

2 State of Arkansas  
3 88th General Assembly  
4 Regular Session, 2011

# A Bill

JLL/VJF  
SENATE BILL 270

5  
6 By: Senator Madison

7 Filed with: Interim Senate Committee on Revenue and Taxation  
8 pursuant to A.C.A. §10-3-217.

## 9 For An Act To Be Entitled

10 AN ACT TO ACHIEVE FAIRNESS AMONG RETAILERS BY  
11 CLARIFYING THE APPLICATION OF THE GROSS RECEIPTS TAX  
12 AND COMPENSATING USE TAX TO CONSIGNMENT SALES; AND  
13 FOR OTHER PURPOSES.

### 14 15 16 Subtitle

17 TO ACHIEVE FAIRNESS AMONG RETAILERS BY  
18 CLARIFYING THE APPLICATION OF THE GROSS  
19 RECEIPTS TAX AND COMPENSATING USE TAX TO  
20 CONSIGNMENT SALES.

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

24  
25 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended  
26 to add an additional section to read as follows:

27 26-52-323. Consignment sales.

28 (a)(1) As used in this section, "consignment sale" means a transaction  
29 in which the owner of tangible personal property:

30 (A) Gives possession of the tangible personal property to  
31 another person for the purpose of selling the tangible personal property;

32 (B) Retains legal title to the property until it is sold;  
33 and

34 (C) Receives a portion of the proceeds from the sale of  
35 the property.

36 (2) "Consignment sale" does not include:

1                   (A) An auction in which the principal is disclosed;

2                   (B) A residential garage sale or yard sale, or any  
3 similar sale of tangible personal property occurring at a location used  
4 primarily as a residence;

5                   (C) A sale by a church to the extent the sale is exempt  
6 under § 26-52-401(1); or

7                   (D) A sale by a charitable organization to the extent the  
8 sale is exempt under § 26-52-401(2).

9           (b) The gross receipts or gross proceeds derived from a consignment  
10 sale are subject to the gross receipts tax levied by the Arkansas Gross  
11 Receipts Act of 1941, § 26-52-101 et seq., and the compensating use tax  
12 levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

13           (c) The Director of the Department of Finance and Administration shall  
14 promulgate rules to implement this section.

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16           SECTION 2. Arkansas Code § 26-52-401(17), concerning products and  
17 services exempt from gross receipts tax, is amended to read as follows:

18                   (17)(A) Gross receipts or gross proceeds derived from isolated  
19 sales not made by an established business;

20                   (B) The exemption granted by this subdivision (17) does  
21 not apply to a consignment sale to the extent stated in § 26-52-323;

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23           SECTION 3. Sections 1 and 2 of this act are effective on the first day  
24 of the calendar quarter following the effective date of this act.

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26 Referred by the Arkansas Senate

27 Prepared by: JLL/VJF

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