

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 301

5 By: Senator J. Bookout  
6 By: Representative Pace  
7

## For An Act To Be Entitled

10 AN ACT TO AMEND THE DEFINITION OF GROSS RECEIPTS  
11 OR GROSS PROCEEDS TO PROVIDE THAT MANUFACTURERS'  
12 REBATES FROM SALES OF NEW MOTOR VEHICLES ARE NOT  
13 GROSS RECEIPTS FOR THE PURPOSE OF CALCULATING  
14 ARKANSAS SALES TAX; AND FOR OTHER PURPOSES.  
15

## Subtitle

16 TO PROVIDE THAT MANUFACTURERS' REBATES  
17 FROM SALES OF NEW MOTOR VEHICLES ARE NOT  
18 GROSS RECEIPTS FOR THE PURPOSE OF  
19 CALCULATING ARKANSAS SALES TAX.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 26-52-103(a)(4), effective until the  
26 contingency in Acts 2003, No. 1273, § 88 is met, concerning the definition of  
27 "gross receipts" or "gross proceeds", is amended to read as follows:

28 (4)(A)(i) "Gross receipts" or "gross proceeds" means the total  
29 amount of consideration for the sale of tangible personal property and such  
30 services as are herein specifically provided for, whether the consideration  
31 is in money or otherwise, without any deduction on account of the cost of the  
32 properties sold, labor service performed, interest paid, losses, or any  
33 expenses whatsoever.

34 (ii) However, the term "gross receipts" or "gross  
35 proceeds" shall not include the manufacturer's federal excise taxes levied  
36 upon articles if the manufacturer's federal excise taxes are separately



1 stated or separately billed.

2 (iii) The term "gross receipts" or "gross proceeds"  
3 shall not include manufacturers' rebates to a dealer on the sale of a new  
4 motor vehicle.

5 (B)(i) The term "gross proceeds" or "gross receipts" shall  
6 include the value of any goods, wares, merchandise, or property withdrawn or  
7 used from the established business or from the stock in trade of the  
8 established reserves for consumption or use in such business or by any other  
9 person.

10 (ii) However, the term "gross receipts" or "gross  
11 proceeds" shall not include the value of any goods, wares, merchandise, or  
12 property withdrawn or used from the established business or from the stock in  
13 trade of the established reserves for consumption or use in such business or  
14 by any other person if the goods, wares, merchandise, or property withdrawn  
15 or used is donated to National Guard members, emergency service workers or  
16 volunteers providing services to a county which has been declared a disaster  
17 area by the Governor;

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19 SECTION 2. Arkansas Code 26-52-510(a), concerning the payment of sales  
20 tax on motor vehicles, is amended to read as follows:

21 (a)(1)(A) The tax levied by this chapter and all other gross receipts  
22 taxes levied by the state in respect to the sale of new or used motor  
23 vehicles, trailers, or semitrailers required to be licensed in this state  
24 shall be paid by the consumer to the Director of the Department of Finance  
25 and Administration instead of being collected by the dealer or seller, and it  
26 is the mandatory duty of the director to require the payment of such tax at  
27 the time of registration before issuing licenses for new or used motor  
28 vehicles or trailers.

29 (B)(i) The tax shall apply regardless of whether the motor  
30 vehicle, trailer, or semitrailer is sold by a vehicle dealer, or an  
31 individual, corporation, or partnership not licensed as a vehicle dealer.

32 (ii) The exemption provided for in § 26-52-401(17)  
33 for isolated sales shall not apply to the sale of motor vehicles, trailers,  
34 or semitrailers.

35 (2)(A) The tax levied by this chapter and all other gross  
36 receipts taxes levied by the state in respect to the sale of new or used

1 motor vehicles, trailers, or semitrailers required to be licensed in this  
2 state shall be paid by the consumer on or before the time for registration as  
3 prescribed by § 27-14-903(a).

4 (B)(i) Failure to pay the tax when due shall result in an  
5 assessment of a penalty equal to ten percent (10%) of the amount of tax due.

6 (ii) The penalty must be paid to the director along  
7 with the tax before the vehicle license will be issued.

8 (3)(A) The tax shall be calculated on the amount of gross  
9 receipts or gross proceeds the dealer receives as consideration for the motor  
10 vehicle.

11 (B) For purposes of this section, the term "gross  
12 receipts" or "gross proceeds" shall not include manufacturers' rebates to a  
13 dealer on the sale of a new motor vehicle.

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15 SECTION 3. Arkansas Code 26-53-126(a), concerning the payment of use  
16 tax on motor vehicles, is amended to read as follows:

17 (a)(1)(A)(i) All new and used motor vehicles, trailers, or  
18 semitrailers required to be licensed in this state shall, upon being  
19 registered in this state, be subject to the tax levied herein and all other  
20 use taxes levied by the state irrespective of whether such motor vehicle,  
21 trailer, or semitrailer was purchased from a dealer or an individual.

22 (ii) The tax shall be paid to the director by the  
23 person making application to register the motor vehicle, trailer, or  
24 semitrailer instead of being collected by the dealer or individual seller.

25 (iii) It shall be the mandatory duty of the director  
26 to collect the tax before issuing a license for any motor vehicle, trailer,  
27 or semitrailer.

28 (B) The exemption provided for in § 26-52-401(17) for  
29 isolated sales shall not apply to the sale of motor vehicles, trailers, and  
30 semitrailers.

31 (2)(A) The tax levied herein and all other use taxes levied by  
32 the state shall be paid on or before the time for registration as prescribed  
33 by § 27-14-903(a).

34 (B)(i) Failure to pay the tax when due shall result in an  
35 assessment of a penalty equal to ten percent (10%) of the amount of tax due.

36 (ii) The penalty must be paid to the director along

1 with the tax before the vehicle license will be issued.

2 (3)(A) The tax shall be calculated on the amount of gross  
3 receipts or gross proceeds the dealer receives as consideration for the motor  
4 vehicle.

5 (B) For purposes of this section, the term "gross  
6 receipts" or "gross proceeds" shall not include manufacturers' rebates to a  
7 dealer on the sale of a new motor vehicle.

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9 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
10 General Assembly of the State of Arkansas that the current definition of  
11 gross receipts or gross proceeds includes manufacturers' rebates to dealers  
12 from the sale of a new motor vehicle; that purchasers of new motor vehicles  
13 have to pay sales tax on the amount of the rebate to the dealer; and that  
14 this act is immediately necessary because it would exclude the amount of the  
15 manufacturer's rebate from the sales price on which sales tax is calculated.  
16 Therefore, an emergency is declared to exist and this act being necessary for  
17 the preservation of the public peace, health, and safety shall become  
18 effective on the first day of the second calendar month following:

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

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

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

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