

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

ACT 1233 OF 1993
SENATE BILL 662

4 **By: Senators Gordon, Canada, and Hardin**

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For An Act To Be Entitled

8 *"AN ACT TO PROVIDE FOR THE ENFORCEMENT OF THE ASSESSMENT*
9 *OF AN ANNUAL VENDING DEVICE DECAL FEE ON CERTAIN VENDING*
10 *DEVICES OPERATED IN THE STATE OF ARKANSAS; TO PROVIDE FOR*
11 *SEIZURE, FORFEITURE, AND SALE OF SUCH VENDING DEVICES ON*
12 *WHICH THE REQUIRED VENDING DEVICE DECAL IS NOT AFFIXED;*
13 *AND FOR OTHER PURPOSES."*

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Subtitle

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17 *"THE FORFEITURE PROVISIONS FOR THE VENDING DEVICES DECAL*
18 *ACT."*

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 *"SECTION 1. If the General Assembly of the State of Arkansas shall*
23 *enact a Vending Devices Decal Act whereby the owners, lessors, renters, or*
24 *operators of coin-operated vending devices or coin-operated bulk vending*
25 *devices are required to purchase an Annual Vending Device Decal or a Special*
26 *Vending Device Decal in lieu of the requirement that such persons collect and*
27 *remit the state and local Gross Receipts (Sales) Taxes otherwise mandated by*
28 *Arkansas law, then the provisions of Section 2 of this Act shall be deemed to*
29 *be supplementary to such Vending Device Decal Act of 1993.*

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31 *SECTION 2. SEIZURE AND FORFEITURE OF VENDING DEVICES WITHOUT DECAL*
32 *AFFIXED. (a) Where any coin-operated vending device or coin-operated bulk*
33 *vending device is placed on location for retail sales to the members of the*
34 *general public in the State of Arkansas, or, after having been placed on*
35 *location in this state, such vending device is left on location without the*
36 *required vending device decal affixed thereon (as may otherwise be provided*

1 for by the laws of this state), the vending device (including all cash in the
2 receptacle thereof, if any) shall be considered forfeited to the State of
3 Arkansas because of the absence of the required vending device decal from such
4 vending device. Such vending device may be seized and sealed on site at its
5 location by the Director of the Department of Finance and Administration (or
6 his authorized agent) and such vending device shall not be removed from such
7 location by any person, until such vending device is released from seizure by
8 the Director of the Department of Finance and Administration (or his
9 authorized agent). Such vending device may be seized by any authorized agent
10 of the Director of the Department of Finance and Administration, or by any
11 sheriff, or other law enforcement officer of this state acting upon the
12 request, and at the direction of, the Director of the Department of Finance
13 and Administration.

14 (b) Upon the seizure of such vending device, the vending device shall
15 (together with the cash, if any, contained in the receptacle of such vending
16 device), forthwith, be delivered to the Director of the Department of Finance
17 and Administration. The Director of the Department of Finance and
18 Administration (or his authorized agent) shall then proceed to make an
19 administrative determination of whether or not the vending device and cash, if
20 any, that have been seized should, in fact, be forfeited to the State of
21 Arkansas. The owner of the vending device shall be given at least thirty (30)
22 days' written notice of the date of the hearing on such forfeiture of the
23 vending device. Such notice shall be considered a notice of proposed
24 assessment under A.C.A. § 26-18-403 and the owner shall be entitled to an
25 administrative hearing pursuant to A.C.A. §26-18-405. In the event the
26 Director (or his authorized agent) finds that the vending device (including
27 the cash contents, if any) should be forfeited to the State of Arkansas, the
28 Director shall make a written determination of forfeiture of the vending
29 device to the State of Arkansas, and the Director shall direct the sale of
30 such vending device. The vending device shall be sold by the Director, his
31 authorized agent, or the sheriff in the county where it was seized or Pulaski
32 County, after thirty (30) day's written notice of sale, which notice of sale
33 shall be given: (1) in writing to the owner of such vending device at the
34 owner's last-known address and (2) by posting five (5) notices of sale in
35 conspicuous places in the county where the sale of such vending device is to

1 be held (one (1) of such notices of sale shall be posted on a bulletin board
2 at the county courthouse of said county). At the discretion of the Director,
3 notice of sale of such vending device may be given (alternatively to posting)
4 by publishing the notice of sale in a newspaper of general circulation in such
5 county, at least thirty (30) days prior to such sale. The sale of the vending
6 device shall be for cash, and the proceeds of such sale shall be applied as
7 follows:

8 (1) to the payment of the costs incident to the seizure and sale
9 of such vending device;

10 (2) to the payment of any taxes or decal fee costs, including
11 penalties, that may have accrued against the device; and

12 (3) the balance, if any, shall be remitted to the owner of the
13 vending device.

14 (c) The cash contained in any seized vending device (which cash is
15 forfeited under the provisions of this section) shall be forfeited to the
16 State of Arkansas as an additional penalty, and shall be in addition to all
17 other penalties provided for under the Vending Device Decal Act.

18 (d) The written determination of the Director of the Department of
19 Finance and Administration (or his authorized agent) declaring a forfeiture of
20 the vending device (including the cash contents thereof, if any) and directing
21 the sale of such vending device shall be a final determination of the Director
22 and shall be treated, for purposes of the owner's appeal of the Director's
23 determination, as a final assessment, subject to the provisions of the
24 Arkansas Tax Procedure Act. Judicial review of the final determination shall
25 be available pursuant to A.C.A. § 26-18-406.

26 (e) It shall be the duty of all sheriffs, and other law enforcement
27 officers in the State of Arkansas to cooperate with the Director of the
28 Department of Finance and Administration in the enforcement of the seizure and
29 forfeiture provisions of this section.

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31 SECTION 3. All provisions of this Act of a general and permanent nature
32 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
33 Revision Commission shall incorporate the same in the Code.

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35 SECTION 4. If any provision of this Act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect
2 other provisions or applications of the Act which can be given effect without
3 the invalid provision or application, and to this end the provisions of this
4 Act are declared to be severable.

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6 SECTION 5. EMERGENCY. It is hereby found by the General Assembly that
7 there exists the possibility that the owners, lessors, renters, and operators
8 of vending devices that are subject to purchase the Annual Vending Device
9 Decal or the Special Vending Device Decal required by the provisions of the
10 Vending Device Decal Act of 1993 may not voluntarily purchase such decals, and
11 therefore undermine the purpose for the Vending Device Decal Act of 1993, and
12 that an emergency therefore exists and that the provisions of this Act are
13 required and necessary for the preservation of the public peace, health, and
14 safety; it is hereby declared that this Act shall be in full force and effect
15 as of July 1, 1993."

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/s/Senator Gordon

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APPROVED: 4/20/93

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As Engrossed: 3/17/93 3/23/93 4/8/93

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