

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: S3/5/13 S3/6/13

# A Bill

SENATE BILL 540

5 By: Senator Maloch  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAWS PERTAINING TO TAXES LEVIED  
9 ON TOBACCO PRODUCTS; TO CLARIFY THAT CURRENT LAW  
10 IMPOSES AN EXCISE TAX ON ALL TOBACCO PRODUCTS OFFERED  
11 FOR SALE IN THE STATE; TO DECLARE AN EMERGENCY; AND  
12 FOR OTHER PURPOSES.  
13  
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## Subtitle

15 TO AMEND THE LAWS PERTAINING TO TAXES  
16 LEVIED ON TOBACCO PRODUCTS; TO CLARIFY  
17 THAT CURRENT LAW IMPOSES AN EXCISE TAX ON  
18 ALL TOBACCO PRODUCTS OFFERED FOR SALE IN  
19 THE STATE; AND TO DECLARE AN EMERGENCY.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 26-57-203(10), concerning the definitions  
26 to be used under the Arkansas Tobacco Products Tax Act of 1977, is amended to  
27 read as follows:

28 (10) "First sale" means the sale of tobacco products made by a  
29 manufacturer to licensed wholesalers and licensed vendors or a licensed  
30 retailer ~~only~~;  
31

32 SECTION 2. Arkansas Code § 26-57-203(16)(A), concerning the  
33 definitions to be used under the Arkansas Tobacco Products Tax Act of 1977,  
34 is amended to read as follows:

35 (16)(A) "Manufacturer" means a person that produces or offers a  
36 tobacco product for sale, including without limitation importers and



1 *distributors that deal in tobacco products as manufacturers and that are*  
2 *required under this subchapter to sell only to licensed wholesalers or*  
3 *licensed retailers located in the state.*  
4

5 SECTION 3. Arkansas Code § 26-57-203(26)(A), concerning the  
6 definitions to be used under the Arkansas Tobacco Products Tax Act of 1977,  
7 is amended to read as follows:

8 (26)(A) "Sales entity affiliate" means an entity that:

- 9 (i) Sells cigarettes or other tobacco products that  
10 the entity acquires directly from a manufacturer or importer; and  
11 (ii) Is affiliated with the manufacturer or importer  
12 from which the entity acquires the cigarettes or other tobacco products.  
13

14 SECTION 4. Arkansas Code § 26-57-203(33)(A), concerning the  
15 definitions to be used under the Arkansas Tobacco Products Tax Act of 1977,  
16 is amended to read as follows:

17 (33)(A) "Wholesaler" means a person other than a manufacturer or  
18 a person owned or operated by a manufacturer that:

- 19 (i) Does business within the state ~~at or from an~~  
20 ~~established place of business that~~ and purchases unstamped or untaxed  
21 cigarettes or other tobacco products directly from manufacturers that  
22 distribute tobacco products in the state; and

23 (ii) Sells to properly licensed cigarette or other  
24 tobacco product vendors or retailers.  
25

26 SECTION 5. Arkansas Code § 26-57-203, concerning the definitions to be  
27 used under the Arkansas Tobacco Products Tax Act of 1977, is amended to add  
28 an additional subdivision to read as follows:

29 (34) "Invoice price" means the price that a wholesaler or  
30 retailer of tobacco products pays to a manufacturer, importer, or distributor  
31 for tobacco products that the wholesaler or retailer subsequently sells in  
32 the state.  
33

34 SECTION 6. Arkansas Code § 26-57-208(2), concerning the levy and  
35 computation of tax on sales of tobacco products other than cigarettes, is  
36 amended to read as follows:

1           (2)(A) The excise or privilege tax levied on tobacco products  
2 other than cigarettes ~~on the sale by wholesalers to retailers, or by licensed~~  
3 ~~retailers to the Director of the Department of Finance and Administration~~  
4 ~~within the state~~ that are offered for sale in the state is sixteen percent  
5 (16%) of the ~~manufacturer's selling price,~~ invoice price to a wholesaler or  
6 retailer, before discounts;

7           ~~(B) The tax shall be computed on the actual manufacturer's~~  
8 ~~invoice price before discounts;~~

9  
10           SECTION 7. Arkansas Code § 26-57-803(b), concerning the levy of tax on  
11 the sale of tobacco products other than cigarettes, is amended to read as  
12 follows:

13           (b) In addition to the tax imposed by § 26-57-208(2), there is levied  
14 an additional excise or privilege tax on ~~the sale of~~ tobacco products other  
15 than cigarettes ~~by wholesalers to retailers or by licensed retailers to the~~  
16 ~~Director of the Department of Finance and Administration~~ that are offered for  
17 sale in the state at seven percent (7%) of the ~~manufacturer's selling price.~~  
18 ~~The tax shall be computed before discounts~~ invoice price to a wholesaler or  
19 retailer, before discounts.

20  
21           SECTION 8. Arkansas Code § 26-57-805(a), concerning the levy of tax on  
22 tobacco products other than cigarettes, is amended to read as follows:

23           (a)~~(1)~~ In addition to the excise or privilege taxes levied under §§  
24 26-57-208, 26-57-803, and 26-57-1102, there is levied an additional tax on  
25 tobacco products other than cigarettes ~~on the first sale to wholesalers or~~  
26 ~~retailers within~~ that are offered for sale in the state at seven percent (7%)  
27 of the ~~manufacturer's selling price~~ invoice price to a wholesaler or  
28 retailer, before discounts.

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

31  
32           SECTION 9. Arkansas Code § 26-57-807(a), concerning the levy of tax on  
33 tobacco products other than cigarettes, is amended to read as follows:

34           (a)~~(1)~~ In addition to the excise or privilege taxes levied under §§  
35 26-57-208, 26-57-803, 26-57-805 and 26-57-1102, there is levied an additional  
36 tax on tobacco products other than cigarettes ~~on the first sale to~~

1 ~~wholesalers or retailers within~~ that are offered for sale in the state at  
 2 thirty-six percent (36%) of the ~~manufacturer's selling price~~ invoice price to  
 3 a wholesaler or retailer, before discounts.

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

6  
 7 SECTION 10. Arkansas Code § 26-57-1102(a), concerning the computation  
 8 of tax levied on tobacco products other than cigarettes, is amended to read  
 9 as follows:

10 (a)~~(1)~~ In addition to the tax imposed by § 26-57-208(2), there is  
 11 ~~imposed~~ levied an additional excise or privilege tax on tobacco products  
 12 other than cigarettes ~~on the first sale to wholesalers or retailers within~~  
 13 that are offered for sale in the state at two percent (2%) of the  
 14 ~~manufacturer's selling price~~ invoice price to a wholesaler or retailer,  
 15 before discounts.

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

18  
 19 SECTION 11. ~~EMERGENCY CLAUSE.~~ ~~It is found and determined by the~~  
 20 ~~General Assembly of the State of Arkansas that it is the intent of the~~  
 21 ~~General Assembly to clarify that each excise tax on tobacco products levied~~  
 22 ~~under current law is applicable to all tobacco products offered for sale~~  
 23 ~~within the State of Arkansas; that revenues from excise taxes under current~~  
 24 ~~law on all tobacco products offered for sale within the state are vital to~~  
 25 ~~protect the health and welfare of the citizens of this state; and that this~~  
 26 ~~act is immediately necessary to ensure and maintain the efficient~~  
 27 ~~administration and collection of revenues levied under current law on tobacco~~  
 28 ~~products sold within the state. Therefore, an emergency is declared to exist,~~  
 29 ~~and this act being immediately necessary for the preservation of the public~~  
 30 ~~peace, health, and safety shall become effective on:~~

31 ~~\_\_\_\_\_ (1) The date of its approval by the Governor;~~

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

35 ~~\_\_\_\_\_ (3) If the bill is vetoed by the Governor and the veto is~~  
 36 ~~overridden, the date the last house overrides the veto.~~

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*/s/Maloch*

***APPROVED: BECAME LAW ON 04/04/2013 01/13 Emergency Clause failed of adoption***