

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 87th General Assembly
3 Regular Session, 2009
4

A Bill

HOUSE BILL 1454

5 By: Representatives Glidewell, Garner, Carroll, Dale, Dismang, English, Greenberg, D. Hutchinson,
6 King, Pyle, Rice
7

For An Act To Be Entitled

10 AN ACT TO REDUCE THE STATE PORTION OF THE SALES
11 AND USE TAX RATE ON FOOD AND FOOD INGREDIENTS;
12 AND FOR OTHER PURPOSES.
13

Subtitle

14 TO REDUCE THE STATE PORTION OF THE SALES
15 AND USE TAX RATE ON FOOD AND FOOD
16 INGREDIENTS.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 26-52-317(a), concerning the tax rate on
23 food and food ingredients, is repealed.

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

26 ~~(A) That federal law authorizes the state to collect sales~~
27 ~~and use tax from some or all of the sellers that have no physical presence in~~
28 ~~the State of Arkansas and that make sales of taxable goods and services to~~
29 ~~Arkansas purchasers;~~

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

33 ~~(C)(i) That during a six month consecutive period, the~~
34 ~~amount of net available general revenues attributable to the collection of~~
35 ~~sales and use tax from sellers that have no physical presence in the State of~~
36 ~~Arkansas is equal to or greater than one hundred fifty percent (150%) of~~



1 ~~sales and use tax collected under subsection (c) of this section and § 26-~~
 2 ~~53-145 on food and food ingredients.~~

3 ~~(ii) The director shall make the determination under~~
 4 ~~subdivision (a)(1)(C)(i) of this section on a monthly basis following the~~
 5 ~~determination that the conditions under subdivision (a)(1)(A) of this section~~
 6 ~~have been met.~~

7 ~~(2) When the director finds that all of the conditions in~~
 8 ~~subdivision (a)(1) of this section have been met, then the gross receipts or~~
 9 ~~gross proceeds taxes levied under subsection (c) of this section shall be~~
 10 ~~levied at the rate of zero percent (0%) on the sale of food and food~~
 11 ~~ingredients beginning on the first day of the second calendar month following~~
 12 ~~the determination of the director.~~

13
 14 SECTION 2. Arkansas Code § 26-52-317(c), concerning the tax rate on
 15 food and food ingredients, is amended to read as follows:

16 ~~(c)(1) Beginning July 1, 2007~~ July 1, 2009, in lieu of the gross
 17 receipts or gross proceeds taxes levied on food and food ingredients under §§
 18 26-52-301 and 26-52-302, there is levied a tax on the gross receipts or gross
 19 proceeds derived from the sale of food and food ingredients at the rate of
 20 ~~two and seven eighths percent (2.875%)~~ zero percent (0%). ~~to be distributed~~
 21 ~~as follows:~~

22 ~~(A) Seventy six and six tenths percent (76.6%) of the~~
 23 ~~taxes, interest, penalties, and costs received by the director under this~~
 24 ~~subdivision (c)(1) shall be deposited as general revenues;~~

25 ~~(B) Eight and five tenths percent (8.5%) of the taxes,~~
 26 ~~interest, penalties, and costs received by the director under this~~
 27 ~~subdivision (c)(1) shall be deposited into the Property Tax Relief Trust~~
 28 ~~Fund; and~~

29 ~~(C) Fourteen and nine tenths percent (14.9%) of the taxes,~~
 30 ~~interest, penalties, and costs received by the director under this~~
 31 ~~subdivision (c)(1) shall be deposited into the Educational Adequacy Fund.~~

32 ~~(2) The gross receipts or gross proceeds taxes levied under~~
 33 ~~subdivision (c)(1) of this section shall be collected, reported, and paid in~~
 34 ~~the same manner and at the same time as is prescribed by law for the~~
 35 ~~collection, reporting, and payment of all other Arkansas gross receipts~~
 36 ~~taxes.~~

1
 2 SECTION 3. Arkansas Code § 26-52-317(d), concerning the tax rate on
 3 food and food ingredients, is amended to read as follows:

4 (d)(1) The gross receipts or gross proceeds derived from the sale of
 5 food and food ingredients shall continue to be subject to the:

6 ~~(1)(A)~~ Excise tax levied under Arkansas Constitution,
 7 Amendment 75, § 2; and

8 ~~(2)(B)~~ All municipal and county gross receipts taxes.

9 (2) The gross receipts or gross proceeds taxes levied under
 10 subdivision (d)(1) of this section shall be collected, reported, and paid in
 11 the same manner and at the same time as is prescribed by law for the
 12 collection, reporting, and payment of all other Arkansas gross receipts
 13 taxes.

14
 15 SECTION 4. Arkansas Code § 26-53-145(a), concerning the tax rate of
 16 food and food ingredients, is repealed.

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

19 ~~(A) That federal law authorizes the state to collect sales~~
 20 ~~and use tax from some or all of the sellers that have no physical presence in~~
 21 ~~the State of Arkansas and that make sales of taxable goods and services to~~
 22 ~~Arkansas purchasers;~~

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

26 ~~(C)(i) That during a six month consecutive period, the~~
 27 ~~amount of net available general revenues attributable to the collection of~~
 28 ~~sales and use tax from sellers that have no physical presence in the State of~~
 29 ~~Arkansas is equal to or greater than one hundred fifty percent (150%) of~~
 30 ~~sales and use tax collected under subsection (c) of this section and § 26-52-~~
 31 ~~317 on food and food ingredients.~~

32 ~~(ii) The director shall make the determination under~~
 33 ~~subdivision (a)(1)(C)(i) of this section on a monthly basis following the~~
 34 ~~determination that the conditions under subdivision (a)(1)(A) of this section~~
 35 ~~have been met.~~

36 ~~(2) When the director finds that all of the conditions in~~

1 ~~subdivision (a)(1) of this section have been met, then the compensating use~~
 2 ~~taxes levied under subsection (c) of this section shall be levied at the rate~~
 3 ~~of zero percent (0%) on the sale of food and food ingredients beginning on~~
 4 ~~the first day of the second calendar month following the determination of the~~
 5 ~~director.~~

6
 7 SECTION 5. Arkansas Code § 26-53-145(c), concerning the tax rate of
 8 food and food ingredients, is amended to read as follows:

9 (c)~~(1)~~ Beginning ~~July 1, 2007~~ July 1, 2009, in lieu of the
 10 compensating use taxes levied on food and food ingredients under §§ 26-53-106
 11 and 26-53-107, there is levied a tax on the privilege of storing, using,
 12 distributing, or consuming food and food ingredients at the rate of ~~two and~~
 13 ~~seven eights percent (2.875%)~~ zero percent (0%). ~~to be distributed as~~
 14 ~~follows:~~

15 (A) ~~Seventy six and six tenths percent (76.6%) of the~~
 16 ~~taxes, interest, penalties, and costs received by the director under this~~
 17 ~~subdivision (c)(1) shall be deposited as general revenues;~~

18 (B) ~~Eight and five tenths percent (8.5%) of the taxes,~~
 19 ~~interest, penalties, and costs received by the director under this~~
 20 ~~subdivision (c)(1) shall be deposited into the Property Tax Relief Trust~~
 21 ~~Fund; and~~

22 (C) ~~Fourteen and nine tenths percent (14.9%) of the taxes,~~
 23 ~~interest, penalties, and costs received by the director under this~~
 24 ~~subdivision (c)(1) shall be deposited into the Educational Adequacy Fund.~~

25 (2) ~~The use tax levied under subdivision (c)(1) of this section~~
 26 ~~shall be collected, reported, and paid in the same manner and at the same~~
 27 ~~time as is prescribed by law for the collection, reporting, and payment of~~
 28 ~~all other Arkansas compensating use taxes.~~

29
 30 SECTION 6. Arkansas Code § 26-53-145(d), concerning the tax rate of
 31 food and food ingredients, is amended to read as follows:

32 (d)(1) The following shall continue to apply to the sales price of
 33 food and food ingredients:

34 ~~(1)(A)~~ (A) The compensating use tax levied under Arkansas
 35 Constitution, Amendment 75, § 2; and

36 ~~(2)(B)~~ (B) All municipal and county use taxes.

1 (2) The use tax levied under subdivision (d)(1) of this section
2 shall be collected, reported, and paid in the same manner and at the same
3 time as is prescribed by law for the collection, reporting, and payment of
4 all other Arkansas compensating use taxes.

5
6 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the
7 General Assembly of the State of Arkansas that unemployment is rising in
8 Arkansas, that the rise in unemployment has resulted in an increase in the
9 number of Arkansans unable to afford basic necessities; and that in order to
10 aid the people of Arkansas, the sales and use tax rate on food and food
11 ingredients should be reduced. Therefore, an emergency is declared to exist
12 and this act being necessary for the preservation of the public peace,
13 health, and safety shall become effective on July 1, 2009.