

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

435

By: Senator Kinard

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 26-52-301 AND 26-53-106 (a) TO INCREASE THE EXCISE TAX UNDER THE ARKANSAS GROSS RECEIPTS ACT AND THE ARKANSAS COMPENSATING TAX ACT TO FIVE PERCENTUM; TO REPEAL ARKANSAS CODE 26-52-302 AND 26-53-107 PROVIDING FOR A SEPARATE ONE CENT TAX IN ADDITION TO THE ARKANSAS GROSS RECEIPTS ACT AND THE ARKANSAS COMPENSATING TAX ACT; TO AMEND ARKANSAS CODE 26-52-401 TO PROVIDE AN EXEMPTION FOR THE GROSS RECEIPTS DERIVED FROM THE SALE OF NATURAL OR ARTIFICIAL GAS AND ELECTRICITY; TO CONTINUE THE MUNICIPAL OR COUNTY SALES TAX ON NATURAL OR ARTIFICIAL GAS AND ELECTRICITY; TO AMEND ARKANSAS CODE 26-52-30 (a) TO INCREASE THE BORDER CITIES OR TOWNS EXEMPTION TAX RATE; TO AMEND ARKANSAS CODE TITLE 26, CHAPTER 52 TO LIMIT THE PROMPT PAYMENT DISCOUNT; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 26-52-301 of the Arkansas Code of 1987 is hereby amended to read as follows:

26-52-301. Tax levied.

There is levied an excise tax of five percent (5%) upon the gross proceeds or gross receipts derived from all sales to any person of the following:

- (1) Tangible personal property;
- (2) Water, ice, steam, or any other utility or public service except transportation services, sewer services, and sanitation or garbage collection services, natural or artificial gas and electricity;
- (3) (A) (i) Service by telephone, telecommunications, and telegraph companies to subscribers or users, including transmission of messages or images, whether local or long distance.

(ii) Taxable services shall include basic local service and rental charges, including all installation and construction charges and all service and rental charges having any connection with transmission of any message or image.

(iii) Except as provided in subdivision (3)(iv) of this section, taxable long distance services shall include:

(a) Long distance messages which originate and terminate within this state;

(b) Interstate long distance messages which originate within this state and terminate outside this state and are billed to an Arkansas telephone number or customer location;

(c) Interstate long distance messages which originate outside of this state and terminate within this state and are billed to an Arkansas telephone number or customer location.

(iv) However, the following services shall not be subject to the tax:

(a) Any interstate private communications service which is not accessible by the public;

(b) Any interstate service which allows access to private telephone lines and which is not accessible by the public; or

(c) Any interstate-wide area telecommunications service or other similar service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telecommunications service in a specified area which is outside the state in which the station provided with this service is located.

(v) This tax shall apply to all customer access line charges billed to an Arkansas telephone number. Access line charges are those charges associated with or for access to the long distance network. However, access or other telecommunication services provided to telephone, telegraph, or telecommunications companies which will be used to provide telecommunications services shall not be subject to this tax.

(B) Service of furnishing rooms by hotels, apartment hotels, lodging houses and tourist camps or courts to transient guests; the term "transient guests" being defined for the purpose hereof as those who rent accommodations other than their regular place of abode on less than a month-to-month basis.

(C) (i) Service of alteration, addition, cleaning, refinishing, replacement, and repair of motor vehicles, aircraft, farm machinery and implements, motors of all kinds, tires and batteries, boats, electrical appliances and devices, furniture, rugs, upholstery, household appliances, television and radio, jewelry, watches and clocks, engineering instruments, medical and surgical instruments, machinery of all kinds, bicycles, office machines and equipment, shoes, tin and sheetmetal, mechanical tools, and shop equipment.

(ii) However, the provisions of this section shall not apply to coin-operated car washes. For the purposes of this section, a coin-operated car wash shall be defined as one wherein the car washing equipment is activated by the insertion of coins into a slot or receptacle and where the labor of washing the exterior of the car or motor vehicle is performed solely by the customer or by mechanical equipment.

(iii) Additionally, the gross receipts tax levied in this section shall not apply to the repair or maintenance of railroad parts, railroad cars, and equipment brought into the State of Arkansas solely and exclusively for the purpose of being repaired, refurbished, modified, or converted within this state.

(iv) The General Assembly determines and affirms that the original intent of this subdivision which provides that gross receipts derived from certain services would be subject to the gross receipts tax was not intended to be applicable, nor shall Arkansas gross receipts taxes be collected, with respect to services performed on watches and clocks which are received by mail or common carrier from outside this state and which, after the service is performed, are returned by mail or common carrier or in the repairman's own conveyance to points outside this state;

(D) Service of cable television provided to subscribers or users including all service charges and rental charges, whether for basic service or premium channels or other special service, and including installation and repair service charges and any other charges having any connection with the providing of cable television services.

(4) Printing of all kinds, types, and characters, including the service of overprinting, and photography of all kinds;

(5) Tickets or admissions to places of amusement; to athletic, entertainment, or recreational events; or fees for the privilege of having

access to or the use of amusement, entertainment, athletic, or recreational facilities including free or complimentary passes and tickets, admissions, dues, or fees, with such free or complimentary passes, tickets, dues, or fees being declared to have a value equivalent to the sale price of tickets, passes, admissions, fees, or dues of like kind or character."

SECTION 2. Amend Arkansas Code 26-52-401 by adding an additional subdivision to read as follows:

"(27) Gross receipts or gross proceeds derived from the sale of natural or artificial gas or electricity."

SECTION 3. Arkansas Code 26-52-303 (a) is hereby amended to read as follows:

"(a) In instances where an Arkansas city or incorporated town is divided by a state line from an incorporated city or town in an adjoining state and the city or town in the adjoining state is of greater population than the Arkansas city or town, and a tax imposed in the adjoining state is in the nature of a selective sales tax or limited to specific items as a special excise tax, then the rate of tax upon such articles on the Arkansas side shall be at the same rate imposed in the adjoining state, not to exceed five percent (5%). However, if that border city has voted to levy an additional one percent (1%) gross receipts tax in that city in lieu of paying state income taxes by individuals who are residents of the city, as authorized by § 26-52-601 et seq., the rate of tax shall be one percent (1%) above the five percent (5%)."

SECTION 4. Arkansas 26-53-106 (a) is hereby amended to read as follows:

"(a) There is levied and there shall be collected from every person in this state a tax or excise for the privilege of storing, using, or consuming within this state any article of tangible personal property purchased for storage, use, or consumption in this state at the rate of five percent (5%) of the sales price of the property."

SECTION 5. (a) Any municipality or county levying a sales or sales and use tax, on the effective date of this act, shall continue to levy the sales or sales and use tax on natural or artificial gas, and electricity. The tax

on the items shall continue to be collected and administered in the same manner as the Arkansas gross receipts tax, Arkansas Code 26-52-101 et seq.

(b) Any municipality or county that levies a sales or sales and use tax after the effective date of this act may include natural and artificial gas and electricity as items subject to the tax, if the ordinance calling for an election for the levy of the sales or sales and use tax specifically provides for the inclusion of natural and artificial gas and electricity as items subject to the tax.

SECTION 6. Arkansas Code Title 26, Chapter 52 is hereby amended to add an additional section to read as follows:

"26-52-513. The amount of the discount for prompt payment allowed a taxpayer under Arkansas Code 26-52-503 and 26-52-512 shall not exceed twelve thousand five hundred dollars (\$12,500) per month."

SECTION 7. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 8. Arkansas Code 26-52-302 and 26-53-107, which provide for an additional one percent (1%) tax to the Arkansas Gross Receipts Tax Act and the Arkansas Compensating Tax Act are hereby repealed.

SECTION 9. Emergency. It is hereby found and determined by the General Assembly that the State of Arkansas is in serious danger of losing revenues which are necessary to provide adequate funding for schools and other essential services required by citizens of the state; that the provisions of this act are necessary to avoid any substantial reduction in state revenues; and that this act shall become effective on July 1, 1989 to provide for the proper administration of the act. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989.