

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4
5 By: Senator Webb

A Bill

SENATE BILL 688

For An Act To Be Entitled

9 "AN ACT TO CLARIFY THAT THE SERVICE OF CLEANING A MOTOR
10 VEHICLE FOR A MOTOR VEHICLE DEALERSHIP IS TAXABLE LABOR
11 PERFORMED FOR A RETAILER WHICH SHOULD BE CHARGED TO AND
12 COLLECTED FROM THE ULTIMATE CONSUMER; AND FOR OTHER
13 PURPOSES."

Subtitle

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15 "TO CLARIFY THAT THE SERVICE OF CLEANING
16 A MOTOR VEHICLE FOR A MOTOR VEHICLE
17 DEALERSHIP IS TAXABLE LABOR PERFORMED
18 FOR A RETAILER WHICH SHOULD BE CHARGED
19 TO AND COLLECTED FROM THE ULTIMATE
20 CONSUMER."

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

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25 SECTION 1. Arkansas Code § 26-52-301(C) regarding services subject to
26 the gross receipts tax is amended to read as follows:

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

35 (ii) However, the provisions of this section shall not apply to coin-
36 operated car washes. For the purposes of this section, a coin-operated car

1 wash shall be defined as one wherein the car washing equipment is activated by
2 the insertion of coins into a slot or receptacle and where the labor of
3 washing the exterior of the car or motor vehicle is performed solely by the
4 customer or by mechanical equipment.

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

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

18 (v) Additionally, the gross receipts tax levied in this section shall
19 not apply to the repair or remanufacture of industrial metal rollers or
20 platens that have a remanufactured, nonmetallic material covering on all or
21 part of the roller or platen surface which are brought into the State of
22 Arkansas solely and exclusively for the purpose of being repaired or
23 remanufactured in this state and are then shipped back to the state of origin.

24 (vi) The gross receipts tax levied in this section shall not apply to
25 the service of alteration, addition, cleaning, refinishing, replacement, or
26 repair of commercial jet aircraft, commercial jet aircraft components, or
27 commercial jet aircraft subcomponents. The term commercial jet aircraft
28 shall mean any commercial, military, private, or other turbine or turbo jet
29 aircraft having a certified maximum take-off weight of more than twelve
30 thousand five hundred (12,500) pounds;

31 (vii) The provisions of subdivision (3)(C)(i) of this section shall not
32 apply to the services performed by a temporary or leased employee or other
33 contract laborer on items owned or leased by the employer. The following
34 criteria must be met for a person to be a temporary or leased employee:

35 (a) There must be a written contract with the temporary
36 employment agency, employee leasing company, or other contractor providing the

1 services;

2 (b) The employee, temporary employment agency, employee leasing
3 company, or other contractor must not bear the risk of loss for damages caused
4 during the performance of the contract. The person for whom the services are
5 performed must bear the risk of loss; and

6 (c) The temporary or leased employee or contract laborer is
7 controlled by the employer as if he were a full-time permanent employee.
8 Control includes, but is not limited to, scheduling work hours, designating
9 work duties, and directing work performance.

10 (viii)(a) Additionally, the gross receipts tax levied in this section
11 shall not apply to the alteration, addition, cleaning, refinishing,
12 replacement, or repair of nonmechanical, passive, or manually operated
13 components of buildings or other improvements or structures affixed to real
14 estate, including, but not limited to, the following:

- 15 (1) Walls;
- 16 (2) Floors;
- 17 (3) Ceilings;
- 18 (4) Doors;
- 19 (5) Locks;
- 20 (6) Windows;
- 21 (7) Glass;
- 22 (8) Heat and air ducts;
- 23 (9) Roofs;
- 24 (10) Wiring;
- 25 (11) Breakers;
- 26 (12) Breaker boxes;
- 27 (13) Electrical switches and receptacles;
- 28 (14) Light fixtures;
- 29 (15) Pipes;
- 30 (16) Plumbing fixtures;
- 31 (17) Fire and security alarms;
- 32 (18) Intercoms;
- 33 (19) Sprinkler systems;
- 34 (20) Parking lots;
- 35 (21) Fences;
- 36 (22) Gates;

1 (23) Fireplaces; and

2 (24) Similar components which become a part of real estate
3 after installation.

4 (b) Contractors are deemed to be consumers or users of all tangible
5 personal property used or consumed by them in providing such nontaxable
6 services, in the same manner as when performing any other contract.

7 (c) This subdivision (3)(C)(viii) shall not apply to any services
8 subject to tax pursuant to the terms of subdivision (3)(E) of this section.

9 (ix) The service of cleaning motor vehicles for a retail motor vehicle
10 dealership which holds a retailer's permit shall be taxable labor performed
11 for a retailer as provided in § 26-52-506 and the tax on the labor shall be
12 charged to and collected from the ultimate consumer."

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14 SECTION 2. All provisions of this act of a general and permanent nature
15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
16 Revision Commission shall incorporate the same in the Code.

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18 SECTION 3. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.

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24 SECTION 4. All laws and parts of laws in conflict with this act are
25 hereby repealed.

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