

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.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007

# A Bill

HOUSE BILL 1002

4  
5 By: Representative Hardwick  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO PHASE OUT A PORTION OF THE STATE SALES  
10 AND USE TAX ON FOOD AND FOOD INGREDIENTS; TO  
11 CONTINUE THE IMPOSITION OF LOCAL SALES AND USE  
12 TAX ON FOOD AND FOOD INGREDIENTS; AND FOR OTHER  
13 PURPOSES.  
14

## Subtitle

15  
16 AN ACT TO PHASE OUT A PORTION OF THE  
17 STATE SALES AND USE TAX ON FOOD AND FOOD  
18 INGREDIENTS AND TO CONTINUE THE  
19 IMPOSITION OF LOCAL SALES AND USE TAX ON  
20 FOOD AND FOOD INGREDIENTS.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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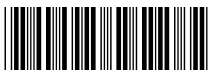
25 SECTION 1. Effective July 1, 2007, Arkansas Code § 26-52-317 is  
26 amended to read as follows:

27 26-52-317. Food and food ingredients.

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

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

34 ~~(B) That initiating the collection of sales and use tax~~  
35 ~~from these sellers would increase the net available general revenues needed~~  
36 ~~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                   (a)(1) In lieu of the combined rate of excise tax levied upon the  
 18 gross proceeds or gross receipts derived from all sales by §§ 26-52-301 and  
 19 26-52-302(a) and (b), the sale of food and food ingredients is subject to an  
 20 excise tax upon the gross proceeds or gross receipts at the rate of:

21                   (A) Three percent (3%) from July 1, 2007, through June 30,  
 22 2008;

23                   (B) Two percent (2%) from July 1, 2008, through June 30,  
 24 2009;

25                   (C) One percent (1%) from July 1, 2009, through June 30,  
 26 2010; and

27                   (D) Zero percent (0%) beginning July 1, 2010.

28                   (2) However, prior to the implementation of a tax reduction  
 29 according the schedule in subdivision (a)(1) of this section the Chief Fiscal  
 30 Officer of the State shall determine whether the general revenue attributable  
 31 to the Arkansas Gross Receipts Act of 1941 and the Arkansas Compensating Tax  
 32 Act of 1949 for the fiscal year prior to the scheduled reduction is less than  
 33 the amount of general revenues for the next previous fiscal year, and if the  
 34 amount is less, then the tax reduction and all remaining scheduled tax  
 35 reductions under this subsection (a) shall be delayed for one (1) year.

36                   (b) The gross receipts or gross proceeds derived from the sale of food

1 and food ingredients shall continue to be subject to the:

2 (1) Taxes levied under § 26-52-302(c) and (d);

3 (2) Excise tax levied under Arkansas Constitution, Amendment 75,  
4 § 2; and

5 (3) All municipal and county gross receipts taxes.

6 (c) The Department of Finance and Administration shall promulgate  
7 rules to implement the provisions of this section.

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9 SECTION 2. Effective July 1, 2007, Arkansas Code § 26-53-145 is  
10 amended to read as follows:

11 26-53-145. Food and food ingredients.

12 ~~(a)(1) The Director of the Department of Finance and Administration~~  
13 ~~shall determine the following conditions:~~

14 ~~(A) That federal law authorizes the state to collect sales~~  
15 ~~and use tax from some or all of the sellers who have no physical presence in~~  
16 ~~the State of Arkansas and who make sales of taxable goods and services to~~  
17 ~~Arkansas purchasers;~~

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

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

27 ~~(ii) The director shall make the determination under~~  
28 ~~subdivision (a)(1)(C)(i) of this section on a monthly basis following the~~  
29 ~~determination that the conditions under subdivision (a)(1)(A) of this section~~  
30 ~~have been met.~~

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

1       (a)(1) In lieu of the combined rate of excise tax levied upon the  
 2 privilege of storing, using, distributing, or consuming tangible personal  
 3 property within this state by §§ 26-53-106 and 26-53-107 (a) and (b), sales  
 4 of food and food ingredients are subject to a compensating use tax at the  
 5 rate of:

6                   (A) Three percent (3%) from July 1, 2007, through June 30,  
 7 2008;

8                   (B) Two percent (2%) from July 1, 2008, through June 30,  
 9 2009;

10                   (C) One percent (1%) from July 1, 2009, through June 30,  
 11 2010; and

12                   (D) Zero percent (0%) beginning July 1, 2010.

13       (2) However, prior to the implementation of a tax reduction  
 14 according the schedule in subdivision (a)(1) of this section the Chief Fiscal  
 15 Officer of the State shall determine whether the general revenue attributable  
 16 to the Arkansas Gross Receipts Act of 1941 and the Arkansas Compensating Tax  
 17 Act of 1949 for the fiscal year prior to the scheduled reduction is less than  
 18 the amount of general revenues for the next previous fiscal year, and if the  
 19 amount is less, then the tax reduction and all remaining scheduled tax  
 20 reductions under this subsection (a) shall be delayed for one (1) year.

21       (b) The following shall continue to apply to the sales price of food  
 22 and food ingredients:

23               (1) The compensating use tax levied under § 26-53-107(c) and  
 24 (d);

25               (2) The compensating use tax levied under Arkansas Constitution,  
 26 Amendment 75, § 2; and

27               (3) All municipal and county use taxes.

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

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 31       SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
 32 General Assembly of the State of Arkansas that the sales and use taxes on  
 33 food and food ingredients have a significant impact on citizens with low or  
 34 fixed incomes; that this act provides needed tax relief; and that this act is  
 35 necessary in order to provide tax relief as soon as reasonably possible.  
 36 Therefore, an emergency is declared to exist and this act being necessary for

1 the preservation of the public peace, health, and safety shall become  
2 effective on July 1, 2007.

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