

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

As Engrossed: H2/25/05

# A Bill

SENATE BILL 277

5 By: Senators T. Smith, Glover, Higginbothom, Hill, Horn, B. Johnson, Miller  
6 By: Representatives Petrus, Pace, Adams, Anderson, Bolin, Cooper, Cowling, Davis, Dickinson,  
7 Dobbins, Everett, J. Hutchinson, Jeffrey, Key, Mack, Matayo, Mathis, Maxwell, Ragland, Rosenbaum,  
8 Saunders, Sullivan, Thyer, Walters, Wells, Wills, Wyatt  
9

## For An Act To Be Entitled

10  
11 AN ACT TO REDUCE THE STATE SALES AND USE TAX ON  
12 FOOD AND FOOD INGREDIENTS; TO CONTINUE THE  
13 IMPOSITION OF LOCAL SALES AND USE TAX ON FOOD AND  
14 FOOD INGREDIENTS; AND FOR OTHER PURPOSES.  
15

## Subtitle

16  
17 AN ACT TO REDUCE THE STATE SALES AND USE  
18 TAX ON FOOD AND FOOD INGREDIENTS.  
19  
20  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Title 26, Chapter 52, Subchapter 3 is amended to add a new  
25 section to read as follows:

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

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

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

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

36 (C)(i) That during a six-month consecutive period, the



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

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

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

16 (b) The gross receipts or gross proceeds derived from the sale of food  
17 and food ingredients shall continue to be subject to the taxes levied under §  
18 26-52-302(c).

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

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

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

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

30 26-53-145. Food and food ingredients.

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

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

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

4                   (C)(i) That during a six-month consecutive period, the  
5 amount of net available general revenues attributable to the collection of  
6 sales and use tax from sellers who have no physical presence in the State of  
7 Arkansas is equal to or greater than one hundred fifty percent (150%) of  
8 sales and use tax collected under §§ 26-52-301, 26-52-302(a), (b), and (d),  
9 26-53-106, and 26-53-107(a), (b), and (d) on food and food ingredients.

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

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

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

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

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

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

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30                                   */s/ T. Smith, et al*  
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