

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 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 2902

4
5 By: Representative Scroggin
6
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND THE SALES AND USE TAX LAWS
10 PERTAINING TO MANUFACTURED HOMES, MODULAR HOMES,
11 AND MOBILE HOMES; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 TO AMEND THE SALES AND USE TAX LAWS
15 PERTAINING TO MANUFACTURED HOMES,
16 MODULAR HOMES, AND MOBILE HOMES.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 8 is amended
22 to read as follows:

23 26-52-801. ~~Definition~~ Definitions.

24 ~~(a) As used in this subchapter, "modular home" means a factory built~~
25 ~~structure made to be moved to a location away from the factory by a~~
26 ~~conveyance which is not a part of the structure and which structure is~~
27 ~~designed to be used as a dwelling unit with a permanent foundation.~~

28 ~~(b) For the purpose of this definition, the phrase "with a permanent~~
29 ~~foundation" means the support system of the home is constructed so that the~~
30 ~~modular home may not be moved without a supporting frame or chassis being~~
31 ~~added to or placed under the structure.~~

32 ~~(c) The term "modular home" does not include a manufactured home as~~
33 ~~defined in § 20-25-102(8) or a mobile home as defined in § 26-52-504(e).~~

34 As used in this subchapter:

35 (1) "Manufacturer" means any person, firm, or corporation that
36 manufactures and offers manufactured or modular homes for sale in this state;



1 (2) "Manufactured home" means a factory-built structure produced
 2 in accordance with the federal Manufactured Home Construction and Safety
 3 Standards Act, designed to be used as a dwelling unit;

4 (3) "Mobile home" means a structure built in a factory prior to
 5 the enactment of the federal Manufactured Home Construction and Safety
 6 Standards (42 U.S.C. § 5401 et seq.), and designed to be used as a dwelling
 7 unit;

8 (4) "Modular home" means a factory-built structure produced in
 9 accordance to state or local construction codes and standards, designed to be
 10 used as a dwelling unit; and

11 (5) "Sales price" means the purchase price of the new
 12 manufactured home or modular home to be paid by the retailer or other
 13 purchaser as set forth on the actual invoice or bill of sale, excluding
 14 transportation and delivery fees, installation fees, and other items or
 15 services that are to be included as part of the final sale of the
 16 manufactured home by the retailer.

17
 18 ~~26-52-802. Manufacturers deemed contractors~~ Sale of manufactured,
 19 modular, or mobile homes.

20 ~~Manufacturers of modular homes shall be considered contractors within~~
 21 ~~the meaning of § 26-52-103(a)(9).~~

22 (a) Every manufacturer offering new manufactured homes or modular
 23 homes for sale in this state, whether from an established business or by a
 24 licensed retailer, shall obtain a permit and report and remit to the Director
 25 of the Department of Finance and Administration as provided in the Arkansas
 26 Gross Receipts Act of 1941, § 26-52-101 et seq., together with copies of
 27 invoices, sales, tickets, or bills of sale reflecting the dates of all sales
 28 of such new manufactured homes or modular homes, the retailer or other
 29 purchaser's name and address, the make, year, model, serial number, and sales
 30 price of each manufactured home or modular home or mobile home to be paid by
 31 the retailer or other purchaser as set forth on the actual invoice or bill of
 32 sale, and, if applicable, the amount of tax collected from the retailer or
 33 other purchaser.

34 (b) Every manufacturer engaged in business in this state shall state
 35 the amount of the tax imposed on each manufactured home on the actual invoice
 36 or bill of sale and shall collect the amount of the tax from the retailer or

1 other purchaser to or for whom the manufactured home is sold, shipped, or
2 consigned in this state.

3 (c) Upon the initial sale of a new manufactured home or modular home,
4 the tax levied by § 26-52-101 et seq. shall be collected on sixty-five
5 percent (65%) of the sales price of the new manufactured home or modular
6 home.

7 (d)(1) Any part or accessory added to a manufactured or modular home
8 by a retailer on which the sales tax is not paid to the manufacturer under
9 this subchapter is subject to tax, and the retailer shall pay the tax to the
10 vendor of the part or accessory.

11 (2) If a retailer holds a valid sales tax permit and sells parts
12 or accessories for mobile homes or modular homes at retail, the retailer
13 shall purchase the parts or accessories tax exempt as a sale for resale and
14 collect the tax from the purchaser. If the tax is not paid at the time of
15 purchase, the retailer must accrue and remit the tax on each part and
16 accessory which is later removed from inventory and added to the manufactured
17 or modular home.

18 (e) No tax shall be due on the sale of mobile homes or on subsequent
19 sales of manufactured homes or modular homes, including any tax levied by §
20 26-52-101 et seq. or any other gross receipts tax levied by the state.

21

22 ~~26-52-803. Exemption granted~~ Credit or Refund for Sales to
23 Nonresident.

24 ~~Gross receipts from the sale of new modular homes constructed from~~
25 ~~materials on which the state gross receipts tax or state compensating tax has~~
26 ~~been paid shall be exempt from the Arkansas gross receipts tax.~~

27 If the sales tax imposed by this chapter has previously been paid to
28 the manufacturer by a retailer whose first sale at retail is to a resident of
29 another state, and if the manufactured home is transported to and installed
30 on a home site outside of this state and not titled or registered in this
31 state, the retailer is entitled to a credit or refund of the tax previously
32 paid under this chapter. No credit or refund is due or may be paid if any
33 use or occupancy of the manufactured home occurred prior to the first sale at
34 retail by the retailer.

35

36 ~~26-52-804. Furnishings not exempt~~ Enforcement.

1 ~~It is not the intent of this subchapter and nothing contained in this~~
 2 ~~subchapter shall be construed to exempt from the state gross receipts tax or~~
 3 ~~the state compensating tax, furniture, appliances, or other furnishings~~
 4 ~~installed or placed in modular homes by the manufacturers of these homes.~~

5 (a) Any permittee who fraudulently attempts to evade any provision of
 6 this section or of the Arkansas Gross Receipts Act, § 26-52-101 et seq. shall
 7 be subject to having his or her permit revoked after notice and hearing as
 8 provided by § 26-52-208 as amended.

9 (b)(1) Any manufactured home dealer licensed pursuant to § 27-14-
 10 601(a)(6) that makes a subsequent purchase of a manufactured home for which
 11 the seller does not have a certificate of title may, upon payment of all
 12 applicable registration and title fees, register the manufactured home for
 13 the sole purpose of obtaining a certificate of title.

14 (2) No license plate or decal shall be provided with the
 15 registration.

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 17 SECTION 2. Arkansas Code § 26-52-504 is repealed.

18 ~~26-52-504. Sale of manufactured homes or mobile homes.~~

19 ~~(a) Every person selling manufactured homes or mobile homes in this~~
 20 ~~state, whether from an established business, under a licensed dealership, or~~
 21 ~~otherwise, shall obtain and hold a permit as provided by § 26-52-202 and~~
 22 ~~shall make a monthly report and, if applicable, remittance to the Director of~~
 23 ~~the Department of Finance and Administration as provided in the Arkansas~~
 24 ~~Gross Receipts Act, § 26-52-101 et seq., together with copies of invoices,~~
 25 ~~sales, tickets, or bills of sale reflecting the date of all sales of such~~
 26 ~~manufactured homes or mobile homes, the purchaser's name and address, the~~
 27 ~~make, year, model, serial number, and gross sales price of each manufactured~~
 28 ~~home or mobile home, and, if applicable, the amount of tax collected from the~~
 29 ~~purchaser.~~

30 ~~(b) Upon the initial sale of a manufactured home as defined in § 20-~~
 31 ~~25-102(8), the tax levied by § 26-52-101 et seq., and all other gross~~
 32 ~~receipts taxes levied by the state shall be paid on sixty two percent (62%)~~
 33 ~~of the gross sales price of the new manufactured home. As used in this~~
 34 ~~subchapter, "gross sales price" shall mean the total purchase price of the~~
 35 ~~new manufactured home, including any accessories, furnishings, appliances,~~
 36 ~~transportation and delivery fees, installation fees and other items or~~

1 ~~services that are included as part of the sale of the manufactured home,~~
2 ~~before the consideration of any trade-in allowance or downpayment, in cash or~~
3 ~~otherwise.~~

4 ~~(c) No tax shall be due on the sale of mobile homes or on subsequent~~
5 ~~sales of manufactured homes as defined in § 20-25-102(8), including any tax~~
6 ~~levied by § 26-52-101 et seq. or any other gross receipts tax levied by the~~
7 ~~state. As used in this subchapter, "mobile home" shall mean a structure built~~
8 ~~in a factory prior to the enactment of the Federal Manufactured Home~~
9 ~~Construction and Safety Standards (42 U.S.C. § 5401 et seq.), and designed to~~
10 ~~be used as a residential dwelling, with or without a permanent foundation.~~

11 ~~(d) Any permittee who fraudulently attempts to evade any provision of~~
12 ~~this section or of the Arkansas Gross Receipts Act, § 26-52-101 et seq.,~~
13 ~~shall be subject to having his permit revoked after notice and hearing as~~
14 ~~provided by § 26-52-208, as amended.~~

15 ~~(e)(1) Any manufactured home dealer licensed pursuant to § 27-14-~~
16 ~~601(a)(6) who makes a subsequent purchase of a manufactured home for which~~
17 ~~the seller does not have a certificate of title may, upon payment of all~~
18 ~~applicable registration and title fees, register the manufactured home for~~
19 ~~the sole purpose of obtaining a certificate of title.~~

20 ~~(2) No license plate or decal shall be provided with such~~
21 ~~registration.~~

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