

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
4

A Bill

SENATE BILL 277

5 By: Senators T. Smith, Glover, Higginbothom, Hill, Horn, B. Johnson, Miller
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For An Act To Be Entitled

9 AN ACT TO REDUCE THE STATE SALES AND USE TAX ON
10 FOOD AND FOOD INGREDIENTS; TO CONTINUE THE
11 IMPOSITION OF LOCAL SALES AND USE TAX ON FOOD AND
12 FOOD INGREDIENTS; AND FOR OTHER PURPOSES.
13

Subtitle

14 AN ACT TO REDUCE THE STATE SALES AND USE
15 TAX ON FOOD AND FOOD INGREDIENTS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Title 26, Chapter 52, Subchapter 3 is amended to add a new
22 section to read as follows:

23 26-52-317. Food and food ingredients.

24 (a)(1) The Director of the Department of Finance and Administration
25 shall determine the following conditions:

26 (A) That federal law authorizes the state to collect sales
27 and use tax from some or all of the sellers who have no physical presence in
28 the State of Arkansas and who make sales of taxable goods and services to
29 Arkansas purchasers;

30 (B) That initiating the collection of sales and use tax
31 from these sellers would increase the net available general revenues needed
32 to fund state agencies, services, and programs; and

33 (C)(i) That during a six-month consecutive period, the
34 amount of net available general revenues attributable to the collection of
35 sales and use tax from sellers who have no physical presence in the State of
36 Arkansas is equal to or greater than one hundred fifty percent (150%) of



1 sales and use tax collected under §§ 26-52-301, 26-52-302(a), (b), and (d),
 2 26-53-106, and 26-53-107(a), (b), and (d) on food and food ingredients.

3 (ii) The director shall make the determination under
 4 subdivision (a)(1)(C)(i) of this section on a monthly basis following the
 5 determination that the conditions under subdivision (a)(1)(A) of this section
 6 have been met.

7 (2) When the director finds that all of the conditions in
 8 subdivision (a)(1) of this section have been met, then the gross receipts or
 9 gross proceeds taxes levied under §§ 26-52-301 and 26-52-302(a), (b), and (d)
 10 shall be levied at the rate of zero percent (0%) on the sale of food and food
 11 ingredients beginning on the first day of the second calendar month following
 12 the determination of the director.

13 (b) The gross receipts or gross proceeds derived from the sale of food
 14 and food ingredients shall continue to be subject to the taxes levied under §
 15 26-52-302(c).

16 (c) The gross receipts or gross proceeds derived from the sale of food
 17 and food ingredients shall continue to be subject to the excise tax levied
 18 under Section 2 of Amendment 75 of the Constitution of the State of Arkansas.

19 (d) The gross receipts or gross proceeds derived from the sale of food
 20 and food ingredients shall continue to be subject to all municipal and county
 21 gross receipts taxes.

22 (e) The Department of Finance and Administration shall promulgate
 23 rules to implement the provisions of this section.

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 25 SECTION 2. Title 26, Chapter 53, Subchapter 1 is amended to add a new
 26 section to read as follows:

27 26-53-145. Food and food ingredients.

28 (a)(1) The Director of the Department of Finance and Administration
 29 shall determine the following conditions:

30 (A) That federal law authorizes the state to collect sales
 31 and use tax from some or all of the sellers who have no physical presence in
 32 the State of Arkansas and who make sales of taxable goods and services to
 33 Arkansas purchasers;

34 (B) That initiating the collection of sales and use tax
 35 from these sellers would increase the net available general revenues needed
 36 to fund state agencies, services, and programs; and

1 (C)(i) That during a six-month consecutive period, the
 2 amount of net available general revenues attributable to the collection of
 3 sales and use tax from sellers who have no physical presence in the State of
 4 Arkansas is equal to or greater than one hundred fifty percent (150%) of
 5 sales and use tax collected under §§ 26-52-301, 26-52-302(a), (b), and (d),
 6 26-53-106, and 26-53-107(a), (b), and (d) on food and food ingredients.

7 (ii) The director shall make the determination under
 8 subdivision (a)(1)(C)(i) of this section on a monthly basis following the
 9 determination that the conditions under subdivision (a)(1)(A) of this section
 10 have been met.

11 (2) When the director finds that all of the conditions in
 12 subdivision (a)(1) of this section have been met, then the compensating use
 13 taxes levied under §§ 26-53-106 and 26-53-107(a), (b), and (d) shall be
 14 levied at the rate of zero percent (0%) on the sale of food and food
 15 ingredients beginning on the first day of the second calendar month following
 16 the determination of the director.

17 (b) The compensating use tax levied under § 26-53-107(c) shall
 18 continue to apply to the sales price of food and food ingredients.

19 (c) The compensating use tax levied under Section 2 of Amendment 75 of
 20 the Constitution of the State of Arkansas shall continue to apply to the
 21 sales price of food and food ingredients.

22 (d) All municipal and county use taxes shall continue to apply to the
 23 sales price of food and food ingredients.

24 (e) The Department of Finance and Administration shall promulgate
 25 rules to implement the provisions of this section.

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