

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

HOUSE BILL 2503

By: Representative Lamoureux

For An Act To Be Entitled

AN ACT TO IMPOSE A CIGARETTE AND TOBACCO USE TAX
ON CIGARETTES AND TOBACCO PRODUCTS POSSESSED IN
THIS STATE FOR PURPOSES OTHER THAN SALE; AND FOR
OTHER PURPOSES.

Subtitle

AN ACT TO IMPOSE A CIGARETTE AND TOBACCO
USE TAX ON CIGARETTES AND TOBACCO
PRODUCTS POSSESSED IN THE STATE FOR
PURPOSES OTHER THAN SALE.

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

SECTION 1. Title 26, Chapter 57, Subchapter 2 is amended to add a new section to read as follows:

26-57-263. Imposition of cigarette and tobacco use tax on cigarettes and tobacco products.

(a) As a supplement to the tax imposed by §§ 26-57-208, 26-57-802, 26-57-803, 26-57-804, 26-57-805, 26-57-1101, and 26-57-1102 on cigarettes and tobacco products possessed in the State of Arkansas for sale, a cigarette and tobacco use tax is imposed on a person possessing cigarettes and tobacco products in this state for purposes other than sale.

(b)(1) Except as provided in this section, the cigarette and tobacco use tax is imposed and must be paid on all cigarettes and tobacco products used in this state by any person.

(2) A use of cigarettes or tobacco products constitutes the exercise of any right or power, actual or constructive, with respect to



1 cigarettes or tobacco products but does not include possession for sale.

2 (c) The cigarette and tobacco use tax imposed on cigarettes and
3 tobacco products used in this state is a complement to the tax imposed on
4 cigarettes and tobacco products possessed for sale in this state, and all of
5 the provisions of the Arkansas Tobacco Products Tax Act of 1977 regarding the
6 tax on cigarettes and tobacco products, if not inconsistent with this
7 section, shall apply to the administration and enforcement of the use tax in
8 the same manner as if the language of those sections had been incorporated in
9 full into this section.

10 (d) The cigarette and tobacco use tax is levied as follows:

11 (1)(A) The cigarette and tobacco use tax on cigarettes used in
12 this state is twenty-one cents (21¢) per pack of twenty (20) cigarettes.

13 (B) Whenever there are two (2) adjoining cities each with
14 a population of five thousand (5,000) or more persons separated by a state
15 line, the cigarette and tobacco use tax on cigarettes shall be the lesser of
16 the cigarette and tobacco use tax imposed by subdivision (d)(1)(A) of this
17 section or the rate imposed by law on cigarettes sold at retail or wholesale
18 in the adjoining city outside of Arkansas.

19 (C) The cigarette and tobacco use tax on cigarettes used
20 in Arkansas within three hundred feet (300') of a state line or in any
21 Arkansas city which adjoins a state line shall be the lesser of the rate
22 imposed by law on cigarettes sold at retail or wholesale in the adjoining
23 state or the cigarette and tobacco use tax imposed by subdivision (d)(1)(A)
24 of this section; and

25 (2) The cigarette and tobacco use tax on tobacco products, other
26 than cigarettes, used within the state is sixteen percent (16%) of the
27 purchase price paid for the tobacco product.

28 (e) Within two (2) business days after a taxable use of cigarettes or
29 tobacco products has occurred, if the cigarette or tobacco use tax has not
30 been paid, the person using the cigarettes or tobacco products must file a
31 return with the Department of Finance and Administration and must remit with
32 the return the tax shown to be due.

33 (f) No cigarette or tobacco use tax shall be imposed on cigarettes or
34 tobacco products used in this state if:

35 (1) The tax imposed on cigarettes or tobacco products possessed
36 for sale as provided in § 26-57-208 has been paid as evidenced by the

1 presence of State of Arkansas cigarette or tobacco products tax stamps
2 affixed to individual packages of cigarettes or tobacco products;

3 (2) The cigarettes or tobacco products are possessed for resale
4 pursuant to this subchapter; or

5 (3)(A) The number of cigarettes or tobacco products brought into
6 this state on or in the possession of any person does not exceed the limits
7 allowed in § 26-57-243.

8 (B) When a use of cigarettes or tobacco products brought
9 into Arkansas on or in the possession of any person exceeds the limits
10 allowed in § 26-57-243, all of the cigarettes and tobacco products are
11 subject to the cigarette and tobacco use tax imposed by subsection (d) of
12 this section.

13 (C) When the cigarettes or tobacco products are brought
14 into this state other than on or in the possession of the user of the
15 cigarettes, including, but not limited to, delivery into the state by mail,
16 all of the cigarettes and tobacco products are subject to the cigarette and
17 tobacco use tax imposed by subsection (d) of this section.

18 (g) The Director of the Department of Finance and Administration and
19 the Director of the Arkansas Tobacco Control Board shall promulgate rules and
20 prescribe forms for the proper enforcement of this section.

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22 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
23 General Assembly of the State of Arkansas that cigarette smoking presents a
24 serious public health concern to the state and to the citizens of the state;
25 that cigarette and tobacco tax is currently collected from the retailer or
26 wholesaler; that an increasing number of Arkansas citizens are purchasing
27 cigarettes and tobacco products over the Internet, over the telephone, or
28 through mail order; that these cigarettes and tobacco products have not had
29 Arkansas taxes paid; and that this is causing a decrease in state revenue.
30 Therefore, an emergency is declared to exist and this act being necessary for
31 the preservation of the public peace, health, and safety shall become
32 effective on July 1, 2005.

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