

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

A Bill

**DRAFT LGS/LGS
HOUSE BILL**

5
6 By: Representative Blake

7 Filed with: Arkansas Legislative Council
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT TO IMPOSE AN EXCISE TAX ON VAPOR PRODUCTS; TO
11 CREATE THE VAPOR PRODUCTS EXCISE TAX ACT; AND FOR
12 OTHER PURPOSES.

13
14
15 **Subtitle**

16 TO IMPOSE AN EXCISE TAX ON VAPOR
17 PRODUCTS; AND TO CREATE THE VAPOR
18 PRODUCTS EXCISE TAX ACT.

19
20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

25 Subchapter 15 – Vapor Products Excise Tax Act

26
27 26-57-1501. Title.

28 This subchapter shall be known as the “Vapor Products Excise Tax Act”.

29
30 26-57-1502. Definitions.

31 As used in this subchapter:

32 (1) “E-liquid” and “e-liquid product” means a liquid product,
33 which may or may not contain nicotine, that is vaporized and inhaled when
34 using a vapor product, and that may or may not include without limitation
35 propylene glycol, vegetable glycerin, nicotine from any source, and
36 flavorings; and

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

5 (A) Is composed of a heating element, battery, electronic
6 circuit, chemical process, mechanical device, or a combination of heating
7 element, battery, electronic circuit, chemical process, or mechanical device;

8 (B) Works in combination with a cartridge, other container
9 or liquid delivery device containing nicotine or any other substance and
10 manufactured for use with vapor products;

11 (C) Is manufactured, distributed, marketed, or sold as any
12 type or derivation of a vapor product, e-cigarette, e-cigar, e-pipe, or any
13 other product name or descriptor; and

14 (D) Does not include a product regulated as a drug or
15 device by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.,
16 as it existed on January 1, 2015.

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18 26-57-1503. Administration.

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

21
22 26-57-1504. Levy of tax.

23 There is levied an excise tax on e-liquid products sold in this state
24 in the amount of seven and one-half cents (7 1/2¢) per milliliter (ml) of
25 product sold.

26
27 26-57-1505. Collection and reporting of taxes.

28 (a) The excise tax levied under this subchapter shall be reported and
29 paid by the distributor, wholesaler, or manufacturer licensed under § 26-57-
30 214 when the e-liquid product is sold.

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

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

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

6 (d)(1) An Arkansas consumer who purchases an untaxed e-liquid product
7 is liable for reporting and remitting the excise due on the e-liquid product
8 purchased under this subchapter.

9 (2) The excise tax due under this subchapter shall be reported
10 on or before the fifteenth day of the month following the month in which the
11 untaxed purchase of the e-liquid product was made.

12 (3) The report shall:

13 (A) Be submitted on the form prescribed by the director;
14 and

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

16 (4) When a report is filed under this subsection, the consumer
17 shall remit the full amount of the excise tax due on the untaxed purchase of
18 the e-liquid product to the director.

19 (e) The director may directly assess the excise tax due under this
20 subchapter on any untaxed e-liquid product against a consumer who purchases
21 the untaxed e-liquid product and does not report and remit the excise tax due
22 under this subchapter in a timely manner.

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24 26-57-1506. Invoices.

25 (a) The excise tax levied under this subchapter shall be separately
26 stated and identified on each invoice or statement as the "Vapor Products
27 Excise Tax".

28 (b) Each invoice shall state the amount of e-liquid product sold in
29 milliliters (ml).

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31 26-57-1507. Disposition of revenues.

32 The revenues derived from the excise tax collected under this
33 subchapter shall be remitted to the Director of the Department of Finance and
34 Administration, who shall deposit the revenues into the State Treasury to be
35 distributed as follows:

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

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

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

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

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14 26-57-1508. Rules.

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

17
18 SECTION 2. Arkansas Code § 19-5-306(7)(B), concerning the funds that
19 make up the Aging and Adult Services Fund Account of the Department of Human
20 Services Fund, is amended to add an additional subdivision to read as
21 follows:

22 (vi) The revenues specified under § 26-57-1507;
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24 SECTION 3. Arkansas Code § 19-5-306(12)(B), concerning the funds that
25 make up the Child Care and Early Childhood Education Fund Account of the
26 Department of Human Services Fund, is amended to add an additional
27 subdivision to read as follows:

28 (iv) The revenues specified under § 26-57-1507.
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30 SECTION 4. EFFECTIVE DATE. Sections 1 through 3 of this act are
31 effective on the first day of the second calendar month following the
32 effective date of this act.

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35 Referral requested by: Representative Charles Blake

36 Prepared by: LGS

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