

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 2924

4
5 By: Representative Verkamp
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE § 26-53-106 TO
10 ELIMINATE THE REQUIREMENT THAT PROPERTY “COME TO
11 REST” IN THE STATE OR “BECOME COMMINGLED” WITH
12 PROPERTY IN THE STATE IN ORDER TO BE SUBJECT TO
13 USE TAX; AND FOR OTHER PURPOSES.
14

Subtitle

15 TO ELIMINATE THE REQUIREMENT THAT
16 PROPERTY “COME TO REST” IN THE STATE OR
17 “BECOME COMMINGLED” WITH PROPERTY IN THE
18 STATE IN ORDER TO BE SUBJECT TO USE TAX.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 26-53-106 is amended to read as follows:

25 26-53-106. Imposition and rate of tax generally - Presumptions.

26 [Effective until contingency in Acts, 2003, No. 1273, §§ 88 is met.]

27 (a) There is levied and there shall be collected from every person in
28 this state a tax or excise for the privilege of storing, using, distributing,
29 or consuming within this state any article of tangible personal property
30 purchased for storage, use, distribution, or consumption in this state at the
31 rate of three percent (3%) of the sales price of the property.

32 ~~(b) This tax will not apply with respect to the storage, use,~~
33 ~~distribution, or consumption of any article of tangible personal property~~
34 ~~purchased, produced, or manufactured outside this state until the~~
35 ~~transportation of the article has finally come to rest within this state or~~
36 ~~until the article has become commingled with the general mass of property of~~



1 ~~this state.~~

2 (e) This tax shall apply to use, storage, distribution, or consumption
3 of every article of tangible personal property, except as provided in this
4 subchapter, irrespective of whether the article or similar articles are
5 manufactured within the State of Arkansas or are available for purchase
6 within the State of Arkansas and irrespective of any other condition.

7 ~~(d)(1)(A)(c)(1)(A)~~ For the purpose of the proper administration of
8 this subchapter and to prevent evasion of the tax and the duty to collect the
9 tax imposed in this section, it shall be presumed that tangible personal
10 property sold by any vendor for delivery in this state or transportation to
11 this state is sold for storage, use, distribution, or consumption in this
12 state unless the vendor selling the tangible personal property has taken from
13 the purchaser a resale certificate signed by and bearing the name, address,
14 and sales tax permit number of the purchaser certifying that the property was
15 purchased for resale.

16 (B) The use by the purchaser of a resale certificate and
17 any resulting liability for, or exemption from, use tax in a transaction
18 involving a resale certificate shall be governed in all respects by the terms
19 of § 26-52-517.

20 (2) It is further presumed that tangible personal property
21 shipped, mailed, expressed, transported, or brought to this state by the
22 purchaser was purchased from a vendor for storage, use, distribution, or
23 consumption in this state.

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25 SECTION 2. 26-53-106. Imposition and rate of tax generally -
26 Presumptions. [Effective when contingency in Acts 2003, No. 1273, § 88 is
27 met.]

28 Arkansas Code §26-53-106 is amended to read as follows:

29 (a) There is levied and there shall be collected from every person in
30 this state a tax or excise for the privilege of storing, using, distributing,
31 or consuming within this state any article of tangible personal property or
32 taxable service purchased for storage, use, distribution, or consumption in
33 this state at the rate of three percent (3%) of the sales price of the
34 property.

35 ~~(b) This tax will not apply with respect to the storage, use,~~
36 ~~distribution, or consumption of any article of tangible personal property~~

1 ~~purchased, produced, or manufactured outside this state until the~~
2 ~~transportation of the article has finally come to rest within this state or~~
3 ~~until the article has become commingled with the general mass of property of~~
4 ~~this state.~~

5 (e) This tax shall apply to use, storage, distribution, or consumption
6 of every article of tangible personal property or taxable service except as
7 provided in this subchapter irrespective of whether the article or similar
8 articles are manufactured within the State of Arkansas or are available for
9 purchase within the State of Arkansas and irrespective of any other
10 condition.

11 ~~(d)(1)(A)~~ (c)(1)(A) For the purpose of the proper administration of
12 this subchapter and to prevent evasion of the tax and the duty to collect the
13 tax imposed in this section, it shall be presumed that tangible personal
14 property or taxable services sold by any vendor for delivery in this state or
15 transportation to this state are sold for storage, use, distribution, or
16 consumption in this state unless the vendor selling the tangible personal
17 property or taxable service has taken from the purchaser a resale certificate
18 signed by and bearing the name, address, and sales tax permit number of the
19 purchaser certifying that the property or taxable service was purchased for
20 resale except that sales made electronically will not require the purchaser's
21 signature.

22 (B) The use by the purchaser of a resale certificate and any
23 resulting liability for, or exemption from, use tax in a transaction
24 involving a resale certificate shall be governed in all respects by the terms
25 of § 26-52-517.

26 (2) It is further presumed that tangible personal property or taxable
27 services shipped, mailed, expressed, transported, or brought to this state by
28 the purchaser were purchased from a vendor for storage, use, distribution, or
29 consumption in this state.

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31 SECTION 3. The provisions of this act shall begin to apply on the
32 first day of the second calendar month following the effective date of this
33 act.

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35 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
36 General Assembly of the State of Arkansas that as a result of the Arkansas

1 Supreme Court decision, Lake View School Dist. No. 25 v. Huckabee, 351 Ark.
 2 31, 91 S.W.3d 472 (2002), additional revenue is necessary for the improvement
 3 of public schools, to provide all Arkansas children an adequate education,
 4 and to equalize funding for schools and teachers; that without additional
 5 revenue, the state will be unable to fulfill its constitutional duty to
 6 provide an adequate and equitable education to Arkansas children; and that
 7 this act is immediately necessary as it will provide needed revenue for the
 8 support and improvement of public schools. Therefore, an emergency is
 9 declared to exist and this act being immediately necessary for the
 10 preservation of the public peace, health, and safety shall become effective
 11 on:

12 (1) The date of its approval by the Governor;

13 (2) If the bill is neither approved nor vetoed by the Governor,
 14 the expiration of the period of time during which the Governor may veto the
 15 bill; or

16 (3) If the bill is vetoed by the Governor and the veto is
 17 overridden, the date the last house overrides the veto.

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