

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representatives Cash, Kidd, Schexnayder, McGee, Stalnaker, McKissack, Northcutt and**
5 **Wilkins**

A Bill

ACT 934 OF 1995
HOUSE BILL 1994

For An Act To Be Entitled

9 "AN ACT TO PROVIDE FOR THE PAYMENT OF TAXES ON TANGIBLE
10 PERSONAL PROPERTY SOLD THROUGH VENDING DEVICES; AND FOR
11 OTHER PURPOSES."

Subtitle

14 "AN ACT PROVIDING FOR THE TAXATION OF
15 PROPERTY SOLD THROUGH VENDING DEVICES."

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

19 SECTION 1. For the purposes of this Act, the following definitions
20 shall apply:

21 (a) "Person" shall mean any individual, partnership, corporation,
22 limited liability corporation, association, organization, nonprofit
23 corporation and any county or municipal subdivision of this State.

24 (b) "Vending Device" shall mean any machine or manual device which
25 dispenses tangible personal property after a coin or thing of value is
26 inserted. The term "vending device" shall not include devices used
27 exclusively for the purpose of selling cigarettes, newspapers, magazines or
28 postage stamps.

29 (c) "Director" shall mean the Director of the Arkansas Department of
30 Finance and Administration or his authorized agents.

31 (d) "Vending Device Operator" shall mean any person who sells tangible
32 personal property through vending devices *and who elect to pay the taxes*
33 *imposed by Section 2 of this act.*

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35 SECTION 2. (a) Any person who sells tangible personal property through
36 vending devices may elect to register with the director as a vending device

1 operator and pay the state and local sales and use taxes as provided in this
2 Section.

3 (b) Any person who elects to register as a vending device operator
4 shall obtain a gross receipts tax permit from the director as provided in Ark.
5 Code Ann. §26-52-201 through §26-52-208.

6 (c) All tangible personal property purchased by a vending device
7 operator for resale through a vending device shall be purchased exempt from
8 the Arkansas Gross Receipts Tax, the Arkansas Compensating Use Tax and any
9 local sales and use taxes pursuant to the sale for resale exemption provided
10 for in Ark. Code Ann. §26-52-401(12). The vending device operator shall
11 maintain suitable records reflecting all purchases of tangible personal
12 property during each calendar month for resale through a vending device.

13 (d) (1) A tax of 4½% is hereby levied on the purchase price of all
14 tangible personal property purchased or withdrawn from inventory during each
15 calendar month by a vending device operator for resale through a vending
16 device. This tax shall be in lieu of any State gross receipts tax on the
17 gross receipts or gross proceeds derived from the sale of the property by the
18 vending device operator through a vending device.

19 (2) An additional tax of 1% is hereby levied on the purchase
20 price of all tangible personal property purchased or withdrawn from inventory
21 during each calendar month for resale through a vending device. This tax
22 shall be in lieu of any local gross receipts taxes imposed by any city or
23 county of this State on the gross receipts or gross proceeds derived from the
24 sale of the property by the vending device operator through a vending device.

25 (e) The taxes levied by subsection (d) of this Section shall be
26 reported and paid in the same manner and at the same time as prescribed by law
27 for the reporting and payment of the Arkansas Gross Receipts Tax.

28 (f) When calculating the taxes due under this Section, a vending device
29 operator shall be allowed to deduct any manufacturer's rebates received which
30 lower the final purchase price paid by the vending device operator for
31 property sold through a vending device.

32 (g) *Any vending device operator who manufactures the product which is*
33 *withdrawn from stock for sale through a vending device shall calculate the tax*
34 *due by multiplying the tax rate set out in subsection (d) of this section by*
35 *the selling price which the person would sell the product to another vending*

1 device operator for resale through a vending device.

2

3 SECTION 3. (a) Any person selling tangible personal property through a
4 vending device and who elect not to register as a vending device operator
5 shall:

6 (1) Surrender any gross receipts tax permits issued by the
7 director unless the permit is needed to report taxable sales other than sales
8 through a vending device; and

9 (2) Pay the Arkansas Gross Receipts Tax, the Arkansas
10 Compensating Use Tax and any applicable local sales and use taxes to their
11 vendor on all purchases of tangible personal property purchased for resale
12 through a vending device. The sale for resale exemption provided in Ark. Code
13 Ann. §26-52-401(12) shall not apply to purchases of tangible personal property
14 for resale through vending devices unless the purchaser is registered with the
15 director as a vending device operator. However, any person not registered as
16 a vending device operator who maintains property in inventory for subsequent
17 resale on which the state and local sales and use taxes have not been paid and
18 who subsequently withdraws that property from inventory for sale through a
19 vending device, shall report and pay the state and local sales and use taxes
20 on their purchase price of such property withdrawn from inventory.

21 (b) Any person selling property through vending devices who has paid
22 the state and local sales and use taxes in the manner provided by this Section
23 shall not be required to collect and remit state or local sales tax on sales
24 of tangible personal property through the vending device.

25 (c) Any person who elects to pay tax on tangible personal property sold
26 through vending devices in accordance with the provisions of this section, who
27 manufactures the product which is withdrawn from stock for resale through a
28 vending device shall pay the taxes due under this section by multiplying the
29 tax rate by the selling price which the person would sell the product to
30 another for resale through a vending device.

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32 SECTION 4. (a) The revenues derived from Section 2(d)(1) of this Act
33 shall be general revenues and shall be deposited in the State Treasury in the
34 same manner as the Arkansas Gross Receipts Tax imposed by Ark. Code Ann. §26-
35 52-101 et seq.

1 (b) All revenues derived from Section 2(d)(2) of this Act shall be
2 deposited by the State Treasurer in the Identification Pending Trust Fund for
3 Local Sales Use Taxes in accordance with the provision of Ark. Code Ann. §§
4 26-74-221 and 26-75-223 and all revenues deposited in that fund shall be
5 distributed to the cities and counties of this State in accordance with the
6 provisions of Ark. Code Ann. §§ 26-74-221(a)(2)(C)(ii) and 26-75-
7 223(a)(2)(C)(ii).

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9 SECTION 5. The provisions of the Arkansas Vending Devices Decal Act of
10 1993, the same being Ark. Code Ann. §§ 26-57-1001 through 26-57-1017, are
11 hereby repealed effective July 1, 1995.

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13 SECTION 6. (a) All persons who sell tangible personal property through
14 vending devices shall affix the name and identification number, if any, of the
15 person responsible for the payment of the taxes imposed by Sections 2 and 3 of
16 this Act.

17 (b) (1) If any vending device does not have the information required
18 by subsection (a) of this Section affixed thereto, there shall be a
19 presumption that the taxes imposed by this Act have not been paid. The
20 director shall seal any vending device subject to this presumption in such a
21 manner to prevent any further sales through the device and shall assess and
22 collect a penalty of \$50 per vending device against the person selling
23 tangible personal property through the device.

24 (2) The presumption in subsection (b) (1) of this Section shall
25 be overcome if the person selling property through the vending device affixes
26 the information required by this Section to the device and proves that the
27 taxes imposed by Sections 2 and 3 of this Act have been paid.

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30 SECTION 7. All provisions of this act of a general and permanent nature
31 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
32 Revision Commission shall incorporate the same in the Code.

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34 SECTION 8. If any provision of this act or the application thereof to
35 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without
2 the invalid provision or application, and to this end the provisions of this
3 act are declared to be severable.

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5 SECTION 9. All laws and parts of laws in conflict with this act are
6 hereby repealed.

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8 SECTION 10. EMERGENCY. It is hereby found and determined that the
9 Vending Devices Decal Act of 1993 will expire on June 30, 1995 and that it is
10 necessary to provide for the payment of taxes on tangible personal property
11 sold through vending devices after June 30, 1995 and this Act provides a fair
12 and equitable method for collecting taxes on tangible personal property sold
13 through vending devices after that date. Therefore, an emergency is hereby
14 declared to exist and this Act being necessary for the immediate preservation
15 of the public peace, health and safety shall be in full force and effect on
16 and after July 1, 1995.

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/s/Claud V. Cash, et al

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APPROVED: 4-5-95

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As Engrossed: 3/16/95

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