

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 647 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H2/25/05

A Bill

SENATE BILL 277

5 By: Senators T. Smith, Glover, Higginbothom, Hill, Horn, B. Johnson, Miller
6 By: Representatives Petrus, Pace, Adams, Anderson, Bolin, Cooper, Cowling, Davis, Dickinson,
7 Dobbins, Everett, J. Hutchinson, Jeffrey, Key, Mack, Matayo, Mathis, Maxwell, Ragland, Rosenbaum,
8 Saunders, Sullivan, Thyer, Walters, Wells, Wills, Wyatt
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11 **For An Act To Be Entitled**

12 AN ACT TO REDUCE THE STATE SALES AND USE TAX ON
13 FOOD AND FOOD INGREDIENTS; TO CONTINUE THE
14 IMPOSITION OF LOCAL SALES AND USE TAX ON FOOD AND
15 FOOD INGREDIENTS; AND FOR OTHER PURPOSES.
16

17 **Subtitle**

18 AN ACT TO REDUCE THE STATE SALES AND USE
19 TAX ON FOOD AND FOOD INGREDIENTS.
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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 3 is amended to add a new
25 section to read as follows:

26 26-52-317. Food and food ingredients.

27 (a)(1) The Director of the Department of Finance and Administration
28 shall determine the following conditions:

29 (A) That federal law authorizes the state to collect sales
30 and use tax from some or all of the sellers who have no physical presence in
31 the State of Arkansas and who make sales of taxable goods and services to
32 Arkansas purchasers;

33 (B) That initiating the collection of sales and use tax
34 from these sellers would increase the net available general revenues needed
35 to fund state agencies, services, and programs; and



1 (C)(i) That during a six-month consecutive period, the
2 amount of net available general revenues attributable to the collection of
3 sales and use tax from sellers who have no physical presence in the State of
4 Arkansas is equal to or greater than one hundred fifty percent (150%) of
5 sales and use tax collected under §§ 26-52-301, 26-52-302(a), (b), and (d),
6 26-53-106, and 26-53-107(a), (b), and (d) on food and food ingredients.

7 (ii) The director shall make the determination under
8 subdivision (a)(1)(C)(i) of this section on a monthly basis following the
9 determination that the conditions under subdivision (a)(1)(A) of this section
10 have been met.

11 (2) When the director finds that all of the conditions in
12 subdivision (a)(1) of this section have been met, then the gross receipts or
13 gross proceeds taxes levied under §§ 26-52-301 and 26-52-302(a), (b), and (d)
14 shall be levied at the rate of zero percent (0%) on the sale of food and food
15 ingredients beginning on the first day of the second calendar month following
16 the determination of the director.

17 (b) The gross receipts or gross proceeds derived from the sale of food
18 and food ingredients shall continue to be subject to the taxes levied under §
19 26-52-302(c).

20 (c) The gross receipts or gross proceeds derived from the sale of food
21 and food ingredients shall continue to be subject to the excise tax levied
22 under Section 2 of Amendment 75 of the Constitution of the State of Arkansas.

23 (d) The gross receipts or gross proceeds derived from the sale of food
24 and food ingredients shall continue to be subject to all municipal and county
25 gross receipts taxes.

26 (e) The Department of Finance and Administration shall promulgate
27 rules to implement the provisions of this section.

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29 SECTION 2. Title 26, Chapter 53, Subchapter 1 is amended to add a new
30 section to read as follows:

31 26-53-145. Food and food ingredients.

32 (a)(1) The Director of the Department of Finance and Administration
33 shall determine the following conditions:

34 (A) That federal law authorizes the state to collect sales
35 and use tax from some or all of the sellers who have no physical presence in
36 the State of Arkansas and who make sales of taxable goods and services to

1 Arkansas purchasers;

2 (B) That initiating the collection of sales and use tax
3 from these sellers would increase the net available general revenues needed
4 to fund state agencies, services, and programs; and

5 (C)(i) That during a six-month consecutive period, the
6 amount of net available general revenues attributable to the collection of
7 sales and use tax from sellers who have no physical presence in the State of
8 Arkansas is equal to or greater than one hundred fifty percent (150%) of
9 sales and use tax collected under §§ 26-52-301, 26-52-302(a), (b), and (d),
10 26-53-106, and 26-53-107(a), (b), and (d) on food and food ingredients.

11 (ii) The director shall make the determination under
12 subdivision (a)(1)(C)(i) of this section on a monthly basis following the
13 determination that the conditions under subdivision (a)(1)(A) of this section
14 have been met.

15 (2) When the director finds that all of the conditions in
16 subdivision (a)(1) of this section have been met, then the compensating use
17 taxes levied under §§ 26-53-106 and 26-53-107(a), (b), and (d) shall be
18 levied at the rate of zero percent (0%) on the sale of food and food
19 ingredients beginning on the first day of the second calendar month following
20 the determination of the director.

21 (b) The compensating use tax levied under § 26-53-107(c) shall
22 continue to apply to the sales price of food and food ingredients.

23 (c) The compensating use tax levied under Section 2 of Amendment 75 of
24 the Constitution of the State of Arkansas shall continue to apply to the
25 sales price of food and food ingredients.

26 (d) All municipal and county use taxes shall continue to apply to the
27 sales price of food and food ingredients.

28 (e) The Department of Finance and Administration shall promulgate
29 rules to implement the provisions of this section.

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31 */s/ T. Smith, et al*
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34 *APPROVED: 3/03/2005*
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