

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 940 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/13/09

A Bill

HOUSE BILL 1942

5 By: Representative Ingram
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7

For An Act To Be Entitled

9 AN ACT TO ALLOW A CITY THAT ADJOINS A BORDER CITY
10 THAT IS SEPARATED BY A NAVIGABLE RIVER FROM A
11 CITY IN ANOTHER STATE TO SELL CIGARETTES AT THE
12 RATE USED BY THE BORDER CITY; AND FOR OTHER
13 PURPOSES.
14

Subtitle

15 TO ALLOW A CITY THAT ADJOINS A BORDER
16 CITY THAT IS SEPARATED BY A RIVER FROM A
17 CITY IN ANOTHER STATE TO SELL CIGARETTES
18 AT THE RATE USED BY THE BORDER CITY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 26-57-208(1), concerning the tax rate on
25 cigarettes, is amended to read as follows:

26 (1)(A) The excise or privilege tax on cigarettes sold in this
27 state is ten dollars and fifty cents (\$10.50) per one thousand (1,000)
28 cigarettes sold.

29 (B)(i) Whenever there are two (2) adjoining cities each
30 with a population of five thousand (5,000) or more separated by a state line,
31 the tax on cigarettes sold in such adjoining Arkansas city shall be at the
32 rate imposed by law on cigarettes sold in the adjoining city outside of
33 Arkansas.

34 (ii) The tax shall not exceed the tax upon
35 cigarettes imposed by this subchapter.



1 (C)(i) The tax on cigarettes sold in Arkansas within three
 2 hundred feet (300') of a state line or in any Arkansas city which adjoins a
 3 state line shall be at the rate imposed by law on cigarettes sold in the
 4 adjoining state.

5 (ii) The tax shall not exceed the tax upon
 6 cigarettes imposed by this subchapter.

7 (D)(i) The tax on cigarettes shall be at the rate imposed
 8 by law on cigarettes sold in the adjoining state when the cigarettes are sold
 9 in an Arkansas city or incorporated town whose corporate limits adjoin the
 10 corporate limits of an Arkansas border city.

11 (ii) As used in subdivision (1)(D)(i) of this
 12 section, "Arkansas border city" means a city which is entitled to the border
 13 zone cigarette tax rate and is separated by a navigable river from a city in
 14 the other state that is located in a metropolitan statistical area designated
 15 by the United States Census Bureau with a population of at least one million
 16 (1,000,000).

17 (iii) The tax shall not exceed the tax upon
 18 cigarettes otherwise imposed under Arkansas law.

19 ~~(D)(i)~~(E)(i) The reduced border zone tax rates set forth
 20 in subdivisions ~~(1)(B) and (C)~~ (1)(B)-(D) of this section apply only to sales
 21 made at retail by Arkansas border zone retailers to actual consumers of the
 22 cigarettes.

23 (ii)(a) The sale of cigarettes by an Arkansas border
 24 zone retailer to any other retailer or wholesaler does not qualify for the
 25 reduced border zone tax rate.

26 (b) The full amount of Arkansas cigarette
 27 excise tax will be due on any cigarettes sold in such a manner;
 28

29 *SECTION 2. Arkansas Code § 26-57-803(a), concerning the cigarette tax,*
 30 *is amended to read as follows:*

31 *(a)(1) In addition to the excise or privilege taxes levied under §§*
 32 *26-57-208 and 26-57-802, there is levied a tax of four dollars and seventy-*
 33 *five cents (\$4.75) per one thousand (1,000) cigarettes sold in the state.*

34 *(2) Whenever there are two (2) adjoining cities, each with a*
 35 *population of five thousand (5,000) or more separated by a state line, the*
 36 *tax on cigarettes sold in such adjoining Arkansas city shall be at the rate*

1 *imposed by law on cigarettes sold in the adjoining city outside of Arkansas*
2 *plus the fifty cents (50¢) per one thousand (1,000) cigarettes presently*
3 *imposed by § 26-57-802. The tax shall not exceed the tax upon cigarettes*
4 *imposed by this subchapter.*

5 *(3) The tax on cigarettes sold in Arkansas within three hundred*
6 *feet (300') of a state line, in any Arkansas city which adjoins a state line,*
7 *or in any city which is separated only by a navigable river from a city which*
8 *adjoins a state line shall be at the rate imposed by law on cigarettes sold*
9 *in the adjoining state plus the twenty-five cents (25¢) per one thousand*
10 *(1,000) cigarettes presently imposed by § 26-57-802. The tax shall not exceed*
11 *the tax upon cigarettes imposed by this subchapter.*

12 *(4)(A) The tax on cigarettes shall be at the rate imposed by law*
13 *on cigarettes sold in the adjoining state plus the additional tax levied by §*
14 *26-57-802 when the cigarettes are sold in an Arkansas city or incorporated*
15 *town whose corporate limits adjoin the corporate limits of an Arkansas border*
16 *city.*

17 *(B) As used in subdivision (a)(4)(A) of this section,*
18 *"Arkansas border city" means a city which is entitled to the border zone*
19 *cigarette tax rate and is separated by a navigable river from a city in the*
20 *other state that is located in a metropolitan statistical area designated by*
21 *the United States Census Bureau with a population of at least one million*
22 *(1,000,000).*

23 *(C) The tax shall not exceed the tax upon cigarettes*
24 *otherwise imposed under Arkansas law.*

25
26 SECTION 3. Arkansas Code § 26-57-804(b), concerning an additional tax
27 on cigarettes, is amended to read as follows:

28 (b)(1)(A) Whenever there are two (2) adjoining cities each with a
29 population of five thousand (5,000) or more separated by a state line, the
30 tax on cigarettes sold in the adjoining Arkansas city shall be at the rate
31 imposed by law on cigarettes sold in the adjoining city outside Arkansas.

32 (B) The tax shall not exceed the tax upon cigarettes
33 imposed by Arkansas law.

34 (2)(A) The tax on cigarettes sold in Arkansas within three
35 hundred feet (300') of a state line in any Arkansas city that adjoins a state
36 line or in any city that is separated only by a navigable river from a city

1 that adjoins a state line shall be at the rate imposed by law on cigarettes
2 sold in the adjoining state.

3 (B) The tax shall not exceed the tax upon cigarettes
4 imposed by Arkansas law.

5 (3)(A) The tax on cigarettes shall be at the rate imposed by law
6 on cigarettes sold in the adjoining state if the cigarettes are sold in an
7 Arkansas city or incorporated town whose corporate limits adjoin the
8 corporate limits of an Arkansas border city.

9 (B) As used in subdivision (b)(3)(A) of this section,
10 "Arkansas border city" means a city which is entitled to the border zone
11 cigarette tax rate and is separated by a navigable river from a city in the
12 other state that is located in a metropolitan statistical area designated by
13 the United States Census Bureau with a population of at least one million
14 (1,000,000).

15 (C) The tax shall not exceed the tax upon cigarettes
16 otherwise imposed under Arkansas law.

17 ~~(3)(A)(4)(A)~~ A wholesaler or retailer shall not sell cigarettes
18 to a retailer located outside a border zone described in subdivisions ~~(b)(1)~~
19 ~~and (2)~~ (b)(1)-(3) of this section unless the full amount of tax levied by
20 this section and §§ 26-57-208, 26-57-802, 26-57-803, and 26-57-1101 without
21 regard to any reduced border zone rate has been paid as evidenced by
22 cigarette stamps affixed to each container of cigarettes.

23 (B) A retailer located outside a border zone described in
24 subdivisions ~~(b)(1) and (2)~~ (b)(1)-(3) of this section shall not possess or
25 offer for sale cigarettes unless the full amount of tax levied by this
26 section and §§ 26-57-208, 26-57-802, 26-57-803, and 26-57-1101 without regard
27 to any reduced border zone rate has been paid as evidenced by cigarette
28 stamps affixed to each container of cigarettes.

29 (C) A violation of this subdivision ~~(b)(3)~~ (b)(4) shall be
30 grounds for the suspension or revocation of a permit or license issued by the
31 Director of the Arkansas Tobacco Control Board.

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33 SECTION 4. Arkansas Code § 26-57-806(b)(3), of Acts 2009, No. 180, § 4
34 concerning an additional tax on cigarettes, is amended to read as follows:

35 (3)(A) The tax on cigarettes sold in any Arkansas city or
36 incorporated town whose corporate limits adjoin the corporate limits of an

1 Arkansas border city shall be at the rate imposed by law on cigarettes sold
2 in the adjoining state.

3 (B) As used in subdivision (a)(3)(A) of this section,
4 "Arkansas border city" means a city which is entitled to the border zone
5 cigarette tax rate and is separated by a navigable river from the city in the
6 other state that is located in a metropolitan statistical area designated by
7 the United States Census Bureau with a population of at least one million
8 (1,000,000).

9 (C) The tax shall not exceed the tax upon cigarettes
10 otherwise imposed under Arkansas law.

11 (4)(A) A wholesaler or retailer shall not sell cigarettes to a
12 retailer located outside a border zone described in subdivisions ~~(b)(1) and~~
13 ~~(2)~~ (b)(1)-(3) of this section unless the full amount of tax levied by this
14 section and §§ 26-57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101
15 without regard to any reduced border zone rate has been paid as evidenced by
16 cigarette stamps affixed to each container of cigarettes.

17 (B) A retailer located outside a border zone described in
18 subdivisions ~~(b)(1) and (2)~~ (b)(1)-(3) of this section shall not possess or
19 offer for sale cigarettes unless the full amount of tax levied by this
20 section and §§ 26-57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101
21 without regard to any reduced border zone rate has been paid as evidenced by
22 cigarette stamps affixed to each container of cigarettes.

23 (C) A violation of this subdivision ~~(b)(3)~~ (b)(4) shall be
24 grounds for the suspension or revocation of a permit or license issued by the
25 Director of the Arkansas Tobacco Control Board.

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27 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
28 General Assembly of the State of Arkansas that the tax on cigarettes has been
29 drastically increased; that the increase went into effect on March 1, 2009;
30 that there are cities that adjoin border cities that are separated by a river
31 from a city in an adjoining state; that these border cities are able to sell
32 cigarettes at the rate of the adjoining state; and that this creates a
33 drastic loss in cigarette sales for the cities that adjoin these border
34 cities. Therefore, an emergency is declared to exist and this act being
35 immediately necessary for the preservation of the public peace, health, and
36 safety shall become effective on:

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(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/ Ingram

APPROVED: 4/6/2009