

1 State of Arkansas  
2 84th General Assembly  
3 First Extraordinary Session, 2003  
4

# A Bill

Call Item 17

HOUSE BILL 1031

5 By: Representative Dees  
6 By: Senator Gullett  
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8

## For An Act To Be Entitled

10 AN ACT TO LEVY A NEW EXCISE TAX OF EIGHTEEN  
11 PERCENT (18%) ON THE SALE OF CIGARETTES BY A  
12 WHOLESALER; TO LEVY AN ADDITIONAL EXCISE TAX OF  
13 EIGHTEEN PERCENT (18%) ON TOBACCO PRODUCTS; AND  
14 FOR OTHER PURPOSES.

## Subtitle

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16 AN ACT TO LEVY A NEW EIGHTEEN PERCENT  
17 WHOLESALE CIGARETTE EXCISE TAX AND AN  
18 ADDITIONAL EIGHTEEN PERCENT WHOLESALE  
19 TOBACCO PRODUCTS TAX.  
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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 Title 26, Chapter 57, Subchapter 8 is amended  
26 to add an additional section to read as follows:

27 26-57-804. Cigarette Excise Tax.

28 (a)(1) In addition to the excise or privilege taxes levied on  
29 cigarettes under §§ 26-57-208, 26-57-802, and 26-57-803, there is levied a  
30 new excise tax of eighteen percent (18%) of the gross invoice cost of  
31 cigarettes sold by a wholesaler to a retailer.

32 (2) For purposes of this section:

33 (A) "Gross invoice cost" means the wholesaler's price for  
34 the product sold as listed on the invoice to the retailer before any  
35 deduction for allowances, whether manufacturer promotional allowances or  
36 otherwise, or for discounts of any kind; and



1                   (B) "Manufacturer promotional allowances" means any  
 2 payment or compensation given by a manufacturer of cigarettes to wholesalers  
 3 or to retailers to promote the sale of cigarettes, and which the manufacturer  
 4 requires the wholesaler to pass on to the retailer and the retailer to pass  
 5 on to the retailer's customer.

6                   (b)(1) The tax levied under this section shall be paid by the  
 7 wholesaler when the cigarettes are sold to a retailer.

8                   (2) The tax levied under this section shall be paid by a  
 9 retailer who purchases cigarettes directly from a manufacturer.

10                   (3) The tax shall be reported, remitted, and administered in the  
 11 same manner and at the same time as prescribed in § 26-57-211(b).

12                   (c) The revenues derived from the tax imposed by this section shall be  
 13 credited to the General Revenue Fund of the State Apportionment Fund, there  
 14 to be distributed with the other gross general revenue collections for that  
 15 month.

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 17                   SECTION 2. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended  
 18 to add an additional section to read as follows:

19                   26-57-805. Tobacco products tax.

20                   (a) In addition to the excise or privilege taxes levied under §§ 26-57-  
 21 208(2), 26-57-803(b) and 26-57-1102(a), there is levied an additional tax on  
 22 tobacco products other than cigarettes on the first sale to wholesalers or  
 23 retailers within the state at eighteen percent (18%) of the manufacturer's  
 24 selling price. The tax shall be computed on the actual manufacturer's invoice  
 25 price before discounts.

26                   (b)(1)(A) The taxes levied by this section shall be reported and paid  
 27 by wholesalers licensed pursuant to § 26-57-214 of the Arkansas Tobacco  
 28 Products Tax Act of 1977.

29                   (B) Retailers, however, shall be liable for reporting and  
 30 paying these taxes when a retailer purchases tobacco products directly from a  
 31 manufacturer or from a wholesaler or distributor not licensed pursuant to §  
 32 26-57-214 of the Arkansas Tobacco Products Tax Act of 1977.

33                   (2)(A) Any taxpayer who fails to report and remit the tobacco tax  
 34 due on tobacco products purchased from manufacturers, distributors or  
 35 wholesalers who are not licensed under § 26-57-214 of the Arkansas Tobacco  
 36 Products Tax Act of 1977 shall be subject to the following penalties:

1 (i) Five percent (5%) of the total tobacco tax due  
2 for the first offense;

3 (ii) Twenty percent (20%) of the total tobacco tax  
4 due for the second offense; and

5 (iii) Twenty-five percent (25%) of the total tobacco  
6 tax due for the third and any subsequent offenses.

7 (B) In addition, the taxpayer's retail cigarette/tobacco  
8 permit shall be revoked for a period of ninety (90) days for the third and  
9 any subsequent offenses.

10 (c) The revenues derived from the additional tax imposed by this  
11 section shall be credited to the General Revenue Fund Account of the State  
12 Apportionment Fund, there to be distributed with the other gross general  
13 revenue collections for that month.

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15 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
16 General Assembly of the State of Arkansas that revenue available for the  
17 support of necessary state services has declined during the last twelve  
18 months as a result of the nationwide economic slow down; that without  
19 additional revenue some state services will be reduced or eliminated; that  
20 some Arkansans will suffer as a result of service reductions or cuts; and  
21 that this bill will provide the necessary revenue to avoid state service  
22 reductions or cuts. Therefore, an emergency is declared to exist and this  
23 act being immediately necessary for the preservation of the public peace,  
24 health and safety shall become effective on June 1, 2003.

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