

State of Arkansas

77th General Assembly

A Bill

HOUSE BILL

Third Extraordinary Session, 1989

CALL ITEM 981067

By: Representatives Ramsey, Mahony and Hatfield

For An Act To Be Entitled

"AN ACT TO LEVY A TAX ON SOFT DRINKS SOLD OR OFFERED FOR SALE
IN ARKANSAS; TO PROVIDE DEFINITIONS AND PROCEDURES FOR THE
COLLECTION OF THE TAX; AND FOR OTHER PURPOSES."

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

SECTION 1. This Act shall be known and cited as the "Arkansas Soft Drink Tax Act."

SECTION 2. DEFINITIONS. As used in this act, the following definitions shall apply, unless the context requires a different meaning:

(1) "Distributor, wholesaler, or manufacturer" means any person who receives, stores, manufacturers, bottles, or sells bottled soft drinks, simple syrup, syrup, powders or base products.

(2) "Retailer" means any person other than a manufacturer, distributor or wholesaler, who receives, stores, or offers for sale to the consumer any bottled soft drink, simple syrup, syrup, powders or base products.

(3) "Place of business" means any place where soft drinks are manufactured by a distributor, wholesaler or manufacturer or where untaxed bottled soft drink syrups, powders, base products or other items taxed under this Act are received or stored.

(4) "Syrup" means the compound mixture or basic ingredients used in the making, mixing, or compounding of soft drinks.

(5) "Simple syrup" means a mixture of sugar and water to which other ingredients may be added to create syrup.

(6) "Bottled soft drinks" shall mean any complete, ready to consume, non-alcoholic drink, whether carbonated or not, commonly referred to as a soft drink contained in a bottle.

(7) "Bottle" means any closed or sealed glass, metal, plastic, paper or

other container regardless of shape or size.

(8) "Natural fruit juice" or "Natural vegetable juice" means the original liquid resulting from the pressing of fruit or vegetables or the liquid resulting from the reconstitution of natural fruit or natural vegetable juice concentrate.

(9) "Person" means an individual, partnership, or corporation or other entity doing business as a wholesaler, manufacturer, retailer or distributor.

(10) "Powders or base products" means a solid mixture of basic ingredients used in making, mixing or compounding soft drinks.

SECTION 3. The provisions of this Act shall be subject to the Arkansas Tax Procedure Act, Ark. Code Ann. §26-18-101 (1987), et seq.

SECTION 4. LICENSE. (a) Distributors, manufacturers and wholesalers doing business in Arkansas shall obtain an annual license for each place of business within the State of Arkansas upon payment of a twenty-five dollar (\$25.00) fee.

(b) This license shall be for the privilege of receiving, storing, manufacturing, bottling or selling bottled soft drinks, simple syrup, syrup, powders or base products.

(c) The license issued under this Act shall be effective from July 1 of the year of issuance until June 30 of the following year. The annual license fee shall be remitted together with an application for a license between May 1 and June 30. Any application fee submitted other than as required herein shall not be prorated.

SECTION 5. RATE OF TAX. (a) Each gallon of syrup or simple syrup for use in mixing any drink which when mixed would be classified as a soft drink shall be taxed at the rate of three dollars (\$3.00) per gallon.

(b) A powder or base product used in the manufacture of a bottled soft drink shall be taxed in an amount equal to forty-eight cents (\$.48) for each gallon of bottled soft drink customarily manufactured from such powder or base product.

(c) Any person offering bottled soft drinks for sale shall pay a tax at the rate of three cents (\$.03) for each twelve (12) ounces or fractional part thereof.

(d) The tax levied by this Act shall be collected by the distributor, wholesaler or manufacturer when the soft drink is sold or by a retailer who purchases untaxed soft drinks.

SECTION 6. CONFISCATION. All bottled soft drinks, syrups, powders, base products or simple syrups on which the tax levied herein has not been paid according to the provisions of this Act shall be subject to seizure by the Commissioner of Revenues or his duly authorized agent.

SECTION 7. REPORTS. The distributor, wholesaler, manufacturer, or retailer purchasing untaxed soft drinks shall make a return and remit the tax for the month to the Commissioner of Revenues on or before the twentieth (20th) day of the month next following the month in which the sale or purchase was made.

SECTION 8. EXEMPTION. (a) All bottled soft drinks containing thirty percent (30%) or more natural fruit or natural vegetable juice shall be exempt from the tax imposed by this Act. Provided that this exemption shall not apply to any fruit or vegetable drink, to which is added any one or more of the following: any coloring, artificial flavoring or preservative. Sugar or salt or vitamins shall not be construed as an artificial flavor or preservative.

(b) Soft drinks sold to the United States Government shall be exempt from this Act.

(c) The provisions of this Act shall not apply to soft drinks exported from the State of Arkansas by a distributor, wholesaler or manufacturer.

(d) Any powder or base product that is used in preparing coffee, tea, cocoa or chocolate shall be exempt from this Act.

SECTION 9. (a) There is created on the books of the State Treasurer, State Auditor and Chief Fiscal Officer of the State a trust fund to be known as the "Drug and Education Trust Fund."

(b) This fund shall consist of revenues obtained from fees assessed and taxes collected under the authority of this act and any other revenues as may be provided by law.

(c) No money shall be expended from this fund for any purpose except at

the direction of the Department of Finance and Administration pursuant to rules and regulations developed for distribution of the trust fund.

(d) The fund established in this section shall be administered, disbursed, and invested under the direction of the Department of Finance and Administration.

(e) All incomes derived through investment of the Drug and Education Trust Fund shall be credited to the fund as investment income. For the purposes of investment, moneys invested and interest earned thereon shall be administered as trust funds pursuant to the provisions of §19-3-219.

(f) Further, all moneys deposited to the fund shall not be subject to any deduction, tax, levy or any other type of assessment.

SECTION 10. The Department of Finance and Administration shall administer the provisions of this act and is hereby authorized to promulgate rules and regulations for proper implementation and enforcement of this act.

SECTION 11. EFFECTIVE DATE. The provisions of this Act shall be effective on and after July 1, 1990.

SECTION 12. 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 13. All laws and parts of laws in conflict with this act are hereby repealed.