

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 360 of the Regular Session

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

A Bill

SENATE BILL 364

4
5 By: Senator T. Smith
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For An Act To Be Entitled

8
9 AN ACT TO PROVIDE FOR THE CLOSURE OF BUSINESSES
10 THAT FAIL TO REPORT OR REMIT STATE WITHHOLDING
11 TAXES FOR THREE MONTHS DURING A TWENTY-FOUR
12 CONSECUTIVE MONTH PERIOD; AND FOR OTHER PURPOSES.
13

Subtitle

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15
16 TO PROVIDE FOR THE CLOSURE OF BUSINESSES
17 THAT FAIL TO REPORT OR REMIT STATE
18 WITHHOLDING TAXES FOR THREE MONTHS
19 DURING A TWENTY-FOUR CONSECUTIVE MONTH
20 PERIOD.
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22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 26-18-104(8), concerning the definitions
26 for state tax procedures, is amended to read as follows:

27 (8) "Noncompliant taxpayer" means any taxpayer who has failed
28 to:

29 (A) File two (2) ~~gross receipts tax or compensating use~~
30 ~~tax~~ returns during any consecutive twenty-four-month period for; ~~or~~

31 (i) Gross receipts or compensating use tax; or

32 (ii) State income tax withholding for employees; or

33 (B) Pay the ~~gross receipts or use~~ tax reported on the tax
34 return or determined by the Department of Finance and Administration to be
35 due for any two (2) months during any consecutive twenty-four-month period



1 for:

2 (i) Gross receipts or compensating use tax; or

3 (ii) State income tax withholding for employees.

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5 SECTION 2. Arkansas Code § 26-18-303(18), concerning the
6 confidentiality of records, is amended to read as follows:

7 (18)(A) For the purpose of the timely and accurate collection of local
8 sales and use tax and state income tax withholding for employees, disclosure
9 of the name and address of a taxpayer that has failed three (3) times within
10 any consecutive twenty-four-month period to either report or remit state or
11 local gross receipts or compensating use tax or state income tax withholding
12 for employees and has been served with a business closure order pursuant to §
13 26-18-1001 et seq.

14 (B) Disclosure shall be made by posting weekly on the
15 website maintained by the Department of Finance and Administration the
16 business name, business address, and city and county in which the business is
17 located as it appears on the sales tax permit or the state income tax
18 withholding for employees registration of each taxpayer identified in
19 subdivision (b)(18)(A) of this section.

20 (C) The information posted on the website for a taxpayer
21 shall remain on the website until that taxpayer is no longer subject to the
22 business closure provisions of § 26-18-1001 et seq.; and

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24 SECTION 3. Arkansas Code § 26-18-1001(a)(1) and (2), concerning the
25 business closure authority, is amended to read as follows:

26 (1) Report ~~gross receipts or compensating use tax~~ in the manner
27 required by Arkansas law, ~~or~~ :

28 (A) Gross receipts or compensating use tax; or

29 (B) State income tax withholding for employees; or

30 (2) Remit ~~gross receipts or compensating use tax for the~~
31 ~~reporting period that the tax is due~~ the tax that is due for the reporting
32 period for:

33 (A) Gross receipts or compensating use tax; or

34 (B) State income tax withholding for employees.

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36 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly of the State of Arkansas that many businesses required to
2 report and remit Arkansas gross receipts taxes as well as employee
3 withholding taxes often discontinue payment of withholding taxes when faced
4 with the possible closure of the business for failure to report and remit the
5 gross receipts taxes; that business faced with the potential closure for
6 failure to remit gross receipts taxes will often avoid closure by paying the
7 delinquent gross receipts or compensating use tax with the withholding tax
8 collected from employees of the business; and that this act is necessary to
9 stop the loss of the withholding tax. Therefore, an emergency is declared to
10 exist and this act being necessary for the preservation of the public peace,
11 health, and safety shall become effective on July 1, 2009.

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13 **APPROVED: 3/10/2009**
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