

Hall of the House of Representatives
87th General Assembly - Regular Session, 2009
Amendment Form

Subtitle of House Bill No. 1204

"TO INCREASE THE TAX ON CIGARETTES AND CERTAIN TOBACCO PRODUCTS AND
TO MODERNIZE THE TAX ON MOIST SNUFF."

Amendment No. 1 to House Bill No. 1204.

Amend House Bill No. 1204 as originally introduced:

Page 1, line 5, delete "Allen" and substitute "Everett, Allen"

AND

Page 1, line 7, delete "McCrary" and substitute "McCrary, Patterson, Blount,
Pierce, Dunn, Abernathy, Saunders"

AND

Page 1, delete lines 13 and 14 of the title, and substitute the following:
"OTHER TOBACCO PRODUCTS; TO AUTHORIZE THE DEPARTMENT OF FINANCE AND
ADMINISTRATION TO PAY THE COMMISSION TO THE STAMP DEPUTIES FOR CERTAIN
CIGARETTE TAXES; AND FOR OTHER PURPOSES."

AND

Page 1, delete line 19 of the subtitle, and substitute the following:
"AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO PAY THE COMMISSION
TO THE STAMP DEPUTIES FOR CERTAIN CIGARETTE TAXES."

AND

Delete all of the language after the enacting clause and substitute the
following:

"SECTION 1. Arkansas Code § 26-57-236(g) as amended by Acts 1997, No.
434, is amended to read as follows:

(g)(1) A commission shall be paid by the director to stamp deputies
for the sales and collection of cigarette tax stamps and for affixing the tax
stamps to each package of cigarettes.

(2) The commission shall not be less than ~~three and eight tenths
percent (3.8%)~~ three percent (3%) of the total aggregate cigarette tax



collected.

SECTION 2. Arkansas Code § 26-57-236(f) as amended by Acts 1997, No. 1337, is amended to read as follows:

(f) A commission shall be paid by the director to stamp deputies for the sale of stamps for cigarettes and the collection of cigarette taxes. The commission paid shall not be less than ~~three and eight tenths percent (3.8%)~~ three percent (3%) of the total aggregate cigarette tax collected.

SECTION 3. Arkansas Code § 26-57-804(e), concerning the additional tax on tobacco products, is amended to read as follows:

(e) The Director of the Department of Finance and Administration shall ~~not~~ pay the commission authorized by § 26-57-236(g) with respect to the tax levied by this section.

SECTION 4. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended to add an additional section to read as follows:

26-57-806. Additional tax on cigarettes.

(a) In addition to the excise or privilege taxes levied under §§ 26-57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101, there is levied an additional tax of twenty-eight dollars (\$28.00) per one thousand (1,000) cigarettes sold in the state.

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

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

(2)(A) The tax on cigarettes sold in Arkansas within three hundred feet (300') of a state line in any Arkansas city that adjoins a state line or in any city that is separated only by a navigable river from a city that adjoins a state line shall be at the rate imposed by law on cigarettes sold in the adjoining state.

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

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

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

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

(c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-210 shall apply to this section.

(d) The additional tax levied under this section shall be imposed, reported, remitted, and administered in the same manner and at the same time as other taxes levied on cigarettes in the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq.

(e) The revenue derived from the additional tax imposed by this section shall be credited to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed with the other gross general revenue collections for that month in accordance with the Revenue Stabilization Law, § 19-5-201 et seq.

(f) As provided in § 26-57-244, the director may make a direct assessment of excise tax against any person in possession of unstamped cigarettes.

SECTION 5. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended to add an additional section to read as follows:

26-57-807. Additional tax on tobacco products other than cigarettes.

(a)(1) In addition to the excise or privilege taxes levied under §§ 26-57-208, 26-57-803, 26-57-805 and 26-57-1102, there is levied an additional tax on tobacco products other than cigarettes on the first sale to wholesalers or retailers within the state at thirty-six percent (36%) of the manufacturer's selling price.

(2) The tax shall be computed on the manufacturer's actual invoice price before discounts and deals.

(b)(1) The tax levied by this section shall be reported and paid by wholesalers licensed pursuant to § 26-57-214.

(2) However, retailers shall be liable for reporting and paying this tax when a retailer purchases tobacco products directly from a manufacturer or from a wholesaler or distributor not licensed under § 26-57-214.

(c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-210 shall apply to this section.

(d) The additional tax levied under this section shall be imposed, reported, remitted, and administered in the same manner and at the same time as other taxes levied on cigarettes in the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq.

(e) The revenue derived from the additional tax imposed by this section shall be credited to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed with the other gross general revenue collections for that month in accordance with the Revenue Stabilization Law, § 19-5-201 et seq.

(f) As provided in § 26-57-244, the Director of the Department of Finance and Administration may make a direct assessment of excise tax against any person in possession of an untaxed tobacco product.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that existing funding levels are inadequate to meet the medical care needs of the state. That without immediately obtaining adequate funding levels for medical care the citizens of this state will suffer irreparable harm to their health and well-being. This bill shall immediately provide additional funding that is needed to make the funding level adequate and humane. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the

public peace, health, and safety shall become effective on March 1, 2009.

The Amendment was read _____
By: Representative Reep
MAG/CDS - 01-30-2009 15:23
MAG093 _____ Chief Clerk