

1 State of Arkansas As Engrossed: H3/23/21 H4/7/21 H4/12/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1546

4

5 By: Representatives L. Fite, Beaty Jr., M. Berry, Bragg, Brooks, Brown, Crawford, Deffenbaugh, Evans,
6 Hollowell, Jean, Lowery, Lundstrum, Lynch, Miller, Ray, Rye, Slape, Warren

7 By: Senators D. Wallace, L. Eads, T. Garner, Gilmore, K. Hammer

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For An Act To Be Entitled

10 AN ACT CONCERNING THE SOFT DRINK TAX AND THE PROGRAMS
11 FUNDED BY THE SOFT DRINK TAX; TO PHASE OUT THE SOFT
12 DRINK TAX; TO REDUCE THE SOFT DRINK TAX; TO PROVIDE
13 FOR THE EXPIRATION OF THE ARKANSAS SOFT DRINK TAX
14 ACT; TO PROVIDE FOR ADDITIONAL AMOUNTS TO BE
15 DISTRIBUTED TO OFFSET THE EFFECT ON THE ARKANSAS
16 MEDICAID PROGRAM TRUST FUND RESULTING FROM THE
17 PHASEOUT OF THE SOFT DRINK TAX; AND FOR OTHER
18 PURPOSES.

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Subtitle

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

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SECTION 1. DO NOT CODIFY. Legislative findings and intent.

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(a) The General Assembly finds that:

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*(1) The funding of the Arkansas Medicaid Program is of vital
34 importance to the state;*

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*(2) The Arkansas Soft Drink Tax Act, § 26-57-901 et seq., was
36 enacted in 1993 to help pay for the Arkansas Medicaid Program at a time when*



1 the state's economy was not as strong as it is today; and

2 (3) Arkansas's economy has improved, and the state now has
3 sufficient resources to fund the Arkansas Medicaid Program using general
4 revenues.

5 (b) The General Assembly intends to:

6 (1) Continue to make funding the Arkansas Medicaid Program a
7 priority in the state; and

8 (2) Satisfy the state's obligation to fund the Arkansas Medicaid
9 Program using general revenues that were not available when the Arkansas Soft
10 Drink Tax Act, § 26-57-901 et seq., was enacted.

11
12 SECTION 2. Arkansas Code § 26-57-904(a), concerning the tax rate under
13 the Arkansas Soft Drink Tax Act, is amended to read as follows:

14 (a) There is hereby levied and there shall be collected a tax upon
15 every distributor, manufacturer, or wholesale dealer, to be calculated as
16 follows:

17 (1) ~~One dollar and twenty-six cents (\$1.26) per gallon for~~ For
18 each gallon of soft drink syrup or simple syrup sold or offered for sale in
19 the State of Arkansas:

20 (A) One dollar and twenty-six cents (\$1.26) per gallon;

21 (B) Beginning the later of July 1, 2023, or July 1 of the
22 calendar year following the fiscal year in which the general revenue portion
23 of the total collections under the Arkansas Gross Receipts Act of 1941, § 26-
24 52-101 et seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et
25 seq., equals or exceeds two billion six hundred eighty-one million dollars
26 (\$2,681,000,000), ninety-four and five-tenths cents (94.5¢) per gallon; and

27 (C) Beginning the later of July 1 of the calendar year
28 following the tax rate reduction under subdivision (a)(1)(B) of this section
29 or July 1 of the calendar year beginning after the fiscal year in which the
30 general revenue portion of the total collections under the Arkansas Gross
31 Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax
32 Act of 1949, § 26-53-101 et seq., equals or exceeds two billion seven hundred
33 fifty-four million dollars (\$2,754,000,000), forty-seven and three-tenths
34 cents (47.3¢) per gallon;

35 (2) ~~Twenty and six tenths cents (20.6¢) per gallon for~~ For each
36 gallon of bottled soft drinks sold or offered for sale in the State of

1 Arkansas:

2 (A) Twenty and six-tenths cents (20.6¢) per gallon;

3 (B) Beginning the later of July 1, 2023, or July 1 of the
4 calendar year following the fiscal year in which the general revenue portion
5 of the total collections under the Arkansas Gross Receipts Act of 1941, § 26-
6 52-101 et seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et
7 seq., equals or exceeds two billion six hundred eighty-one million dollars
8 (\$2,681,000,000), fifteen and five-tenths cents (15.5¢) per gallon; and

9 (C) Beginning the later of July 1 of the calendar year
10 following the tax rate reduction under subdivision (a)(2)(B) of this section
11 or July 1 of the calendar year beginning after the fiscal year in which the
12 general revenue portion of the total collections under the Arkansas Gross
13 Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax
14 Act of 1949, § 26-53-101 et seq., equals or exceeds two billion seven hundred
15 fifty-four million dollars (\$2,754,000,000), seven and seven-tenths cents
16 (7.7¢) per gallon; and

17 (3)(A) When a package or container of powder or other base
18 product, other than a syrup or simple syrup, is sold or offered for sale in
19 Arkansas, and the powder is for the purpose of producing a liquid soft drink,
20 then the tax on the sale of each package or container shall be equal to
21 ~~twenty and six tenths cents (20.6¢)~~ the following tax for each gallon of soft
22 drink ~~which~~ that may be produced from each package or container by following
23 the manufacturer's directions:

24 (i) Twenty and six-tenths cents (20.6¢);

25 (ii) Beginning the later of July 1, 2023, or July 1
26 of the calendar year following the fiscal year in which the general revenue
27 portion of the total collections under the Arkansas Gross Receipts Act of
28 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of 1949, §
29 26-53-101 et seq., equals or exceeds two billion six hundred eighty-one
30 million dollars (\$2,681,000,000), fifteen and five-tenths cents (15.5¢); and

31 (iii) Beginning the later of July 1 of the calendar
32 year following the tax rate reduction under subdivision (a)(3)(A)(ii) of this
33 section or July 1 of the calendar year beginning after the fiscal year in
34 which the general revenue portion of the total collections under the Arkansas
35 Gross Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas
36 Compensating Tax Act of 1949, § 26-53-101 et seq., equals or exceeds two

1 billion seven hundred fifty-four million dollars (\$2,754,000,000), seven and
2 seven-tenths cents (7.7¢).

3 (B) This tax applies when the sale of the powder or other
4 base is sold to a retailer for sale to the ultimate consumer after the liquid
5 soft drink is produced by the retailer.

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7 SECTION 3. Arkansas Code Title 26, Chapter 57, Subchapter 9, is
8 amended to add an additional section to read as follows:

9 26-57-910. Sunset.

10 This subchapter expires on the later of July 1 of the calendar year
11 following the tax rate reductions under § 26-57-904(a)(1)(C), § 26-57-
12 904(a)(2)(C), and § 26-57-904(a)(3)(A)(iii) or July 1 of the calendar year
13 beginning after the fiscal year in which the general revenue portion of
14 collections under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et
15 seq., equals or exceeds two billion eight hundred thirty million dollars
16 (\$2,830,000,000).

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18 SECTION 4. Arkansas Code § 19-5-402(a), concerning the maximum
19 allocations of revenues for fiscal year 2020-2021 and thereafter, is amended
20 to add an additional subdivision to read as follows:

21 (3)(A) The following amounts shall be included and added to the
22 amount distributed in subdivisions (a)(1) and (2) of this section and
23 distributed by the Treasurer of State in monthly amounts to the Arkansas
24 Medicaid Program Trust Fund under § 19-5-985:

25 (i) For the fiscal year beginning July 1 in which
26 the first soft drink tax rate reduction occurs under § 26-57-904(a)(1)(B), §
27 26-57-904(a)(2)(B), and § 26-57-904(a)(3)(A)(ii), nine million thirty-eight
28 thousand dollars (\$9,038,000);

29 (ii) For fiscal years beginning on and after July 1
30 following the fiscal year in which the first soft drink tax rate reduction
31 occurs under § 26-57-904(a)(1)(B), § 26-57-904(a)(2)(B), and § 26-57-
32 904(a)(3)(A)(ii) and until July 1 of the fiscal year in which the second soft
33 drink tax rate reduction occurs under § 26-57-904(a)(1)(C), § 26-57-
34 904(a)(2)(C), and § 26-57-904(a)(3)(A)(iii), nine million eight hundred
35 fifty-nine thousand dollars (\$9,859,000);

36 (iii) For the fiscal year beginning July 1 in which

1 the second soft drink tax rate reduction occurs under § 26-57-904(a)(1)(C), §
2 26-57-904(a)(2)(C), and § 26-57-904(a)(3)(A)(iii), twenty-three million four
3 hundred sixteen thousand dollars (\$23,416,000);

4 (iv) For fiscal years beginning on and after July 1
5 following the fiscal year in which the second soft drink tax rate reduction
6 occurs under § 26-57-904(a)(1)(C), § 26-57-904(a)(2)(C), and § 26-57-
7 904(a)(3)(A)(iii) and until July 1 of the fiscal year in which the soft drink
8 tax expires under § 26-57-910, twenty-four million six hundred forty-nine
9 thousand dollars (\$24,649,000);

10 (v) For the fiscal year beginning July 1 in which
11 the soft drink tax expires under § 26-57-910, thirty-eight million two
12 hundred six thousand dollars (\$38,206,000); and

13 (vi) For fiscal years beginning on and after July 1
14 following the fiscal year in which the Arkansas Soft Drink Tax Act, § 26-57-
15 901 et seq., expires under § 26-57-910, thirty-nine million four hundred
16 thirty-eight thousand dollars (\$39,438,000).

17 (B) The amounts allocated in subdivision (a)(3)(A) of this
18 section or so much of the amounts allocated in subdivision (a)(3)(A) of this
19 section as is available shall be distributed by the Treasurer of State in
20 monthly amounts with each allocation's proportion of the total of
21 subdivisions (a)(1) and (2) of this section and this subdivision (a)(3) to
22 supplement the Arkansas Medicaid Program Trust Fund.

23
24 SECTION 5. Arkansas Code § 19-5-985(b)(1)(E), concerning the funds in
25 the Arkansas Medicaid Program Trust Fund, is amended to read as follows:

26 (E) The ~~amount~~ amounts provided for in § 19-5-402(a)(3);
27 and"

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29 /s/L. Fite
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