

1 INTERIM STUDY PROPOSAL 2015-052

2 State of Arkansas  
3 90th General Assembly  
4 Regular Session, 2015

*As Engrossed: H3/19/15*

# A Bill

HOUSE BILL 1156

5  
6 By: Representative Blake

7 Filed with: House Select Committee on Rules  
8 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

9  
10 AN ACT TO IMPOSE A TAX ON E-CIGARETTES; TO CREATE THE  
11 E-CIGARETTES TAX ACT; AND FOR OTHER PURPOSES.

## Subtitle

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15 TO IMPOSE A TAX ON E-CIGARETTES; AND TO  
16 CREATE THE E-CIGARETTES TAX ACT.

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

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21 SECTION 1. Arkansas Code Title 26, Chapter 57, is amended to add an  
22 additional subchapter to read as follows:

### Subchapter 15 – E-cigarette Excise Tax Act

#### 26-57-1501. Title.

This subchapter shall be known as the “E-cigarette Excise Tax Act”.

#### 26-57-1502. Definitions.

As used in this subchapter:

(1) “Consumable product” means a liquid product that:

(A) May or may not contain nicotine;

(B) Is vaporized and inhaled when using a vapor product;

33 and

34 (C) Includes without limitation propylene glycol,  
35 vegetable glycerin, nicotine from any source, and flavorings; and

1           (2)(A) "E-cigarette" means an electronic oral device of any size  
2 or shape that provides a vapor of nicotine, e-liquid, or any other substance  
3 that, when used or inhaled, simulates smoking, regardless of whether a  
4 visible vapor is produced, including without limitation a device that:

5                   (i) Is composed of a:

6                           (a) Heating element;

7                           (b) Battery;

8                           (c) Electronic circuit;

9                           (d) Chemical process;

10                          (e) Mechanical device; or

11                          (f) Combination of a heating element, battery,  
12 electronic circuit, chemical process, or mechanical device;

13                          (ii) Works in combination with a cartridge,  
14 consumable product, other container or liquid delivery device containing  
15 nicotine, or any other substance that is manufactured for use with vapor  
16 products; and

17                          (iii) Is manufactured, distributed, marketed, or  
18 sold as any type or derivation of a vapor product, e-cigar, e-pipe, e-  
19 cigarette, or any other product name or descriptor.

20                          (B) "E-cigarette" does not include a product regulated as  
21 a drug or device by the United States Food and Drug Administration under  
22 Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 351 et  
23 seq.

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25           26-57-1503. Administration.

26           This subchapter shall be administered in accordance with the Arkansas  
27 Tax Procedure Act, § 26-18-101 et seq., unless otherwise provided.

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29           26-57-1504. Levy of tax.

30           There is levied an excise tax on e-cigarettes sold in this state in the  
31 amount of seven and one-half cents (7 1/2¢) per fluid milliliter (ml) of  
32 consumable product sold.

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34           26-57-1505. Collection and reporting of taxes.

35           (a) The excise tax levied under this subchapter shall be paid by:

1           (1) The distributor, wholesaler, or manufacturer when the  
2 consumable product is sold; or

3           (2) The retailer if the retailer purchases a consumable product  
4 from an unlicensed distributor, wholesaler, or manufacturer.

5           (b) The distributor, wholesaler, manufacturer, or retailer shall file  
6 a monthly return and remit the excise tax for the month to the Director of  
7 the Department of Finance and Administration on or before the fifteenth day  
8 of the month next following the month in which the sale or purchase was made.

9           (c)(1) A return filed under this section shall be made on the forms  
10 prescribed and furnished by the director and signed by the person required to  
11 collect and remit the excise tax or the person's agent.

12           (2) The return shall contain the information required by the  
13 director for the proper administration of this subchapter.

14           (d)(1) An Arkansas consumer who purchases an untaxed consumable  
15 product is liable for reporting and remitting the excise due on the  
16 consumable product under this subchapter.

17           (2) The excise tax due under this subchapter shall be reported  
18 on or before the fifteenth day of the month following the month in which the  
19 untaxed purchase of the consumable product was made.

20           (3) The report shall:

21                   (A) Be submitted on the form prescribed by the director;  
22 and

23                   (B) Contain the information required by the director.

24           (4) When a report is filed under this subsection, the consumer  
25 shall remit the full amount of the excise tax due on the untaxed purchase of  
26 the consumable product to the director.

27           (e) The director may directly assess the excise tax due under this  
28 subchapter on any untaxed consumable product against a consumer who purchases  
29 the untaxed consumable product and does not report and remit the excise tax  
30 due under this subchapter in a timely manner.

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32           26-57-1506. Invoices.

33           (a) The excise tax levied under this subchapter shall be separately  
34 stated and identified on each invoice or statement as the "E-cigarette Excise  
35 Tax".

1       (b) Each invoice shall state the amount of consumable product sold in  
2 fluid milliliters (ml).

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4       26-57-1507. E-cigarette excise tax permit.

5       (a) A distributor, wholesaler, or manufacturer of e-cigarettes or  
6 consumable products, whether located within or without the State of Arkansas,  
7 that sells or offers e-cigarettes or consumable products for sale to retail  
8 dealers within the state shall register with the Director of the Department  
9 of Finance and Administration to obtain an e-cigarette excise tax permit for  
10 the privilege of conducting such business within the State of Arkansas.

11       (b) A retailer that purchases e-cigarettes or consumable products from  
12 an unlicensed manufacturer, wholesaler, or distributor shall register with  
13 the director to obtain an e-cigarette excise tax permit for the privilege of  
14 conducting such business from the director.

15       (c) A person required to obtain an e-cigarette excise tax permit under  
16 this subchapter shall obtain an e-cigarette excise tax permit for each place  
17 of business owned or operated by the person.

18       (d) The e-cigarette excise tax permit shall be conspicuously displayed  
19 at the place of business for which it was issued.

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21       26-57-1508. Disposition of revenues.

22       The revenues derived from the excise tax collected under this  
23 subchapter shall be remitted to the Director of the Department of Finance and  
24 Administration, who shall deposit the revenues into the State Treasury to be  
25 distributed as follows:

26               (1) Thirty percent (30%) shall be credited to the Child Care and  
27 Early Childhood Education Fund Account of the Department of Human Services  
28 Fund;

29               (2) Thirty percent (30%) shall be credited to the Miscellaneous  
30 Agencies Fund Account to be used exclusively for the benefit of Arkansas  
31 Tobacco Control, and any funds distributed under this subdivision (2) shall  
32 carry forward to the next fiscal year to be used for the purposes stated in  
33 this subdivision (2);

34               (3) Twenty percent (20%) shall be credited to the Department of  
35 Veterans Affairs' cash fund deposited into the State Treasury; and

1           (4) Twenty percent (20%) shall be general revenues and shall be  
2 credited to the State Apportionment Fund.

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4           26-57-1509. Rules.

5           The Director of the Department of Finance and Administration may  
6 promulgate rules to implement this subchapter.

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8           SECTION 2. Arkansas Code § 19-5-306(7)(B), concerning the funds that  
9 make up the Aging and Adult Services Fund Account of the Department of Human  
10 Services Fund, is amended to add an additional subdivision to read as  
11 follows:

12                           (vi) The revenues specified under § 26-57-1508;

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14           SECTION 3. Arkansas Code § 19-5-306(12)(B), concerning the funds that  
15 make up the Child Care and Early Childhood Education Fund Account of the  
16 Department of Human Services Fund, is amended to add an additional  
17 subdivision to read as follows:

18                           (iv) The revenues specified under § 26-57-1508.

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20           SECTION 4. EFFECTIVE DATE. Sections 1 through 3 of this act are  
21 effective on the first day of the second calendar month following the  
22 effective date of this act.

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24   */s/Blake*

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27 Referred by the Arkansas House of Representatives

28 Prepared by: VJF  
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