

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

A Bill

HOUSE BILL 1795

5 By: Representative Brown
6 By: Senator Irvin
7

For An Act To Be Entitled

9 AN ACT TO ALLOW FOR SALES AND USE TAX ON ALL-TERRAIN
10 VEHICLES TO BE PAID AT THE TIME OF THE REGISTRATION
11 OF THE ALL-TERRAIN VEHICLE; TO AMEND THE LAW
12 CONCERNING THE REGISTRATION REQUIREMENTS FOR ALL-
13 TERRAIN VEHICLES; TO INCLUDE ALL-TERRAIN VEHICLES IN
14 THE DEFINITION OF "MOTOR VEHICLE" FOR SALES AND USE
15 TAX PURPOSES; AND FOR OTHER PURPOSES.
16
17

Subtitle

18 TO ALLOW FOR SALES AND USE TAX ON ALL-
19 TERRAIN VEHICLES TO BE PAID AT THE TIME
20 OF THE REGISTRATION OF THE ALL-TERRAIN
21 VEHICLE; AND TO AMEND THE LAW CONCERNING
22 THE REGISTRATION REQUIREMENTS FOR ALL-
23 TERRAIN VEHICLES.
24
25
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. DO NOT CODIFY. Legislative findings.

30 The General Assembly finds that:

31 (1) Approximately twenty percent (20%) of all-terrain vehicles
32 purchased by Arkansans are purchased outside the state to avoid having to pay
33 sales tax on all-terrain vehicles at the time of purchase;

34 (2) Many of the all-terrain vehicles purchased out-of-state are
35 never registered in Arkansas and the current penalty for late registration
36 does not provide an incentive for the registration of the all-terrain



1 vehicle;

2 (3) Many purchasers of all-terrain vehicles improperly claim the
 3 sales tax exemption for new and used farm machinery and equipment authorized
 4 under § 26-52-403;

5 (4) All all-terrain vehicles, regardless of their intended use,
 6 are required to be registered under § 27-20-202;

7 (5) The theft of all-terrain vehicles is high in Arkansas and
 8 requiring the annual registration of all-terrain vehicles and proper
 9 placement of the required numbered license decal will assist in preventing
 10 all-terrain vehicle theft and determining ownership if recovered;

11 (6) The purchaser of an all-terrain vehicle should pay local and
 12 county sales and use tax on the first two thousand five hundred dollars
 13 (\$2,500) of the full purchase price of the all-terrain vehicle as is done for
 14 the purchase of a motor vehicle, aircraft, watercraft, modular home,
 15 manufactured home, mobile home, travel trailer, and utility trailer; and

16 (7) The all-terrain vehicle registration fee and the penalty for
 17 failure to register an all-terrain vehicle under § 27-20-202 have remained
 18 the same since established by Act 1983, No. 872 and need to be amended.

19
 20 SECTION 2. Arkansas Code § 26-52-103(20), concerning the definition of
 21 "motor vehicle" used under the Arkansas Gross Receipts Act of 1941, is
 22 amended to read as follows:

23 (20) "Motor vehicle" means a vehicle that is self-propelled and
 24 is required to be registered ~~for use on the highway~~ with the department;
 25

26 SECTION 3. Arkansas Code § 26-52-513 is amended to read as follows:

27 26-52-513. Sales of motor-driven ~~and all-terrain~~ vehicles - All-terrain
 28 vehicle report.

29 (a) When any person engaged in the business of selling motor vehicles,
 30 motorcycles, motor-driven cycles, ~~three-wheeled all-terrain vehicles~~ as
 31 defined in § 27-20-201, four-wheeled all-terrain vehicles, six-wheeled all-
 32 terrain vehicles, or motorized bicycles, sells any motorcycle or motor-driven
 33 cycle that is designed or manufactured exclusively for competition or off-
 34 road use, or sells any three-wheeled all-terrain vehicle, four-wheeled all-
 35 terrain vehicle, six-wheeled all-terrain vehicle, or motorized bicycle, the
 36 person shall collect and remit the taxes at the same time and in the same

1 manner as other gross receipts taxes collected by the person.

2 (b) However, ~~nothing in this section shall be construed so as to~~ this
 3 section does not affect the manner in which state and local taxes are
 4 collected on motorcycles and motor-driven cycles registered for use on the
 5 streets and highways of this state.

6 (c)(1) A person engaged in the business of selling all-terrain
 7 vehicles, as defined in § 27-20-201, shall submit a monthly report to the
 8 Department of Finance and Administration concerning each all-terrain vehicle
 9 sold by the person during the previous month.

10 (2) The report required under subdivision (c)(1) of this section
 11 shall:

12 (A) Include without limitation the following information
 13 for each all-terrain vehicle sold:

14 (i) The name of the purchaser of the all-terrain
 15 vehicle;

16 (ii) The brand, model, year, and vehicle
 17 identification number of the all-terrain vehicle; and

18 (iii) The sales price of the all-terrain vehicle;
 19 and

20 (B) Be submitted electronically by the twentieth day of
 21 each month.

22
 23 SECTION 4. Arkansas Code § 26-53-102(13), concerning the definition of
 24 "motor vehicle" used under the Arkansas Compensating Tax Act of 1949, is
 25 amended to read as follows:

26 (13) "Motor vehicle" means a vehicle that is self-propelled and
 27 is required to be registered for use ~~for use on the highway~~ with the
 28 department;

29
 30 SECTION 5. Arkansas Code § 26-74-220(a), concerning the maximum tax
 31 limitation for county sales and use taxes for capital improvements, is
 32 amended to read as follows:

33 (a)(1) Any county general sales or use tax levied pursuant to this
 34 subchapter shall be levied and collected only on the first two thousand five
 35 hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on
 36 the sale of a:

- 1 (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-
- 2 102;
- 3 (B) Aircraft;
- 4 (C) Watercraft;
- 5 (D) Modular home;
- 6 (E) Manufactured home; or
- 7 (F) Mobile home.

8 (2) A vendor shall be responsible for collecting and remitting
 9 the tax only on the first two thousand five hundred dollars (\$2,500) of gross
 10 receipts, gross proceeds, or sales price on the sale of a:

- 11 ~~(A) Motor vehicle;~~
- 12 ~~(B)~~(A) Aircraft;
- 13 ~~(C)~~(B) Watercraft;
- 14 ~~(D)~~(C) Modular home;
- 15 ~~(E)~~(D) Manufactured home; or
- 16 ~~(F)~~(E) Mobile home.

17
 18 SECTION 6. Arkansas Code § 26-74-320(a), concerning the maximum tax
 19 limitation for county sales taxes for capital improvements, is amended to
 20 read as follows:

21 (a)(1) Any county general sales or use tax levied pursuant to this
 22 subchapter shall be levied and collected only on the first two thousand five
 23 hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on
 24 the sale of a:

- 25 (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-
- 26 102;
- 27 (B) Aircraft;
- 28 (C) Watercraft;
- 29 (D) Modular home;
- 30 (E) Manufactured home; or
- 31 (F) Mobile home.

32 (2) A vendor shall be responsible for collecting and remitting
 33 the tax only on the first two thousand five hundred dollars (\$2,500) of gross
 34 receipts, gross proceeds, or sales price on the sale of a:

- 35 ~~(A) Motor vehicle;~~
- 36 ~~(B)~~(A) Aircraft;

- 1 ~~(C)~~(B) Watercraft;
- 2 ~~(D)~~(C) Modular home;
- 3 ~~(E)~~(D) Manufactured home; or
- 4 ~~(F)~~(E) Mobile home.

5

6 SECTION 7. Arkansas Code § 26-74-412(a)(1), concerning the maximum tax
 7 limitation for county sales and use taxes for counties without an existing
 8 tax, is amended to read as follows:

9 (a)(1)(A) Any county general sales or use tax levied pursuant to this
 10 subchapter shall be levied and collected only on the first two thousand five
 11 hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on
 12 the sale of a:

- 13 (i) Motor vehicle, as defined in §§ 26-52-103 and
 14 26-53-102;
- 15 (ii) Aircraft;
- 16 (iii) Watercraft;
- 17 (iv) Modular home;
- 18 (v) Manufactured home; or
- 19 (vi) Mobile home.

20 (B) A vendor shall be responsible for collecting and
 21 remitting the tax only on the first two thousand five hundred dollars
 22 (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

- 23 ~~(i)~~ ~~Motor vehicle;~~
- 24 ~~(ii)~~(i) Aircraft;
- 25 ~~(iii)~~(ii) Watercraft;
- 26 ~~(iv)~~(iii) Modular home;
- 27 ~~(v)~~(iv) Manufactured home; or
- 28 ~~(vi)~~(v) Mobile home.

29

30 SECTION 8. Arkansas Code § 26-74-412(b)(1), concerning the maximum tax
 31 limitation for county sales and use taxes for counties without an existing
 32 tax, is amended to read as follows:

33 (b)(1) In the case of any taxpayer not subject to the levy of a use
 34 tax on tangible personal property or taxable services brought into the State
 35 of Arkansas for storage until such property is subsequently initially used in
 36 the State of Arkansas, a county use tax shall be computed on each purchase of

1 such property and services by the taxpayer as if all the property ~~was~~ were
 2 subject upon purchase to the county use tax up to the first two thousand five
 3 hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on
 4 the sale of a:

- 5 (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-
- 6 102;
- 7 (B) Aircraft;
- 8 (C) Watercraft;
- 9 (D) Modular home;
- 10 (E) Manufactured home; or
- 11 (F) Mobile home.

12
 13 SECTION 9. Arkansas Code § 26-74-612(a), concerning the maximum tax
 14 limitation for county sales and use taxes for capital improvements of a
 15 community college, is amended to read as follows:

16 (a)(1) Any county general sales or use tax levied pursuant to this
 17 subchapter shall be levied and collected only on the first two thousand five
 18 hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on
 19 the sale of a:

- 20 (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-
- 21 102;
- 22 (B) Aircraft;
- 23 (C) Watercraft;
- 24 (D) Modular home;
- 25 (E) Manufactured home; or
- 26 (F) Mobile home.

27 (2) A vendor shall be responsible for collecting and remitting
 28 the tax only on the first two thousand five hundred dollars (\$2,500) of gross
 29 receipts, gross proceeds, or sales price on the sale of a:

- 30 ~~(A) Motor vehicle;~~
- 31 ~~(B)~~(A) Aircraft;
- 32 ~~(C)~~(B) Watercraft;
- 33 ~~(D)~~(C) Modular home;
- 34 ~~(E)~~(D) Manufactured home; or
- 35 ~~(F)~~(E) Mobile home.

1 SECTION 10. Arkansas Code § 26-75-222(a), concerning the maximum tax
 2 limitation for municipal sales and use taxes for capital improvements, is
 3 amended to read as follows:

4 (a)(1) Any municipal general sales or use tax levied pursuant to this
 5 subchapter shall be levied and collected only on the first two thousand five
 6 hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price
 7 from the sale of a:

- 8 (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-
 9 102;
- 10 (B) Aircraft;
- 11 (C) Watercraft;
- 12 (D) Modular home;
- 13 (E) Manufactured home; or
- 14 (F) Mobile home.

15 (2) A vendor shall be responsible for collecting and remitting
 16 the tax only on the first two thousand five hundred dollars (\$2,500) of gross
 17 receipts, gross proceeds, or sales price from the sale of a:

- 18 ~~(A) Motor vehicle;~~
- 19 ~~(B)~~(A) Aircraft;
- 20 ~~(C)~~(B) Watercraft;
- 21 ~~(D)~~(C) Modular home;
- 22 ~~(E)~~(D) Manufactured home; or
- 23 ~~(F)~~(E) Mobile home.

24
 25 SECTION 11. Arkansas Code § 26-75-319(a), concerning the maximum tax
 26 limitation for municipal sales tax for capital improvements, is amended to
 27 read as follows:

28 (a)(1) Any municipal general sales or use tax levied pursuant to this
 29 subchapter shall be levied and collected only on the first two thousand five
 30 hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on
 31 the sale of a:

- 32 (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-
 33 102;
- 34 (B) Aircraft;
- 35 (C) Watercraft;
- 36 (D) Modular home;

- 1 (E) Manufactured home; or
- 2 (F) Mobile home.

3 (2) A vendor shall be responsible for collecting and remitting
 4 the tax only on the first two thousand five hundred dollars (\$2,500) of gross
 5 receipts, gross proceeds, or sales price on the sale of a:

- 6 ~~(A) Motor vehicle;~~
- 7 ~~(B)~~(A) Aircraft;
- 8 ~~(C)~~(B) Watercraft;
- 9 ~~(D)~~(C) Modular home;
- 10 ~~(E)~~(D) Manufactured home; or
- 11 ~~(F)~~(E) Mobile home.

12
 13 SECTION 12. Arkansas Code § 26-82-115(a), concerning the maximum tax
 14 limitation under the Local Sales and Use Tax Economic Development Project
 15 Funding Act, is amended to read as follows:

16 (a) A sales and use tax levied under this chapter shall be levied and
 17 collected only on the first two thousand five hundred dollars (\$2,500) of
 18 gross receipts, gross proceeds, or sales price on the sale of:

- 19 (1) Motor vehicles, as defined in §§ 26-52-103 and 26-53-102;
- 20 (2) Aircraft;
- 21 (3) Watercraft;
- 22 (4) Modular homes;
- 23 (5) Manufactured homes; or
- 24 (6) Mobile homes.

25
 26 SECTION 13. Arkansas Code § 26-82-115(b)(1)(B), concerning the maximum
 27 tax limitation under the Local Sales and Use Tax Economic Development Project
 28 Funding Act, is amended to read as follows:

29 (B) However, the use tax portion of the local sales and
 30 use tax authorized under this chapter shall be computed only on the first two
 31 thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or
 32 sales price on the sale of:

- 33 (i) Motor vehicles, as defined in §§ 26-52-103 and
 34 26-53-102;
- 35 (ii) Aircraft;
- 36 (iii) Watercraft;

- (iv) Modular homes;
- (v) Manufactured homes; or
- (vi) Mobile homes.

SECTION 14. Arkansas Code Title 27, Chapter 20, Subchapter 2, is amended to read as follows:

Subchapter 2

~~Three-Wheeled, Four-Wheeled, and Six-Wheeled All-Terrain Vehicles~~

27-20-201. Penalty Definition.

~~Any owner of a three-wheeled, four-wheeled, or six-wheeled all-terrain vehicle failing to register it within thirty (30) calendar days after the transfer date or the date of release of a lien by a prior lienholder, whichever is greater, shall be assessed an additional penalty of three dollars (\$3.00) for each ten-calendar-day period or fraction thereof for which he or she fails to properly register the vehicle until the penalty reaches the same amount as the registration fee of the cycle to be registered.~~

(a)(1) As used in this subchapter, "all-terrain vehicle" means a vehicle that:

- (A) Has three (3), four (4), or six (6) wheels;
- (B) Is seventy-five inches (75") or less in width;
- (C) Is equipped with nonhighway tires; and
- (D) Is designed primarily for off-road use.

(2) "All-terrain vehicle" includes a:

- (A) Multipurpose off-highway utility vehicle;
- (B) Recreational off-highway vehicle; and
- (C) Utility task vehicle.

(3) "All-terrain vehicle" does not include a golf cart, riding lawnmower, or lawn or garden tractor.

(b) An all-terrain vehicle meets the definition of a motor vehicle for the purpose of the sales tax imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

27-20-202. ~~Registration~~ Annual registration required ~~– Penalties.~~

(a) ~~All owners of three wheeled, four wheeled, or six wheeled all-terrain vehicles~~ An owner of an all-terrain vehicle ~~that are not otherwise required to be registered by law~~ shall register ~~them~~ the all-terrain vehicle with the Director of the Department of Finance and Administration within thirty (30) calendar days of acquiring ~~them~~ the all-terrain vehicle.

(b)(1) The ~~owners~~ owner shall offer proof of ownership satisfactory to the Department of Finance and Administration.

(2)(A)~~(i)~~ If the person seeking to register the all-terrain vehicle cannot offer satisfactory proof of ownership, the department may register ~~it~~ the all-terrain vehicle if the person seeking registration posts a bond equal to at least one and one-half (1½) times the market value of the all-terrain vehicle.

~~(ii)~~(B) The bond shall be a cash bond, a letter of credit, a surety bond issued by a fidelity or surety company authorized to do business in Arkansas, or a personal bond signed by at least two (2) property owners in this state.

~~(iii)~~(C) The bond shall be for a period of three (3) years and made payable to the department to be used by the department to pay any valid claim arising from the disputed ownership of the all-terrain vehicle.

~~(B)(i)~~ ~~If the three wheeled or four wheeled all-terrain vehicle was manufactured on or before December 31, 1992, then proof of ownership shall not be required to obtain registration, and a statement of ownership shall be accepted as proof of ownership.~~

~~(ii)~~ ~~The statement of ownership may be prepared by the person and shall contain the following information:~~

~~(a)~~ ~~The person's name;~~

~~(b)~~ ~~A description of the vehicle;~~

~~(c)~~ ~~A statement that the vehicle was manufactured on or before December 31, 1992;~~

~~(d)~~ ~~A statement of ownership; and~~

~~(e)~~ ~~The person's signature.~~

~~(iii)~~ ~~The provisions of subdivision (b)(2)(B) of this section shall not apply to six wheeled all-terrain vehicles.~~

(c) The annual cost of registration shall be ~~five dollars (\$5.00)~~ ten

1 dollars (\$10.00).

2 (d) An owner of an all-terrain vehicle who fails to register the all-
3 terrain vehicle within thirty (30) calendar days after the transfer date or
4 the date of release of a lien by a prior lienholder, whichever is later,
5 shall be assessed an additional penalty of five dollars (\$5.00) for each ten-
6 calendar-day period or fraction thereof for which he or she fails to properly
7 register the all-terrain vehicle until the penalty reaches seventy-five
8 dollars (\$75.00).

9
10 27-20-203. No equipment or inspection requirements.

11 There shall be no equipment requirement or safety inspection
12 requirement as a precondition to registration of ~~three wheeled, four wheeled,~~
13 ~~or six wheeled all-terrain vehicles~~ an all-terrain vehicle.

14
15 27-20-204. Taxes to be paid.

16 The tax imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-101
17 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.,
18 on the sale of ~~three wheeled, four wheeled, or six wheeled all-terrain~~
19 ~~vehicles~~ an all-terrain vehicle shall be ~~collected by the seller of the~~
20 ~~vehicle as required by § 26-52-513~~ paid to the Director of the Department of
21 Finance and Administration at the time of the registration of the all-terrain
22 vehicle as required under §§ 26-52-510 and 26-53-126.

23
24 27-20-205. Certificate of title.

25 (a) The Director of the Department of Finance and Administration shall
26 issue a certificate of title to the owner of ~~a three wheeled, four wheeled,~~
27 ~~or six wheeled~~ an all-terrain vehicle that has been registered with the
28 Department of Finance and Administration.

29 (b) The certificate shall identify the owner's name and address, the
30 vehicle manufacturer, model, year, identification number, seller, date of
31 sale, lienholder, and lienholder's address.

32
33 27-20-206. Numbered license decal.

34 The Director of the Department of Finance and Administration shall
35 furnish the ~~owners of three wheeled, four wheeled, or six wheeled all-terrain~~
36 ~~vehicles~~ owner of an all-terrain vehicle that ~~have~~ has been registered with

1 the Department of Finance and Administration a two inches by two inches
 2 (2x2") numbered license decal that shall be attached to the left front side
 3 of the all-terrain vehicle.

4
 5 ~~27-20-207. No renewal of registration.~~

6 ~~No renewal of registration of three wheeled, four wheeled, or six-~~
 7 ~~wheeled all-terrain vehicles shall be required.~~

8
 9 ~~27-20-208. Regulations~~ Rules.

10 The Director of the Department of Finance and Administration may
 11 promulgate such rules ~~and regulations~~ as necessary to implement this
 12 subchapter.

13
 14 SECTION 15. Arkansas Code § 27-21-102 is amended to read as follows:

15 27-21-102. Definitions.

16 As used in this chapter:

17 (1)(A) "All-terrain vehicle" means a vehicle that:

18 (i) Has three (3), four (4), or six (6) wheels;

19 (ii) Is ~~fifty inches (50")~~ seventy-five inches (75")

20 or less in width;

21 (iii) Is equipped with nonhighway tires; and

22 (iv) Is designed primarily for off-road ~~recreational~~

23 use; ~~and~~

24 ~~(v) Has an engine displacement of no more than one~~

25 ~~thousand cubic centimeters (1,000 cc).~~

26 (B) "All-terrain vehicle" includes a:

27 (i) Multipurpose off-highway utility vehicle;

28 (ii) recreational Recreational off-highway vehicle;

29 and

30 (iii) Utility task vehicle.

31 (C) "All-terrain vehicle" does not include a golf cart,
 32 riding lawnmower, or lawn or garden tractor;

33 ~~(2) "Nonhighway tire" means a pneumatic tire:~~

34 ~~(A) Six inches (6") or more in width;~~

35 ~~(B) Designed for use on a wheel with a rim diameter of~~

36 ~~fourteen inches (14") or less; and~~

1 ~~(C) That uses an operating pressure of twenty pounds per~~
 2 ~~square inch (20 psi) or less as recommended by the vehicle manufacturer;~~

3 ~~(3)(2) “Public streets and highways” means the part of the~~
 4 ~~street, road, or highway, including the improved road shoulder, that is open~~
 5 ~~to vehicular traffic and that is maintained by the state or by a political~~
 6 ~~subdivision of the State of Arkansas and includes any federal highways; and~~

7 ~~(4)(A) “Recreational off-highway vehicle” means a vehicle that:~~
 8 ~~(i) Has four (4) or six (6) wheels;~~
 9 ~~(ii) Is seventy five inches (75") or less in width;~~
 10 ~~(iii) Is equipped with nonhighway tires;~~
 11 ~~(iv) Is designed primarily for off-road recreational~~
 12 ~~use; and~~

13 ~~(v) Has an engine displacement of no more than one~~
 14 ~~thousand cubic centimeters (1,000 cc).~~

15 ~~(B) “Recreational off-highway vehicle” includes a:~~

- 16 ~~(i) Multipurpose off-highway utility vehicle; and~~
- 17 ~~(ii) Utility task vehicle.~~

18 ~~(C) “Recreational off-highway vehicle” does not include a~~
 19 ~~golf cart, riding lawnmower, or lawn or garden tractor.~~

20
 21
 22 SECTION 16. Arkansas Code § 27-21-103 is repealed.

23 ~~27-21-103. Construction.~~

24 ~~Nothing in this chapter shall be construed to require an all-terrain~~
 25 ~~vehicle to be registered as a motor vehicle, motorcycle, or motor-driven~~
 26 ~~cycle for operation on the public streets and highways.~~

27
 28 SECTION 17. EFFECTIVE DATE. Sections 1-16 of this act are effective
 29 on the first day of the calendar quarter following the effective date of this
 30 act.