

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

# A Bill

SENATE BILL 455

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5 By: Senator Hill  
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## For An Act To Be Entitled

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9 "AN ACT TO AMEND ARKANSAS CODE 26-53-106 TO CONFORM TO  
10 CURRENT UNITED STATES SUPREME COURT PRECEDENT  
11 REGARDING THE EXTENT TO WHICH A STATE MAY PERMISSIBLY  
12 IMPOSE ITS USE TAX PURSUANT TO THE COMMERCE CLAUSE;  
13 AND FOR OTHER PURPOSES. "  
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## Subtitle

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16 "TO AMEND ARKANSAS CODE 26-53-106 TO  
17 CONFORM TO CURRENT UNITED STATES SUPREME  
18 COURT PRECEDENT REGARDING THE EXTENT TO  
19 WHICH A STATE MAY PERMISSIBLY IMPOSE ITS  
20 USE TAX PURSUANT TO THE COMMERCE CLAUSE. "  
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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 26-53-106 is amended by deleting subsection  
26 (b), designating present subsections (c) and (d) as (b) and (c) and adding a  
27 new subsection (d) to read as follows:

28 "26-53-106. Imposition and rate of tax generally - Presumptions.

29 (a) There is levied and there shall be collected from every person in  
30 this state a tax or excise for the privilege of storing, using, distributing,  
31 or consuming within this state any article of tangible personal property  
32 purchased for storage, use, distribution, or consumption in this state at the  
33 rate of three percent (3%) of the sales price of the property.

34 ~~(b) This tax will not apply with respect to the storage, use,~~  
35 ~~distribution, or consumption of any article of tangible personal property~~  
36 ~~purchased, produced, or manufactured outside this state until the~~

1 ~~transportation of the article has finally come to rest within this state or~~  
 2 ~~until the article has become commingled with the general mass of property of~~  
 3 ~~this state.~~

4 ~~(e)(b)~~ This tax shall apply to use, storage, distribution, or  
 5 consumption of every article of tangible personal property, except as provided  
 6 in this subchapter, irrespective of whether the article or similar articles  
 7 are manufactured within the State of Arkansas or are available for purchase  
 8 within the State of Arkansas and irrespective of any other condition.

9 ~~(d)(c)~~(1)(A) For the purpose of the proper administration of this  
 10 subchapter and to prevent evasion of the tax and the duty to collect the tax  
 11 imposed in this section, it shall be presumed that tangible personal property  
 12 sold by any vendor for delivery in this state or transportation to this state  
 13 is sold for storage, use, distribution, or consumption in this state unless  
 14 the vendor selling the tangible personal property has taken from the purchaser  
 15 a resale certificate signed by and bearing the name, address, and sales tax  
 16 permit number of the purchaser certifying that the property was purchased for  
 17 resale.

18 (B) The use by the purchaser of a resale certificate and  
 19 any resulting liability for, or exemption from, use tax in a transaction  
 20 involving a resale certificate shall be governed in all respects by the terms  
 21 of § 26-52-517.

22 (2) It is further presumed that tangible personal property  
 23 shipped, mailed, expressed, transported, or brought to this state by the  
 24 purchaser was purchased from a vendor for storage, use, distribution, or  
 25 consumption in this state.

26 (d) The intent of this section is to impose Arkansas use tax to the  
 27 fullest extent allowed by the Constitution of the United States."

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

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 33 SECTION 3. If any provision of this act or the application thereof to  
 34 any person or circumstance is held invalid, such invalidity shall not affect  
 35 other provisions or applications of the act which can be given effect without  
 36 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

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

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