Code Title 26, Chapter 57, is amended to add an  
 25 additional subchapter to read as follows:

26 Subchapter 16 – E-Liquid Excise Tax Act

27  
 28 26-57-1601. Title.

29 This subchapter shall be known and may be cited as the "E-Liquid Excise  
 30 Tax Act".

31  
 32 26-57-1602. Definition.

33 As used in this subchapter, "e-liquid" means the same as defined in §  
 34 26-57-203.

35  
 36 26-57-1603. Excise tax.

1 There is levied an excise tax on e-liquid sold in this state in the  
2 amount of ten cents (10¢) per one milliliter (1 mL) of e-liquid sold.

3  
4 26-57-1604. Imposition, reporting, remittance, and administration of  
5 privilege tax.

6 Except as otherwise provided in this subchapter, the excise tax levied  
7 under § 26-57-1603 shall be imposed, reported, remitted, and administered in  
8 the same manner and at the same time as taxes on tobacco products under the  
9 Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq.

10  
11 26-57-1605. Invoices.

12 The excise tax levied under § 26-57-1603 shall be separately stated and  
13 identified on each invoice or statement as the "E-Liquid Excise Tax".

14  
15 26-57-1606. Distribution of revenues.

16 The revenues collected under this subchapter shall be special revenues  
17 and shall be credited to the University of Arkansas for Medical Sciences  
18 National Cancer Institute Designation Trust Fund.

19  
20 26-57-1607. Applicability.

21 The excise tax levied under § 26-57-1603 applies to inventory and  
22 stocks of e-liquid held by a wholesaler or retailer on and after the  
23 effective date of this subchapter.

24  
25 26-57-1608. Rules.

26 The Director of the Department of Finance and Administration, the  
27 Director of Arkansas Tobacco Control, and the Arkansas Tobacco Control Board  
28 shall adopt rules necessary to implement and allow for the enforcement of  
29 this subchapter.

30  
31 SECTION 9. DO NOT CODIFY. Rules.

32 (a) When adopting the initial rules required under this act, the  
33 Director of the Department of Finance and Administration, the Director of  
34 Arkansas Tobacco Control, and the Arkansas Tobacco Control Board shall file  
35 the final rules with the Secretary of State for adoption under § 25-15-  
36 204(f):

1           (1) On or before September 1, 2019; or

2           (2) If approval under § 10-3-309 has not occurred by September  
3 1, 2019, as soon as practicable after approval under § 10-3-309.

4           (b) The Director of the Department of Finance and Administration, the  
5 Director of Arkansas Tobacco Control, and the Arkansas Tobacco Control Board  
6 shall file the proposed rules with the Legislative Council under § 10-3-  
7 309(c) sufficiently in advance of September 1, 2019, so that the Legislative  
8 Council may consider the rules for approval before September 1, 2019.

9  
10           SECTION 10. EFFECTIVE DATE. Sections 2-8 of this act are effective on  
11 the first day of the second calendar month following the effective date of  
12 this act.