

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: H2/20/97

A Bill

ACT 434 OF 1997
SENATE BILL 320

5 By: Senators Bradford, Mahony, Argue, Edwards, Gwatney, Lewellen, Malone, Walker, Smith, Everett, Russ, Todd, Harriman, Webb,
6 Scott, Kennedy, Roebuck, Ross, Hill, Gordon, Beebe, Canada, Bearden and Wyrick
7 By: Representatives Wilkins, Fletcher, Newman, Angel, Bennett, Booker, Brown, Bush, Ferguson, Ferrell, Harris, Horn, Ingram, Jones,
8 Lynn, Madison, McGee, McJunkin, Pappas, Roberts, Schexnayder, Sheppard, J. Smith, Stalnaker, Thicksten, Whorton, Willems, J.
9 Wilson, Capps, Miller, Wooldridge, Wren, Choate, Rodgers, Walker, Jeffress, French, Milum, Wood, Johnson, Hall, McGinnis,
10 Northcutt, Kidd, Lancaster, McKissack, Wallis, Bond, Simon, Teague, Wilkinson, Molinaro, Broadway, Young, Shoffner, George,
11 Maddox, Faris, Hunton, Critcher, Allison and Dawson

For An Act To Be Entitled

12
13
14 "THE BREAST CANCER ACT OF 1997."

Subtitle

15
16
17 "THE BREAST CANCER ACT OF 1997."
18

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

21 SECTION 1. This act shall be known and may be cited as "The Breast
22 Cancer Act of 1997".

23
24 SECTION 2. The General Assembly finds and declares as follows:

25 (a) Breast cancer is a significant threat to the health of women.

26 Breast cancer is the most common form of cancer in women, and causes the death
27 of a woman in the United States every 12 minutes.

28 (b) The incidence of breast cancer continues to increase at a dramatic
29 rate. During the past decade, the incidence has increased by thirty percent
30 (30%). In 1960, one woman in 20 developed breast cancer over the course of
31 her lifetime. By 1992, the probability had increased to one woman in eight.
32 At the current rate of increase in the year 2000, one woman in six will
33 develop breast cancer over the course of her lifetime. Presently breast
34 cancer claims the lives of over four hundred seventy (470) women in Arkansas
35 each year.

36 (c) Breast cancer exacts an enormous economic toll on our society,

1 including over two billion dollars (\$2,000,000,000) in direct medical costs,
2 and over eight billion dollars (\$8,000,000,000) in both direct medical and
3 indirect costs.

4 (d) Medical experts still do not know the cause of breast cancer, or
5 how to prevent breast cancer.

6 (e) The State of Arkansas must take the lead in combating the
7 increasingly rapid spread of breast cancer and the current lack of knowledge
8 with respect to breast cancer's cause and cure, and effective methods of
9 prevention.

10 (f) It is the intent of the legislature in enacting this act to fund
11 essential research and services with respect to the cause, cure, detection and
12 prevention of breast cancer, and breast cancer education.

13

14 SECTION 3. (a) There is hereby established in the University of
15 Arkansas a Breast Cancer Research Program. This program shall support
16 research efforts into the cause, cure, treatment, earlier detection, and
17 prevention of breast cancer and shall be administered according to the
18 following principles:

19 (1) The program shall fund innovative research and the
20 dissemination of successful research findings, with special emphasis on
21 research that complements, rather than duplicates the research funded by the
22 federal government and other entities.

23 (2) All research grants shall be awarded on the basis of the
24 research priorities established for the program and the scientific merit of
25 the proposed research as determined by a peer review process governed by the
26 Oversight Committee on Breast Cancer Research. Said Committee shall consist
27 of seven (7) members appointed by the Governor. One (1) shall be appointed to
28 represent the Arkansas Medical Society, one (1) shall represent the Arkansas
29 Hospital Association, one (1) shall represent medical oncology community, one
30 (1) shall be a Women's Health Advocate and three (3) shall represent the
31 University of Arkansas Systems. Each of the four (4) Congressional Districts
32 shall be represented by at least one (1) committee member. The members of
33 said committee shall serve for a period of four (4) years; provided, that the
34 members draw lots to determine that the first members appointed serve as
35 follows: two (2) until January 1, 1999; two (2) until January 1, 2000, and
36 three (3) until January 1, 2001.

1 (3) The peer review process for the selection of research grants
2 awarded under this program shall be generally modeled on that used by the
3 National Institutes of Health in its grant making process and the peer review
4 process may stipulate that an applicant must have participated in an
5 established grant process prior to applying for a grant under this act.

6 (4) An awardee shall be awarded grants for the full or partial
7 cost of conducting the sponsored research grants and contracts. All
8 intellectual property assets developed under this program shall be treated in
9 accordance with state and federal law.

10

11 SECTION 4. (a) There is hereby established a Breast Cancer Control
12 Advisory Board which shall consist of eight (8) members appointed by the
13 Governor. One (1) member shall be appointed to represent the Arkansas Medical
14 Society, one (1) member shall represent the Arkansas Chapter of the Susan G.
15 Komen Breast Cancer Foundation, one (1) member shall represent the Arkansas
16 Hospital Association, one (1) member shall represent the American Cancer
17 Society, one (1) member shall represent the Arkansas Nursing Association, one
18 (1) member shall represent the medical oncology community, one (1) member
19 shall represent the radiation oncology community and one (1) member shall be a
20 Womens' Health Advocate. Each of the four (4) congressional districts shall
21 be represented by at least one (1) committee member. The members of said
22 committee shall serve for a period of four (4) years, provided, that the
23 members draw lots to determine that the first members appointed shall serve as
24 follows: two (2) members shall serve until January 1, 1999; three (3) members
25 shall serve until January 1, 2000; and three (3) members shall serve until
26 January 1, 2001.

27 (b) There is hereby established in the State Department of Health the
28 Breast Cancer Control Program. This program shall provide for the early
29 detection, diagnosis, and treatment of breast cancer. The program shall be
30 administered according to the following principles:

31 (1) The program shall provide for breast cancer education and
32 awareness so as to insure early detection and conduct surveillance activites
33 across the state.

34 (2) The program shall provide screening of women for breast
35 cancer, including mammography, as an early detection health care measure.

36 (3) After screening, the program shall provide medical referrals

1 and financial assistance for services necessary for definitive diagnosis,
2 including nonradiological techniques and biopsy.

3 (4) If a positive diagnosis is made, the program shall provide
4 the necessary advocacy and financial assistance to help the person obtain
5 necessary treatment.

6
7 SECTION 5. In addition to the excise or privilege taxes levied under
8 Ark. Code Ann. §§ 26-57-208 and 26-57-802 there is hereby levied a tax of one
9 dollar twenty-five cents (\$1.25) per one thousand (1000) cigarettes sold in
10 the state.

11
12 SECTION 6. In addition to the tax imposed by Ark. Code Ann.
13 §26-57-208(2), there is hereby imposed an additional excise or privilege tax
14 on tobacco products, other than cigarettes, on the first sale to wholesalers
15 or retailers within the state at two percent (2%) of the manufacturer's
16 selling price. The tax shall be computed on the actual manufacturer invoice
17 price before discounts and deals and shall be paid by the wholesaler, or by
18 the retailer if he purchases directly from the manufacturer.

19
20 SECTION 7. Arkansas Code § 26-57-211(c) is amended to read as follows:

21 "~~(c)(1) When the report is filed, the wholesaler shall remit the full~~
22 ~~amount of the tax due for the previous month to the director.~~

23 ~~—— (2) No discount shall be allowed for an early or on time remittance of~~
24 ~~the tax.~~

25 ~~—— (3) In the event the payment of any tax due becomes delinquent, the~~
26 ~~taxpayer shall remit the full amount of the tax due plus penalty. When the~~
27 report is filed, the wholesaler shall remit therewith to the director ninety-
28 eight percent (98%) of the tax due under the applicable provisions of this act
29 as amended by § 26-57-803. Failure of the stamps deputy to remit such tax on
30 or before the twentieth (20th) day of each applicable month shall cause the
31 wholesaler to forfeit his claim to the discount, and he must remit to the
32 director one hundred percent (100%) of the amount of tax due, plus any penalty
33 or interest due."

34
35 SECTION 8. Arkansas Code § 26-57-236(g) is amended to read as follows:

36 "(g) A commission shall be paid by the director to stamp deputies for

1 the sale of ~~stamps for cigarettes and the collection of cigarette taxes tax~~
2 stamps and for affixing the said tax stamps to each package of cigarettes.
3 The commission ~~paid~~ shall not be less than ~~three and eight tenths percent~~
4 ~~(3/8%)~~ four and four tenths percent (4.4%) of the total aggregate cigarette
5 tax collected."
6

7 SECTION 9. Ten percent (10%) of all monies collected from the
8 additional tax levied in Sections 5 and 6 of this act shall be deposited in
9 the State Treasury as general revenues.
10

11 SECTION 10. The additional taxes levied herein shall be reported and
12 remitted in the same manner and at the same time as other taxes levied on
13 cigarettes in the Arkansas Tobacco Products Tax Act, Arkansas Code 26-57-201
14 through 26-57-254.
15

16 SECTION 11. The tax levied herein shall be in effect on and after July
17 1, 1997 and shall apply to any inventory or stocks of cigarettes or tobacco
18 products held by a wholesaler or retailer on that date.
19

20 SECTION 12. (a) Ninety percent (90%) of all monies collected from the
21 additional tax levied in Section 5 and 6 of this act shall be deposited in the
22 State Treasury as special revenues to be distributed as follows:

23 (1) Twenty percent (20%) shall be credited to the Breast Cancer Research
24 Fund, which is hereby created on the books of the State Treasurer, State
25 Auditor and the Chief Fiscal Officer of the State to be used exclusively for
26 the purposes set forth in Section 3; and

27 (2) Eighty percent (80%) shall be credited to the Breast Cancer Control
28 Fund which is hereby created on the books of the State Treasurer, State
29 Auditor and the Chief Fiscal Officer of the State to be used exclusively for
30 the purposes set forth in Section 4. The Director of the Department of Health
31 shall be the disbursing officer for the Breast Cancer Control Fund and the
32 Chancellor of the University of Arkansas for Medical Sciences shall be the
33 disbursing officer for the Breast Cancer Research Fund.

34 (b) The monies in the Breast Cancer Research Fund are to be allocated
35 to the Breast Cancer Research Program for the awarding of grants, chairs and
36 contracts to researchers for research with respect to the cause, cure,

1 treatment, prevention, and earlier detection of breast cancer and for
2 developing leadership in research in Arkansas.

3 (c) The monies in the Breast Cancer Control Fund are to be allocated
4 according to the recommendations of the Breast Cancer Control Advisory Board
5 who shall establish the scope of services of the program and programmatic
6 priorities based on the analysis of available information. The Advisory Board
7 shall also be responsible for developing eligibility criterion to be applied
8 in evaluating requests for financial assistance from screened women who are
9 found to be in need of diagnostic and treatment services. The Advisory Board
10 shall also review contractual agreements with providers who will be rendering
11 services through the program.

12

13 SECTION 13. The Department of Finance and Administration is hereby
14 authorized to promulgate regulations as necessary to implement the tax
15 provisions of this act.

16

17 SECTION 14. (a) The taxes levied by this act shall not be collected
18 during any fiscal year for which the General Assembly has appropriated at
19 least eight hundred thousand dollars (\$800,000) from general revenues to the
20 Breast Cancer Research Fund and at least three million two hundred thousand
21 dollars (\$3,200,000) of general revenues to the Breast Cancer Control Fund and
22 funded those appropriations in Category A of the Revenue Stabilization Law for
23 that fiscal year.

24 (b) The commission authorized by Arkansas Code 26-57-236(g) shall be at
25 the rate of three and eight-tenths percent (3.8%) during any fiscal year for
26 which the General Assembly has appropriated at least eight hundred thousand
27 dollars (\$800,000) from general revenues to the Breast Cancer Research Fund
28 and at least three million two hundred thousand dollars (\$3,200,000) of
29 general revenues to the Breast Cancer Control Fund and funded those
30 appropriations in Category A of the Revenue Stabilization Law for that fiscal
31 year, otherwise the commission shall be as prescribed in 26-57-236(g).

32

33 SECTION 15. All provisions of this act of a general and permanent
34 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
35 Code Revision Commission shall incorporate the same in the Code.

36

1 SECTION 16. If any provision of this act or the application thereof to
2 any person or circumstance is held invalid, such invalidity shall not affect
3 other provisions or applications of the act which can be given effect without
4 the invalid provision or application, and to this end the provisions of this
5 act are declared to be severable.

6

7 SECTION 17. All laws and parts of laws in conflict with this act are
8 hereby repealed.

9

10 SECTION 18. EMERGENCY CLAUSE. It is hereby found and determined that
11 cancer is a leading cause of death among Arkansans; that, of cancer deaths,
12 breast cancer claims more lives of women than any other type except lung
13 cancer; that there are nineteen hundred (1900) new cases of breast cancer
14 diagnosed each year; that breast cancer mortality rates have increased in
15 Arkansas in recent years; that presently breast cancer is claiming the lives
16 of over four hundred seventy (470) women in Arkansas each year; that this
17 number of deaths will increase as our population grows older; that information
18 barriers result in women being unaware of the risk of breast cancer or the
19 value of early detection; that financial barriers prevent some women from
20 taking advantage of mammography; and that there is a lack of funding for
21 breast cancer research in the state; it is further found and determined that
22 to reduce the number of lives continuing to be needlessly lost, it is
23 necessary to increase the state tax on cigarettes and tobacco products to
24 provide funding for breast cancer, to provide for screening, diagnostic, and
25 treatment services for women at risk of developing breast cancer and to assure
26 continuing research with respect to the cause, cure and prevention of breast
27 cancer. This act will provide greatly needed revenues to fund essential
28 research and services with respect to the cause, cure, detection and
29 prevention of breast cancer, and breast cancer education in the state.
30 Therefore, an emergency is hereby declared to exist and this act being
31 necessary for the preservation of the public peace, health, and safety shall
32 be in full force and effect from and after July 1, 1997.

33

/s/Sen. Bradford et al

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APPROVED:3-11-97

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