

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

# A Bill

ACT 391 OF 1997  
HOUSE BILL 1618

4  
5 By: Representative Courtway  
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## For An Act To Be Entitled

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9 "AN ACT TO AMEND TITLE 26, CHAPTER 52, SUBCHAPTER 5 OF THE  
10 ARKANSAS CODE TO PROVIDE THAT ANY SELLER WHO RELIES IN  
11 GOOD FAITH ON A CLAIM FOR A SALES TAX EXEMPTION SHALL BE  
12 RELIEVED OF LIABILITY FOR THE PAYMENT OF TAX, PENALTY AND  
13 INTEREST DUE THE STATE; AND FOR OTHER PURPOSES."

## Subtitle

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16 "TO PROVIDE THAT ANY SELLER WHO RELIES  
17 IN GOOD FAITH ON A CLAIM FOR A SALES TAX  
18 EXEMPTION SHALL BE RELIEVED OF LIABILITY  
19 FOR THE PAYMENT OF TAX, PENALTY AND  
20 INTEREST."

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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Title 26, Chapter 52, Subchapter 5 of the Arkansas Code is  
25 amended by adding a new section to read as follows:

26 "26-52-519. (a) The sales tax liability for all sales of tangible  
27 personal property or taxable services is upon the seller unless, at or before  
28 the time of sale, the seller relies in good faith on a claim by the purchaser  
29 or documentation provided by the purchaser that the purchaser is entitled to a  
30 sales tax exemption.

31 (b) If the seller has actual knowledge of information or circumstances  
32 indicating that it is unlikely that the purchaser is entitled to a sales tax  
33 exemption and exempts the purchase, the seller has not acted in good faith.

34 (c) If the seller has acted in good faith, the liability for the tax is  
35 transferred to the purchaser who shall be liable for tax, penalty and interest  
36 due on the purchase."

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SECTION 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

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

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. Emergency. It is hereby found and determined by the General Assembly that sellers have relied to their detriment in accepting sales tax exemption claims by purchasers in good faith, only later to incur tax liability if the purchaser was not entitled to an exemption; that the purchaser is in the best position to determine whether the exemption claim is valid but current law does not permit recourse against the purchaser if the sale is not tax exempt; that sellers be allowed to relieve themselves of tax liability upon good faith acceptance of a claim that a sale is tax exempt; and that this act will provide this relief. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997.

APPROVED:3-06-97