

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/19/99 H3/29/99

A Bill

HOUSE BILL 1957

5 By: Representatives Duggar, Carson, Cleveland, Courtway, Elliott, Harris, Hendren, House, Jones,
6 Judy, Lewellen, Napper, Parks, Rackley, Taylor, L. Thomas, T. Thomas, Walker
7 By: Senator Critcher
8
9

For An Act To Be Entitled

11 "AN ACT TO EXEMPT THE FIRST TWENTY-FIVE HUNDRED
12 DOLLARS (\$2,500) OF THE PURCHASE PRICE OF A USED
13 VEHICLE FROM THE GROSS RECEIPTS AND COMPENSATING USE
14 TAX; AND FOR OTHER PURPOSES."

Subtitle

17 "TO EXEMPT THE FIRST \$2,500 OF THE
18 PURCHASE PRICE OF A USED VEHICLE FROM
19 THE SALES AND USE TAX."
20
21

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

24 SECTION 1. Arkansas Code 26-52-510 is amended to read as follows:

25 "§ 26-52-510. Direct payment of tax by consumer-user - New and used
26 cars. ~~[Effective January 1, 1998.]~~

27 (a)(1)(A) The tax levied by this chapter and all other gross receipts
28 taxes levied by the state in respect to the sale of new or used motor
29 vehicles, trailers, or semitrailers required to be licensed in this state
30 shall be paid by the consumer to the Director of the Department of Finance and
31 Administration instead of being collected by the dealer or seller, and it is
32 the mandatory duty of the director to require the payment of such tax at the
33 time of registration before issuing licenses for new or used motor vehicles or
34 trailers.

35 (B)(i) The tax shall apply regardless of whether the motor
36 vehicle, trailer, or semitrailer is sold by a vehicle dealer, or an

1 individual, corporation, or partnership not licensed as a vehicle dealer.

2 (ii) The exemption provided for in § 26-52-401(17)
3 for isolated sales shall not apply to the sale of motor vehicles, trailers, or
4 semitrailers.

5 (2)(A) The tax levied by this chapter and all other gross
6 receipts taxes levied by the state in respect to the sale of new or used motor
7 vehicles, trailers, or semitrailers required to be licensed in this state
8 shall be paid by the consumer on or before the time for registration as
9 prescribed by § 27-14-903(a).

10 (B)(i) Failure to pay the tax when due shall result in an
11 assessment of a penalty equal to ten percent (10%) of the amount of tax due.

12 (ii) The penalty must be paid to the director along
13 with the tax before the vehicle license will be issued.

14 (b)(1)(A) Except as provided herein, when a used motor vehicle,
15 trailer, or semitrailer is taken in trade as a credit or part payment on the
16 sale of a new or used motor vehicle, trailer, or semitrailer, the tax levied
17 by this chapter and all other gross receipts taxes levied by the state shall
18 be paid on the net difference between the total consideration for the new or
19 used vehicle, trailer, or semitrailer sold and the credit for the used
20 vehicle, trailer, or semitrailer taken in trade.

21 ~~(B) However, if the total consideration for the sale of the~~
22 ~~new or used motor vehicle, trailer, or semitrailer is less than two thousand~~
23 ~~five hundred dollars (\$2,500), no tax shall be due.~~

24 ~~(C)~~ (B) When a used motor vehicle, trailer, or semitrailer
25 is sold by a consumer, rather than traded-in as a credit or part payment on
26 the sale of a new or used motor vehicle, trailer, or semitrailer, and the
27 consumer subsequently purchases a new or used vehicle, trailer or semitrailer
28 of greater value within forty-five (45) days of the sale, the tax levied by
29 this chapter and all other gross receipts taxes levied by the state shall be
30 paid on the net difference between the total consideration for the new or used
31 vehicle, trailer, or semitrailer purchased subsequently and the amount
32 received from the sale of the used vehicle, trailer, or semitrailer sold in
33 lieu of a trade-in.

34 (2)(A)(i) When a motor vehicle dealer removes a vehicle from its
35 inventory and the vehicle is used by the dealership as a service vehicle, the
36 dealer shall register the vehicle, obtain a certificate of title, and pay

1 sales tax on the listed retail price of the new vehicle.

2 (ii) When the motor vehicle dealer returns the
3 service vehicle to inventory as a used vehicle and replaces it with a new
4 vehicle for dealership use as a service vehicle, the dealer shall pay sales
5 tax on the difference between the listed retail price of the new service
6 vehicle to be used by the dealership and the value of the used service vehicle
7 being returned to inventory. The value of the used service vehicle shall be
8 the highest listed wholesale price reflected in the most current edition of
9 the National Automotive Dealers' Association's Official Used Car Guide.

10 (B)(i) For purposes of this subsection, the term 'service
11 vehicle' means a motor vehicle driven exclusively by an employee of the
12 dealership and used either to transport dealership customers or dealership
13 parts and equipment.

14 (ii) 'Service vehicle' does not include motor
15 vehicles which are rented by the dealership, used as demonstration vehicles,
16 used by dealership employees for personal use, or used to haul or pull other
17 vehicles.

18 (c) All parts and accessories purchased by motor vehicle sellers for
19 resale or used by them for the reconditioning or rebuilding of used motor
20 vehicles intended for resale are exempt from gross receipts tax, provided that
21 the motor vehicle seller meets the requirements of § 26-52-401(12)(A) and
22 applicable regulations promulgated by the director.

23 (d) Nothing in this section shall be construed to repeal any exemption
24 from the Arkansas Gross Receipts Act, § 26-52-101 et seq.

25 (e) No credit shall be allowed for sales or use taxes paid to another
26 state with respect to the purchase of motor vehicles, trailers, or
27 semi trailers which were first registered by the purchaser in Arkansas. This
28 subsection shall apply to all motor vehicles, trailers, or semi trailers
29 purchased on or after November 3, 1989.

30 (f)(1) Any motor vehicle dealer licensed pursuant to § 27-14-601(a)(6)
31 who has purchased a used motor vehicle may, upon payment of all applicable
32 registration and title fees, register the vehicle for the sole purpose of
33 obtaining a certificate of title to the vehicle without payment of gross
34 receipts tax.

35 (2) No license plate shall be provided with such registration,
36 and the used vehicle titled by a dealer under this subsection may not be

1 operated on the public highways unless there is displayed thereon a dealer's
2 license plate issued under the provisions of § 27-14-601(a)(6)(B)(ii).

3 (g)(1) For purposes of this section, the total consideration for a used
4 motor vehicle shall be presumed to be the greater of the actual sales price as
5 provided on the bill of sale, invoice or financing agreement, or the average
6 loan value price of the vehicle as listed in the most current edition of a
7 publication which is generally accepted by the industry as providing an
8 accurate valuation of used vehicles. If the published loan value exceeds the
9 invoiced price, then the taxpayer must establish to the director's
10 satisfaction that the price reflected on the invoice or other document is true
11 and correct. If the director determines that the invoiced price is not the
12 actual selling price of the vehicle, then the total consideration will be
13 deemed to be the published loan value.

14 (2) For purposes of this section, the total consideration for a
15 new or used trailer or semitrailer shall be the actual sales price as provided
16 on a bill of sale, invoice or financing agreement. The director may require
17 additional information to conclusively establish the true selling price of the
18 trailer.

19 (h) At the taxpayer's option and in lieu of the trade in deduction or
20 refund set forth in subsection (b)(1) of this section, the first twenty-five
21 hundred dollars (\$2,500) of the gross receipts derived from the sale of a
22 used motor vehicle or trailer which has a sales price of five thousand
23 dollars (\$5,000) or less shall be exempt from gross receipts tax. A taxpayer
24 who claims the exemption granted by this subsection shall not be entitled to
25 claim the trade in deduction or refund set forth in subsection (b)(1) of this
26 section ."

27
28 SECTION 2. Amend Arkansas Code 26-53-126 to read as follows:

29 "26-53-126. Tax on used cars - Payment and collection. ~~[Effective~~
30 ~~January 1, 1998.]~~

31
32 (a)(1)(A)(i) All new and used motor vehicles, trailers, or semitrailers
33 required to be licensed in this state shall, upon being registered in this
34 state, be subject to the tax levied herein and all other use taxes levied by
35 the state irrespective of whether such motor vehicle, trailer, or semitrailer
36 was purchased from a dealer or an individual.

1 (ii) The tax shall be paid to the director by the
2 person making application to register the motor vehicle, trailer, or
3 semitrailer instead of being collected by the dealer or individual seller.

4 (iii) It shall be the mandatory duty of the director
5 to collect the tax before issuing a license for any motor vehicle, trailer, or
6 semitrailer.

7 (B) The exemption provided for in § 26-52-401(17) for
8 isolated sales shall not apply to the sale of motor vehicles, trailers, and
9 semitrailers.

10 (2)(A) The tax levied herein and all other use taxes levied by
11 the state shall be paid on or before the time for registration as prescribed
12 by § 27-14-903(a).

13 (B)(i) Failure to pay the tax when due shall result in an
14 assessment of a penalty equal to ten percent (10%) of the amount of tax due.

15 (ii) The penalty must be paid to the director along
16 with the tax before the vehicle license will be issued.

17 (b)(1) When a used motor vehicle, trailer, or semitrailer is taken in
18 trade as a credit or part payment on the sale of a new or used vehicle,
19 trailer, or semitrailer, the tax levied herein and all other use taxes levied
20 by the state shall be paid on the net difference between the total
21 consideration for the new or used vehicle, trailer, or semitrailer sold and
22 the credit for the used vehicle, trailer, or semitrailer taken in trade.

23 ~~(2) However, if the total consideration for the sale of the new~~
24 ~~or used motor vehicle, trailer, or semitrailer is less than two thousand five~~
25 ~~hundred dollars (\$2,500), no tax shall be due.~~

26 ~~(3)(2)~~ When a used motor vehicle, trailer, or semitrailer is sold
27 by a consumer, rather than traded in as a credit or part payment on the sale
28 of a new or used motor vehicle, trailer, or semitrailer, and the consumer
29 subsequently purchases a new or used vehicle, trailer or semitrailer of
30 greater value within forty-five (45) days of the sale, the tax levied by this
31 chapter and all other gross receipts taxes levied by the state shall be paid
32 on the net difference between the total consideration for the new or used
33 vehicle, trailer, or semitrailer purchased subsequently and the amount
34 received from the sale of the used vehicle, trailer, or semitrailer sold in
35 lieu of a trade-in.

36 (c) The tax imposed by this subchapter shall not apply to a motor

1 vehicle, trailer, or semitrailer to be registered by a bona fide nonresident
2 of this state.

3 (d) Nothing in this section shall be construed to repeal any exemption
4 from the Arkansas Compensating Tax Act, § 26-53-101 et seq.

5 (e)(1) Any motor vehicle dealer licensed pursuant to § 27-14-601(a)(6)
6 who has purchased a used motor vehicle may, upon payment of all applicable
7 registration and title fees, register the vehicle for the sole purpose of
8 obtaining a certificate of title to the vehicle without payment of use tax.

9 (2) No license plate shall be provided with such registration,
10 and the used vehicle titled by a dealer under this subsection may not be
11 operated on the public highways unless there is displayed thereon a dealer's
12 license plate issued under the provisions of § 27-14-601(a)(6)(B)(ii).

13 (f)(1) For purposes of this section, the total consideration for a used
14 motor vehicle shall be presumed to be the greater of the actual sales price as
15 provided on a bill of sale, invoice or financing agreement, or the average
16 loan value of the vehicle as listed in the most current edition of a
17 publication which is generally accepted by the industry as providing an
18 accurate valuation of used vehicles. If the published loan value exceeds the
19 invoiced price, then the taxpayer must establish to the director's
20 satisfaction that the price reflected on the invoice or other document is true
21 and correct. If the director determines that the invoiced price is not the
22 actual selling price of the vehicle, then the total consideration will be
23 deemed to be the published loan value.

24 (2) For purposes of this section, the total consideration for a
25 new or used trailer or semitrailer shall be the actual sales price as provided
26 on a bill of sale, invoice or financing agreement. The director may require
27 additional information to conclusively establish the true selling price of the
28 trailer.

29 (g) At the taxpayer's option and in lieu of the trade in deduction or
30 refund set forth in subsection (b)(1) of this section, the first twenty-five
31 hundred dollars (\$2,500) of the gross receipts derived from the sale of a
32 used motor vehicle or trailer which has a sales price of five thousand
33 dollars (\$5,000) or less shall be exempt from gross receipts tax. A taxpayer
34 who claims the exemption granted by this subsection shall not be entitled to
35 claim the trade in deduction or refund set forth in subsection (b) of this
36 section."

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SECTION 3. The loss in sales and use tax revenue resulting from this act shall not be taken into consideration in computing the amount of general revenue to be transferred to the Educational Excellence Trust Fund pursuant to § 6-5-301.

SECTION 4. The provisions of this act shall be effective on and after January 1, 2000.

SECTION 5. 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 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 7. All laws and parts of laws in conflict with this act are hereby repealed.

/s/ Duggar, et al