

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H2/16/01

A Bill

HOUSE BILL 1435

5 By: Representative Ferguson
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7

For An Act To Be Entitled

9 AN ACT TO PROHIBIT STATE AGENCIES FROM CONTRACTING
10 WITH INDIVIDUALS OR ENTITIES THAT ARE NOT REGISTERED
11 TO COLLECT STATE SALES AND USE TAX OR THAT OWE ANY TAX
12 TO THE STATE; TO ALLOW AGENCIES TO TERMINATE CONTRACTS
13 WITH INDIVIDUALS OR ENTITIES THAT ARE NOT REGISTERED
14 OR THAT OWE TAX; TO ALLOW AGENCIES TO RECOVER COSTS IF
15 A VENDOR FALSELY CERTIFIES THAT IT IS REGISTERED OR
16 THAT IT DOES NOT OWE TAX; AND FOR OTHER PURPOSES.
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Subtitle

18 PROHIBITS STATE AGENCIES FROM
19 CONTRACTING WITH INDIVIDUALS OR ENTITIES
20 NOT REGISTERED TO COLLECT STATE TAX OR
21 THAT OWE STATE TAX; PROVIDES REMEDIES TO
22 AGENCIES AGAINST VENDORS WHO VIOLATE
23 THESE PROVISIONS.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code Title 19, Chapter 11, Subchapter 2 is amended
30 to add an additional section to read as follows:

31 19-11-263. (a) A state agency, including those agencies authorized by
32 law or regulation to have an agency purchasing official, shall not award a
33 contract that is the result of a competitive sealed bid or competitive sealed
34 proposal to any individual or business entity unless the individual or
35 business entity:

36 (1) Certifies that it does not sell tangible personal property or

1 services that are subject to the state and local sales and use tax; or

2 (2)(A) Holds a permit issued by the Director of the Department of
3 Finance and Administration to collect and remit all state and local gross
4 receipts and use taxes that become due and owing as a result of the
5 individual's or entity's business in this state; and

6 (B) Certifies that the current liability of the individual
7 or business entity to report and remit all state taxes has been satisfied as
8 of the date of the contract, or that the individual or business entity has
9 entered into an agreement with the Department of Finance and Administration
10 that provides for the payment of any delinquent state tax and is current on
11 its payments due according to the terms of the payment agreement.

12 (b) An award subject to the requirements of this section shall
13 include the following language:

14 State agencies are prohibited from contracting with individuals or
15 entities that do not hold a permit to collect and remit Arkansas sales and use
16 taxes, if required, or that owe state taxes, unless the delinquent taxes are
17 being paid according to the terms of a payment agreement with the Department
18 of Finance and Administration. The vendor certifies that the individual or
19 business entity named in this contract meets these requirements and is
20 eligible to receive the specified contract and acknowledges that this contract
21 may be terminated and payment withheld if this certification is inaccurate.

22 (c) If the Revenue Division of the Department of Finance and
23 Administration determines that an individual or business entity holding a
24 state contract was ineligible to have the contract awarded under this section,
25 the state agency may immediately terminate the contract without further
26 obligation to the vendor.

27 (d) If the certification required under subsection (b) of this section
28 is shown to be false, the vendor is liable to the state for attorney's fees,
29 the costs necessary to complete the contract, including the cost of re-
30 awarding the contract, and any other damages provided by law or contract.

31 (e) This section does not create a cause of action to contest an award
32 of a state contract.

33 (f) For purposes of this section, "state tax" shall mean any tax, or
34 any fee for a license, permit, or registration which is payable to, collected
35 by, or administered by the Revenue Division, Department of Finance and
36 Administration, State of Arkansas.

/s/ Ferguson

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