

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  
4

# A Bill

HOUSE BILL 1518

5 By: Representative D. Evans  
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7

## For An Act To Be Entitled

8 AN ACT TO AUTHORIZE THE DIRECT ASSESSMENT OF  
9 LIQUOR AND WINE EXCISE TAXES FOR PERSONS WHO  
10 PURCHASE UNTAXED LIQUOR AND WINE; AND FOR OTHER  
11 PURPOSES.  
12

## Subtitle

13 TO AUTHORIZE THE DIRECT ASSESSMENT OF  
14 LIQUOR AND WINE EXCISE TAXES.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 3-7-104 is amended to read as follows:  
22 3-7-104. Rate of tax.

23 There is levied and there shall be collected as provided by law and  
24 regulation the following taxes:

25 (1)(A) A tax at the rate of two dollars and fifty cents (\$2.50)  
26 on each gallon of spirituous liquor sold or offered for sale in the State of  
27 Arkansas or purchased by a person from an out-of-state seller upon which the  
28 tax has not been reported and paid.

29 (B) "Spirituous liquor", as used in this section, means  
30 liquor distilled from the fermented juices of grain, fruits, or vegetables  
31 and any mixture containing liquor distilled from the fermented juices of  
32 grain, fruits, or vegetables, with an alcoholic content of twenty-one percent  
33 (21%) or more alcohol by weight;

34 (2)(A) A tax at the rate of one dollar (\$1.00) on each gallon of  
35 premixed spirituous liquor sold or offered for sale in the State of Arkansas  
36 or purchased by a person from an out-of-state seller upon which the tax has



1 not been reported and paid.

2 (B) "Premixed spirituous liquor", as used in this section,  
 3 means liquor distilled from the fermented juices of grain, fruits, or  
 4 vegetables, having an alcoholic content of less than twenty-one percent (21%)  
 5 alcohol by weight but more than five percent (5%) alcohol by weight;

6 (3)(A) A tax at the rate of fifty cents (50¢) on each gallon of  
 7 light spirituous liquor sold or offered for sale in the State of Arkansas or  
 8 purchased by a person from an out-of-state seller upon which the tax has not  
 9 been reported and paid.

10 (B) "Light spirituous liquor", as used in this section,  
 11 means liquor distilled from the fermented juices of grain, fruits, or  
 12 vegetables and any mixture containing liquor distilled from the fermented  
 13 juices of grain, fruits, or vegetables, having an alcoholic content between  
 14 one-half of one percent (0.5%) and five percent (5%) alcohol by weight;

15 (4)(A) A tax at the rate of seventy-five cents (75¢) on each  
 16 gallon of vinous liquor, except wines fermented and manufactured within the  
 17 State of Arkansas from grapes, berries, or other fruits grown in Arkansas, as  
 18 authorized by §§ 3-5-401 - 3-5-412, sold or offered for sale in the State of  
 19 Arkansas or purchased by a person from an out-of-state seller upon which the  
 20 tax has not been reported and paid.

21 (B) "Vinous liquor", as used in this section, means the  
 22 fermented juices of grapes, berries, or other fruits and any other mixture  
 23 containing the fermented juices of grapes, berries, or other fruits, having  
 24 an alcoholic content of more than five percent (5%) alcohol by weight;

25 (5)(A) A tax at the rate of twenty-five cents (25¢) on each  
 26 gallon of light wine except light wine fermented and manufactured within the  
 27 State of Arkansas from grapes, berries, or other fruits grown in Arkansas, as  
 28 authorized by §§ 3-5-401 - 3-5-412, sold or offered for sale in the State of  
 29 Arkansas or purchased by a person from an out-of-state seller upon which the  
 30 tax has not been reported and paid.

31 (B) "Light wine", as used in this section, means the  
 32 fermented juices of grapes, berries, or fruits and any other mixture  
 33 containing the fermented juices of grapes, berries, or fruits, having an  
 34 alcoholic content of between one-half of one percent (0.5%) and five percent  
 35 (5%) alcohol by weight;

36 (6)(A) A tax at the rate of seven dollars and fifty cents

1 (\$7.50) per barrel of thirty-two (32) gallons, and proportionately for larger  
2 and smaller gallonages per barrel, on all beer having an alcoholic content of  
3 five percent (5%) or less by weight sold or offered for sale in the State of  
4 Arkansas.

5 (B) This tax shall be paid in the manner prescribed by §  
6 3-7-401 et seq.; and

7 (7) A tax at the rate of twenty cents (20¢) on each gallon of  
8 malt liquor sold or offered for sale in the State of Arkansas.

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10 SECTION 2. Arkansas Code § 3-7-201 is amended to read as follows:

11 3-7-201. Tax imposed - Collection.

12 (a)(1) There is levied a special alcoholic beverage excise tax of  
13 three percent (3%) upon all retail receipts or proceeds derived from the sale  
14 of liquor, cordials, liqueurs, specialties, and sparkling and still wines and  
15 on the purchase price of a liquor, a cordial, a liqueur, a specialty, a  
16 sparkling wine and a still wine purchased by a person from an out-of-state  
17 seller upon which the tax has not been reported and paid. The tax shall be  
18 and is in addition to all other taxes now imposed and cumulative to the  
19 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

20 (2) Native wine sold at retail in this state shall be subject to  
21 the special alcoholic beverage excise tax levied upon all retail receipts or  
22 proceeds derived from the sale of liquor, cordials, liqueurs, specialties,  
23 and sparkling and still wines under the provisions of this section.

24 (3)(A) There is levied a special alcoholic beverage excise tax  
25 of three percent (3%) upon all retail receipts or proceeds derived from the  
26 sale of beer.

27 (B) The tax shall be in addition to all other taxes now  
28 imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

29 (b) It shall be the duty of every retailer in this state to collect  
30 the tax from the consumer in addition to the established retail price of  
31 beer, liquor, cordials, liqueurs, specialties, sparkling and still wines and  
32 to file a return and remittance with the Director of the Department of  
33 Finance and Administration on or before the twentieth day of each calendar  
34 month for the preceding month.

35 (c) Failure to file the return and remittance on the due date shall be  
36 cause for the director to enter an assessment for the return and remittance

1 and add as a penalty ten percent (10%) of the amount of tax found to be due.

2 (d) Returns shall be filed upon forms prescribed by the director in  
 3 accordance with such regulations as the director may promulgate hereunder.

4 (e)(1) The revenues derived from the excise tax on beer levied under  
 5 subdivision (a)(3) of this section shall be deposited in the Department of  
 6 Human Services Grants Fund Account to be distributed as follows:

7 (A)(i) Twenty percent (20%) of the funds shall be used to  
 8 provide subsidized child care for low-income families;

9 (ii) The low-income families shall not include  
 10 families in the Transitional Employment Assistance Program; and

11 (B) Eighty percent (80%) of the funds shall be used to  
 12 support and expand the Arkansas Better Chance Program of the Department of  
 13 Education.

14 (2) On June 30 of any year, the balance of the funds derived  
 15 from the excise tax on beer levied under subsection (a) of this section may  
 16 be carried forward into the next fiscal year, there to be used for the same  
 17 purposes.

18 (3)(A) The revenues derived from the excise tax on beer levied  
 19 under subsection (a) of this section shall be supplementary to the Child Care  
 20 Development Fund.

21 (B) These funds shall be exempt from budgetary cuts,  
 22 reductions, or eliminations caused by a deficiency of general revenues.

23 (4)(A) The excise tax on beer levied under subdivision (a)(3) of  
 24 this section shall not extend past June 30, 2007.

25 (B) After June 30, 2007, the State Board of Education and  
 26 the Department of Education shall fully budget, fund, and expend or commit to  
 27 expend the replacement general revenue in addition to any other funding  
 28 provided by law for essential programs such as subsidized child care for low-  
 29 income families, the Arkansas Better Chance Program, and the Child Care  
 30 Development Fund in an amount equal to the appropriation level for the  
 31 program.

32 (f) A person who purchases an untaxed liquor, a cordial, a liqueur, a  
 33 specialty, a sparkling wine and a still wine shall be liable for reporting  
 34 and remitting the special excise tax due on all such products as levied under  
 35 this section.

36 (1) The tax due shall be reported on forms provided by the

1 director on or before the twentieth (20<sup>th</sup>) day of the month following the  
2 month in which the untaxed purchase was made.

3 (2) The report shall provide the information prescribed by the  
4 director.

5 (3) When a report is filed, a person shall remit the full amount  
6 of tax due on the untaxed purchase to the director.

7 (g) The director may directly assess the special excise tax due  
8 against a person who purchases an untaxed liquor, cordial, liqueur,  
9 specialty, sparkling wine and still wine and fails to report and remit the  
10 special excise tax due in a timely manner.

11 (h) If tax has been paid to the director on any alcoholic beverage  
12 product upon which payment of the special excise tax is at issue, a person  
13 may establish proof of such payment by providing a receipt or any other  
14 documentation that clearly indicates that the tax was paid.

15 (i) Subsections (f) and (g) of this section shall be subject to the  
16 provisions of the Arkansas Tax Procedure Act, §26-18-101 et seq.

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18 SECTION 3. Arkansas Code 3-7-302, concerning the reporting and payment  
19 of excise tax on spirituous liquor, is amended to add additional subsections  
20 to read as follows:

21 (d) A person who purchases any untaxed spirituous liquor shall be  
22 liable for reporting and remitting all excise tax due on such spirituous  
23 liquor as levied under §3-7-104.

24 (1) The tax due shall be reported on forms provided by the  
25 director on or before the fifteenth (15<sup>th</sup>) day of the month following the  
26 month in which the untaxed purchase was made.

27 (2) The report shall provide the information prescribed by the  
28 Director.

29 (3) When a report is filed, a person shall remit the full amount  
30 of tax due on the untaxed purchase to the director.

31 (e) The director may directly assess the excise tax due on any untaxed  
32 spirituous liquor against a person who purchases such liquor and fails to  
33 report and remit the excise tax due in a timely manner.

34 (f) If tax has been paid to the director on any spirituous liquor upon  
35 which payment of the tax is at issue, a person may establish proof of such  
36 payment by providing a receipt or any other documentation that clearly

1 indicates that the tax was paid.

2 (g) Subsections (d) and (e) of this section shall be subject to the  
3 provisions of the Arkansas Tax Procedure Act, §26-18-101 et seq.

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5 SECTION 4. Arkansas Code Title 3, Chapter 7, Subchapter 5, concerning  
6 the reporting and payment of excise tax on wine, is amended to add an  
7 additional section to read as follows:

8 3-7-507. Payment of tax by purchaser of wine.

9 (a) A person who purchases any untaxed wine shall be liable for  
10 reporting and remitting all excise tax due on such wine as levied under §3-7-  
11 104.

12 (1) The tax due shall be reported on forms provided by the  
13 director on or before the fifteenth (15<sup>th</sup>) day of the month following the  
14 month in which the untaxed purchase was made.

15 (2) The report shall provide the information prescribed by the  
16 director.

17 (3) When a report is filed, a person shall remit to the director  
18 the full amount of tax due on the untaxed purchase to the director.

19 (b) The director may directly assess the excise tax due on any untaxed  
20 wine against a person who purchases such wine and fails to report and remit  
21 the excise tax due in a timely manner.

22 (c) If tax has been paid to the director on any wine upon which  
23 payment of the tax is at issue, a person may establish proof of such payment  
24 by providing a receipt or any other documentation that clearly indicates that  
25 the tax was paid.

26 (d) Subsections (a) and (b) of this section shall be subject to the  
27 provisions of the Arkansas Tax Procedure Act, §26-18-101 et seq.

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