

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.

State of Arkansas
83rd General Assembly
Regular Session, 2001

As Engrossed: S2/21/01

A Bill

SENATE BILL 309

By: Senator Hill
By: Representative Teague

For An Act To Be Entitled

AN ACT TO ADOPT THE MOBILE TELECOMMUNICATIONS
SOURCING ACT; TO PROVIDE THAT LONG DISTANCE
MESSAGES WHICH ORIGINATE AND TERMINATE OUTSIDE
THIS STATE MADE BY MOBILE TELECOMMUNICATIONS
SERVICES ARE SUBJECT TO GROSS RECEIPTS TAX TO THE
EXTENT ALLOWED BY THE MOBILE TELECOMMUNICATIONS
SOURCING ACT; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO ADOPT AND IMPLEMENT THE MOBILE
TELECOMMUNICATIONS SOURCING ACT.

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

SECTION 1. In order to assign the place of primary use for mobile telecommunications services pursuant to the Mobile Telecommunications Sourcing Act, Public Law 106-252, the Director of the Department of Finance and Administration may choose whether to furnish vendors with a database that matches addresses with taxing jurisdictions or to allow vendors to employ an enhanced zip code of at least nine (9) digits in lieu of providing a database.

SECTION 2. Effective August 1, 2002, Arkansas Code 26-52-301(3)(A), concerning the levy of gross receipts tax on telecommunication services, is amended to read as follows:

(3)(A)(i) Service by telephone, telecommunications, and telegraph

1 companies to subscribers or users, including transmission of messages or
2 images, whether local or long distance.

3 (ii) Taxable services shall include basic local service and
4 rental charges, including all installation and construction charges and all
5 service and rental charges having any connection with transmission of any
6 message or image.

7 (iii) Except as provided in subdivision (3)(A)(iv) of this
8 section, taxable long distance services shall include:

9 (a) Long distance messages which originate and
10 terminate within this state;

11 (b) Interstate long distance messages which originate
12 within this state and terminate outside this state and are billed to an
13 Arkansas telephone number or customer location; ~~and~~

14 (c) Interstate long distance messages which originate
15 outside of this state and terminate within this state and are billed to an
16 Arkansas telephone number or customer location; and

17 (d) Long distance messages which originate and
18 terminate outside this state made by mobile telecommunications service which
19 are charged to a customer who maintains a place of primary use in this state.

20 (iv) However, the following services shall not be subject
21 to the tax:

22 (a) Any interstate private communications service
23 which is not accessible by the public;

24 (b) Any interstate service which allows access to
25 private telephone lines and which is not accessible by the public;

26 (c) Any interstate-wide area telecommunications
27 service or other similar service which entitles the subscriber to make or
28 receive an unlimited number of communications to or from persons having
29 telecommunications service in a specified area which is outside the state in
30 which the station provided with this service is located; or

31 (d) Any telephone or telecommunication services paid
32 by utilizing a prepaid telephone calling card or prepaid authorization number
33 as provided in § 26-52-314.

34 (v)(a) This tax shall apply to all customer access line
35 charges billed to an Arkansas telephone number. Access line charges are those
36 charges associated with or for access to the long distance network.

(b) However, access or other telecommunication services provided to telephone, telegraph, or telecommunications companies which will be used to provide telecommunications services shall not be subject to this tax;

(vi)(a) The Mobile Telecommunications Sourcing Act, Public Law 106-252, as in effect on January 1, 2001, is adopted in its entirety. All charges for mobile telecommunications services are deemed to be provided by the customer's home service provider and sourced to the customer's place of primary use and shall be subject to gross receipts tax based upon the customer's place of primary use as determined by the Mobile Telecommunications Sourcing Act, Public Law 106-252.

(b)(1) Any customer who alleges that an amount of tax, charge or fee, or that the assignment of the place of primary use or taxing jurisdiction included on a billing is erroneous, the customer shall notify the home service provider in writing. The customer must include the street address for the customer's place of primary use, the account name and number for which the correction of tax assignment is sought, a description of the alleged error and any other information requested by the home service provider necessary to process the request.

(2) The home service provider shall conduct a review of its records and the electronic database or enhanced zip code used to determine the place of primary use within sixty (60) days of receiving the notice from its customer. If it is determined that the amount of tax, charge or fee, or that the assignment of the place of primary use or taxing jurisdiction is in error, the home service provider shall correct the error and refund or credit the amount of tax, charge or fee erroneously collected from the customer for a period of up to three years. If it is determined that the amount of tax, charge or fee, or assignment of the place of primary use or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer.

(3) A customer seeking correction of assignment of place of primary use or taxing jurisdiction, or a refund or credit of taxes, charges or fees erroneously collected by the home service provider must seek to have the error corrected pursuant to these provisions in (3)(a)(vi)(b) of this section before any cause of action arises as a result of such error.

1 SECTION 3. Effective August 1, 2002, Arkansas Code 12-10-318(b)(1)
2 concerning the 911 emergency telephone service charge is amended to read as
3 follows:

4 (b)(1)(A) There is hereby levied a commercial mobile radio service
5 emergency telephone service charge in an amount of fifty cents (50¢) per month
6 per commercial mobile radio service connection that has a billing address
7 within the State of Arkansas or with respect to which the mobile
8 identification number for the commercial mobile radio service connection
9 contains an area code assigned to Arkansas by the North American Numbering
10 Plan Administrator.

11 (B) The fees collected by commercial mobile radio service
12 providers shall be remitted to the CMRS Emergency Telephone Services Board
13 described in subdivision (b)(2) of this section within sixty (60) days after
14 the end of the month in which the fees are collected.

15 (C) The funds collected pursuant to this subdivision (b)(1)
16 shall not be deemed revenues of the state and shall not be subject to
17 appropriation by the General Assembly.

18 (D) The fee levied in subdivision (b)(1)(A) of this section
19 and collected by CMRS providers, who provide mobile telecommunications
20 services, as defined by the Mobile Telecommunications Sourcing Act, Public Law
21 106-252 as in effect on January 1, 2001, shall be collected pursuant to the
22 Mobile Telecommunications Sourcing Act.

23
24 SECTION 4. Effective August 1, 2002, Arkansas Code 23-17-404(b),
25 concerning the Arkansas Universal Service Fund charge is amended to read as
26 follows:

27 (b)(1) The Arkansas Universal Service Fund is to provide a mechanism to
28 restructure the present system of telecommunication service rates in the state
29 as provided herein, and all telecommunications providers, except as prohibited
30 by federal law, shall be charged for the direct and indirect value inherent in
31 the obtaining and preserving of reasonable and comparable access to
32 telecommunications services in the rural or high cost areas. The value and
33 utility of access to and interconnection with the public switched network will
34 be lessened if the rural or high cost areas do not have comparable access and
35 subscribership.

36 (2)(A) This AUSF charge for all telecommunications providers shall

1 be proportionate to each provider's Arkansas intrastate retail
2 telecommunications service revenues.

3 (B) Because customers of the telecommunications providers
4 that would pay the AUSF charge receive the benefits of a universal network,
5 the telecommunications providers may surcharge their customers to recover the
6 AUSF charges paid by the telecommunications provider. Therefore, the AUSF
7 charge is not a tax, and is not affected by state laws governing taxation.

8 (C) For the purpose of assessing mobile telecommunications
9 services, the administrator shall continue to assess only Arkansas intrastate
10 retail telecommunications service revenues and only to the extent such
11 revenues may be considered located in the state of Arkansas in accordance with
12 the Mobile Telecommunications Sourcing Act, Public Law 106-252.

13 /s/ Hill
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