

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 180 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H2/2/09

A Bill

HOUSE BILL 1204

5 By: Representatives Reep, Wills, Shelby, *Everett, Allen*, T. Baker, J. Brown, Carroll, Cheatham, Cook, J.
6 Edwards, Gaskill, R. Green, Harrelson, House, Hyde, Lindsey, Maloch, Maxwell, Moore, Pennartz,
7 Powers, Rainey, J. Roebuck, L. Smith, Tyler, Webb, Wells, *McCrary, Patterson, Blount, Pierce, Dunn,*
8 *Abernathy, Saunders*
9 By: Senators Steele, J. Jeffress
10
11

For An Act To Be Entitled

12
13 AN ACT TO INCREASE THE TAX ON CIGARETTES AND
14 *OTHER TOBACCO PRODUCTS; TO AUTHORIZE THE*
15 *DEPARTMENT OF FINANCE AND ADMINISTRATION TO PAY*
16 *THE COMMISSION TO THE STAMP DEPUTIES FOR CERTAIN*
17 *CIGARETTE TAXES; AND FOR OTHER PURPOSES.*
18

Subtitle

19
20 TO INCREASE THE TAX ON CIGARETTES AND
21 CERTAIN TOBACCO PRODUCTS AND TO
22 *AUTHORIZE THE DEPARTMENT OF FINANCE AND*
23 *ADMINISTRATION TO PAY THE COMMISSION TO*
24 *THE STAMP DEPUTIES FOR CERTAIN CIGARETTE*
25 *TAXES.*
26
27

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
29

30 *SECTION 1. Arkansas Code § 26-57-236(g) as amended by Acts 1997, No.*
31 *434, is amended to read as follows:*

32 *(g)(1) A commission shall be paid by the director to stamp deputies*
33 *for the sales and collection of cigarette tax stamps and for affixing the tax*
34 *stamps to each package of cigarettes.*

35 *(2) The commission shall not be less than ~~three and eight tenths~~*



1 ~~percent (3.8%)~~ three percent (3%) of the total aggregate cigarette tax
2 collected.

3
4 SECTION 2. Arkansas Code § 26-57-236(f) as amended by Acts 1997, No.
5 1337, is amended to read as follows:

6 (f) A commission shall be paid by the director to stamp deputies for
7 the sale of stamps for cigarettes and the collection of cigarette taxes. The
8 commission paid shall not be less than ~~three and eight tenths percent (3.8%)~~
9 three percent (3%) of the total aggregate cigarette tax collected.

10
11 SECTION 3. Arkansas Code § 26-57-804(e), concerning the additional tax
12 on tobacco products, is amended to read as follows:

13 (e) The Director of the Department of Finance and Administration shall
14 ~~not~~ pay the commission authorized by § 26-57-236(g) with respect to the tax
15 levied by this section.

16
17 SECTION 4. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended
18 to add an additional section to read as follows:

19 26-57-806. Additional tax on cigarettes.

20 (a) In addition to the excise or privilege taxes levied under §§ 26-
21 57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101, there is levied an
22 additional tax of twenty-eight dollars (\$28.00) per one thousand (1,000)
23 cigarettes sold in the state.

24 (b)(1)(A) Whenever there are two (2) adjoining cities each with a
25 population of five thousand (5,000) or more separated by a state line, the
26 tax on cigarettes sold in the adjoining Arkansas city shall be at the rate
27 imposed by law on cigarettes sold in the adjoining city outside Arkansas.

28 (B) The tax shall not exceed the tax upon cigarettes
29 imposed by Arkansas law.

30 (2)(A) The tax on cigarettes sold in Arkansas within three
31 hundred feet (300') of a state line in any Arkansas city that adjoins a state
32 line or in any city that is separated only by a navigable river from a city
33 that adjoins a state line shall be at the rate imposed by law on cigarettes
34 sold in the adjoining state.

35 (B) The tax shall not exceed the tax upon cigarettes
36 imposed by Arkansas law.

1 (3)(A) A wholesaler or retailer shall not sell cigarettes to a
2 retailer located outside a border zone described in subdivisions (b)(1) and
3 (2) of this section unless the full amount of tax levied by this section and
4 §§ 26-57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101 without regard
5 to any reduced border zone rate has been paid as evidenced by cigarette
6 stamps affixed to each container of cigarettes.

7 (B) A retailer located outside a border zone described in
8 subdivisions (b)(1) and (2) of this section shall not possess or offer for
9 sale cigarettes unless the full amount of tax levied by this section and §§
10 26-57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101 without regard to
11 any reduced border zone rate has been paid as evidenced by cigarette stamps
12 affixed to each container of cigarettes.

13 (C) A violation of this subdivision (b)(3) shall be
14 grounds for the suspension or revocation of a permit or license issued by the
15 Director of the Arkansas Tobacco Control Board.

16 (c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-
17 210 shall apply to this section.

18 (d) The additional tax levied under this section shall be imposed,
19 reported, remitted, and administered in the same manner and at the same time
20 as other taxes levied on cigarettes in the Arkansas Tobacco Products Tax Act
21 of 1977, § 26-57-201 et seq.

22 (e) The revenue derived from the additional tax imposed by this
23 section shall be credited to the General Revenue Fund Account of the State
24 Apportionment Fund, there to be distributed with the other gross general
25 revenue collections for that month in accordance with the Revenue
26 Stabilization Law, § 19-5-201 et seq.

27 (f) As provided in § 26-57-244, the director may make a direct
28 assessment of excise tax against any person in possession of unstamped
29 cigarettes.

30
31 SECTION 5. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended
32 to add an additional section to read as follows:

33 26-57-807. Additional tax on tobacco products other than cigarettes.

34 (a)(1) In addition to the excise or privilege taxes levied under §§
35 26-57-208, 26-57-803, 26-57-805 and 26-57-1102, there is levied an additional
36 tax on tobacco products other than cigarettes on the first sale to

1 wholesalers or retailers within the state at thirty-six percent (36%) of the
2 manufacturer's selling price.

3 (2) The tax shall be computed on the manufacturer's actual
4 invoice price before discounts and deals.

5 (b)(1) The tax levied by this section shall be reported and paid by
6 wholesalers licensed pursuant to § 26-57-214.

7 (2) However, retailers shall be liable for reporting and paying
8 this tax when a retailer purchases tobacco products directly from a
9 manufacturer or from a wholesaler or distributor not licensed under § 26-57-
10 214.

11 (c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-
12 210 shall apply to this section.

13 (d) The additional tax levied under this section shall be imposed,
14 reported, remitted, and administered in the same manner and at the same time
15 as other taxes levied on cigarettes in the Arkansas Tobacco Products Tax Act
16 of 1977, § 26-57-201 et seq.

17 (e) The revenue derived from the additional tax imposed by this
18 section shall be credited to the General Revenue Fund Account of the State
19 Apportionment Fund, there to be distributed with the other gross general
20 revenue collections for that month in accordance with the Revenue
21 Stabilization Law, § 19-5-201 et seq.

22 (f) As provided in § 26-57-244, the Director of the Department of
23 Finance and Administration may make a direct assessment of excise tax against
24 any person in possession of an untaxed tobacco product.

25
26 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
27 General Assembly of the State of Arkansas that existing funding levels are
28 inadequate to meet the medical care needs of the state. That without
29 immediately obtaining adequate funding levels for medical care the citizens
30 of this state will suffer irreparable harm to their health and well-being.
31 This bill shall immediately provide additional funding that is needed to make
32 the funding level adequate and humane. Therefore, an emergency is declared
33 to exist and this act being immediately necessary for the preservation of the
34 public peace, health, and safety shall become effective on March 1, 2009.

35
36 /s/ Reep

APPROVED: 2/17/2009