

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 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 1422

4
5 By: Representative Sumpter
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7

For An Act To Be Entitled

8
9 AN ACT TO IMPOSE AN EXCISE TAX UPON THE USE,
10 POSSESSION, CONSUMPTION, STORAGE, OR TRANSFER OF
11 A CONTROLLED SUBSTANCE; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 AN ACT TO IMPOSE AN EXCISE TAX UPON THE
15 USE, POSSESSION, CONSUMPTION, STORAGE,
16 OR TRANSFER OF A CONTROLLED SUBSTANCE.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 26, Chapter 57 is amended to add an
22 additional subchapter to read as follows:

23 Subchapter 14 – Excise Tax on Controlled Substances Act.

24 26-57-1401. Title.

25 This subchapter shall be known as the "Excise Tax on Controlled
26 Substances Act".
27

28 26-57-1402. Definitions.

29 As used in this subchapter, "controlled substance" means:

30 (1) A drug, substance, or immediate precursor in Schedules I
31 through VI of the Schedules of Controlled Substances as provided in the
32 Uniform Controlled Substances Act, § 5-64-101 et seq., and rules promulgated
33 by the Director of the Division of Health of the Department of Health and
34 Human Services; and

35 (2) A "counterfeit substance" as defined by § 5-64-101.
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1 26-57-1403. No immunity – Unlawful use not authorized.

2 (a) This subchapter does not provide any immunity for any person from
 3 criminal prosecution under a law of this state.

4 (b) This subchapter does not authorize the unlawful use, possession,
 5 consumption, storage, or transfer of a controlled substance.

6
 7 26-57-1404. Imposition of tax.

8 (a)(1) In addition to any other applicable tax, there is imposed an
 9 excise tax upon each use, possession, consumption, storage, or transfer of a
 10 controlled substance.

11 (2) Each person that uses, possesses, consumes, stores, or
 12 transfers a controlled substance is liable for the excise tax imposed by this
 13 subchapter.

14 (b) The excise tax imposed by this subchapter applies regardless of
 15 whether the controlled substance exists in solid, liquid, or gaseous form and
 16 regardless of the degree of purity of the controlled substance.

17
 18 26-57-1405. Exemptions.

19 (a) A licensed pharmacist is exempt from the excise tax imposed by
 20 this subchapter when he or she is lawfully using, possessing, storing, or
 21 transferring a controlled substance.

22 (b) A health care professional with prescriptive authority is exempt
 23 from the excise tax imposed by this subchapter when he or she is lawfully
 24 using, possessing, storing, or transferring a controlled substance.

25 (c) A person that is lawfully in possession of a controlled substance
 26 pursuant to a valid prescription is exempt from the excise tax imposed by
 27 this subchapter when he or she is lawfully using, possessing, consuming, or
 28 storing a controlled substance.

29 (d) A business entity that is lawfully engaged in the manufacturing,
 30 warehousing, or shipping of a controlled substance is exempt from the excise
 31 tax imposed by this subchapter when the business entity is lawfully using,
 32 possessing, storing, or transferring a controlled substance.

33
 34 26-57-1406. Calculation of excise tax – Rates.

35 (a) For the purpose of calculating the excise tax imposed by this
 36 subchapter, a quantity of a controlled substance in a person’s possession

1 shall be measured by:

2 (1) The weight of the controlled substance whether pure, impure,
 3 or dilute; or

4 (2) Dosage units when the controlled substance is not typically
 5 sold by weight.

6 (b) The excise tax shall be levied, collected, computed, and paid at
 7 the following rates:

8 (1) Three dollars and fifty cents (\$3.50) on each gram or each
 9 portion of a gram of marijuana;

10 (2) Two hundred dollars (\$200) on each gram or each portion of a
 11 gram of a controlled substance that is sold by weight other than marijuana;
 12 and

13 (3) Four hundred dollars (\$400) on ten (10) dosage units or a
 14 fractional portion of a ten (10) dosage unit of a controlled substance that
 15 is not typically sold by weight.

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17 26-57-1407. Time for payment of excise tax – Forms.

18 (a)(1) Except as provided in subdivision (a)(2) of this section, the
 19 excise tax imposed by this subchapter is due and payable at the time of each
 20 use, possession, consumption, storage, or transfer of a controlled substance.

21 (2) A person liable to pay the excise tax may report and remit
 22 the amount of excise tax which is due, using a reporting form prepared by the
 23 Director of the Department of Finance and Administration, no later than the
 24 twentieth day of the calendar month following the month in which the excise
 25 tax liability is incurred.

26 (b) The reporting procedure provided for in subdivision (a)(2) of this
 27 section does not prevent the director from assessing or collecting any excise
 28 tax due prior to receiving the reporting form or remittance of the excise
 29 tax.

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31 26-57-1408. Enforcement and administration.

32 (a) The Director of the Department of Finance and Administration shall
 33 promulgate rules to administer this subchapter.

34 (b) The director shall provide the reporting forms necessary for
 35 reporting the excise tax due under this subchapter and shall enforce and
 36 collect the excise tax pursuant to the Arkansas Tax Procedure Act, § 26-18-

1 101 et seq.

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3 26-57-1409. Confidentiality of information – Penalty.

4 (a)(1) Except as provided in subdivisions (a)(2) and (3) of this
5 section, neither the Director of the Department of Finance and Administration
6 nor a public employee may disclose:

7 (A) Any fact contained in a report, form, or return
8 required by this subchapter; or

9 (B) Any information obtained from a person pursuant to
10 this subchapter.

11 (2)(A) Any fact or information described in subdivision (a)(1)
12 of this section obtained from a person may not be used against the person in
13 any criminal proceeding unless independently obtained.

14 (B) Any fact or information described in subdivision
15 (a)(1) of this section obtained from a person may be used in connection with
16 a proceeding involving taxes due under this subchapter from the person.

17 (3) The director may publish statistics that do not disclose
18 the:

19 (A) Identity of any person who submitted information under
20 this subchapter; or

21 (B) Contents of a report, form, or return required by this
22 subchapter.

23 (b) Upon conviction, any person who knowingly discloses facts or
24 information in violation of subsection (a) of this section is guilty of a
25 Class A misdemeanor.

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27 26-57-1410. Forfeiture law not superseded.

28 This subchapter does not supersede § 5-5-101 et seq. or § 5-64-505.

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30 26-57-1411. Disposition of taxes, interest, and penalties.

31 (a) Any tax, interest, penalty, or cost received by the Director of
32 the Department of Finance and Administration under this subchapter shall be
33 general revenues and shall be deposited into the State Treasury to the credit
34 of the State Apportionment Fund.

35 (b) The State Treasurer shall allocate and transfer any tax, interest,
36 penalty, or cost received to the various State Treasury funds participating

1 in general revenues in the respective proportions to each fund as provided in
2 the Revenue Stabilization Law of Arkansas, § 19-5-101 et seq., and to be used
3 in each fund for the respective purposes set forth in the Revenue
4 Stabilization Law of Arkansas, § 19-5-101 et seq.

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