

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

As Engrossed: H3/7/07 H3/13/07

A Bill

HOUSE BILL 1739

5 By: Representatives Shelby, Davis, Hardwick, House, Abernathy, Allen, Blount, Cash, Cheatham,
6 Cornwell, Dickinson, S. Dobbins, W. Lewellen, Lowery, Maxwell, Moore, Pickett, Powers, S. Prater,
7 Ragland, Rainey, J. Roebuck, L. Smith, Stewart, Wood
8 By: Senators Altes, Crumbly, G. Jeffress, Madison
9

For An Act To Be Entitled

12 AN ACT TO FUND PUBLIC HEALTH PROGRAMS AND
13 SERVICES FOR THE UNDERSERVED BY IMPOSING
14 ADDITIONAL CIGARETTE AND TOBACCO TAXES AND TO
15 INCREASE GENERAL REVENUES; AND FOR OTHER
16 PURPOSES.

Subtitle

19 TO FUND PUBLIC HEALTH PROGRAMS AND
20 SERVICES FOR THE UNDERSERVED BY IMPOSING
21 ADDITIONAL CIGARETTE AND TOBACCO TAXES
22 AND TO INCREASE GENERAL REVENUES.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

27 *SECTION 1. Beginning on July 1, 2007, Arkansas Code Title 26, Chapter*
28 *57 is amended to add an additional subchapter to read as follows:*

29 26-57-1401. Additional tax on cigarettes.

30 (a) In addition to the excise or privilege taxes levied under §§ 26-
31 57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101, there is levied an
32 additional tax of twenty-five dollars (\$25.00) per one thousand (1,000)
33 cigarettes sold in the state.

34 (b)(1)(A) Whenever there are two (2) adjoining cities each with a
35 population of five thousand (5,000) or more separated by a state line, the
36 tax on cigarettes sold in the adjoining Arkansas city shall be at the rate



1 imposed by law on cigarettes sold in the adjoining city outside Arkansas.

2 (B) The tax shall not exceed the tax upon cigarettes
3 imposed by Arkansas law.

4 (2)(A) The tax on cigarettes sold in Arkansas within three
5 hundred feet (300') of a state line in any Arkansas city that adjoins a state
6 line or in any city that is separated only by a navigable river from a city
7 that adjoins a state line shall be at the rate imposed by law on cigarettes
8 sold in the adjoining state.

9 (B) The tax shall not exceed the tax upon cigarettes
10 imposed by Arkansas law.

11 (3)(A) A wholesaler or retailer shall not sell cigarettes to a
12 retailer located outside a border zone described in subdivisions (b)(1) and
13 (2) of this section unless the full amount of tax levied by this section and
14 §§ 26-57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101 without regard
15 to any reduced border zone rate has been paid as evidenced by cigarette
16 stamps affixed to each container of cigarettes.

17 (B) A retailer located outside a border zone described in
18 subdivisions (b)(1) and (2) of this section shall not possess or offer for
19 sale cigarettes unless the full amount of tax levied by this section and §§
20 26-57-208, 26-57-802, 26-57-803, 26-57-804, 26-57-804, and 26-57-1101 without
21 regard to any reduced border zone rate has been paid as evidenced by
22 cigarette stamps affixed to each container of cigarettes.

23 (C) A violation of subdivision (b)(3) of this section is
24 grounds for the suspension or revocation of a permit or license issued by the
25 Director of the Arkansas Tobacco Control Board.

26 (c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-
27 210 apply to this section.

28 (d) The additional tax levied by this section shall be imposed,
29 reported, remitted, and administered in the same manner and at the same time
30 as other taxes levied on cigarettes in the Arkansas Tobacco Products Tax Act
31 of 1977, § 26-57-201 et seq.

32 (e) The Director of the Department of Finance and Administration shall
33 not pay the commission authorized by § 26-57-236(g), as amended by Acts 1997,
34 No. 434, with respect to the additional tax levied by this section.

35
36 26-57-1402. Additional tax on tobacco products other than cigarettes.

1 (a)(1) In addition to the excise or privilege taxes levied under §§
2 26-57-208, 26-57-803, 26-57-805, and 26-57-1102, there is levied an
3 additional tax on tobacco products other than cigarettes on the first sale to
4 wholesalers or retailers within the state at eight percent (8%) of the
5 manufacturer's selling price.

6 (2) The additional tax levied by this section shall be computed
7 on the manufacturer's actual invoice price before discounts and deals.

8 (b)(1) The additional tax levied by this section shall be reported and
9 paid by wholesalers licensed pursuant to § 26-57-214.

10 (2) However, a retailer is liable for reporting and paying the
11 additional tax levied by this section when a retailer purchases tobacco
12 products other than cigarettes directly from a manufacturer or from a
13 wholesaler or distributor not licensed pursuant to § 26-57-214.

14 (c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-
15 210 apply to this section.

16
17 26-57-1403. Distribution of revenues.

18 The moneys collected pursuant to §§ 26-57-1401 and 26-57-1402 for each
19 fiscal year shall be distributed as follows:

20 (1) Fifty percent (50%) to be credited to the General Revenue
21 Fund Account of the State Apportionment Fund to be distributed as general
22 revenues; and

23 (2) Fifty percent (50%) to be distributed as follows:

24 (A) The first fifteen million dollars (\$15,000,000) shall
25 be distributed to the Community Health Centers of Arkansas;

26 (B) The next twenty-one million one hundred nine thousand,
27 seven hundred seventy-three dollars (\$21,109,773), or any portion thereof,
28 shall be distributed as follows:

29 (i) Twenty-three and sixty-seven hundredths percent
30 (23.67%) to the Department of Education to be used exclusively for the school
31 nurses program;

32 (ii) Twenty-two and forty-nine hundredths percent
33 (22.49%) to the Division of Health of the Department of Health and Human
34 Services to be used exclusively for the Breast Cancer Control Program;

35 (iii) Fourteen and twenty hundredths percent
36 (14.20%) to the Department of Education to be used exclusively for the

1 coordinated school health program;

2 (iv) Thirteen and twenty-six hundredths percent
3 (13.26%) to the Arkansas Minority Health Commission;

4 (v) Eleven and eighty-four hundredths percent
5 (11.84%) to the Arkansas Association of Charitable Clinics;

6 (vi) Seven and one-tenth percent (7.1%) to the
7 Arkansas Tobacco Control Board;

8 (vii) Six and forty-five hundredths percent (6.45%)
9 to the Prostate Cancer Foundation; and

10 (viii) Ninety-nine hundredths percent (0.99%) to
11 the Division of Health of the Department of Health and Human Services to be
12 used exclusively for the Arkansas Central Cancer Registry; and

13 (C) Any moneys to be distributed under section (2)(A) of
14 this section in excess of thirty-six million, one hundred nine thousand,
15 seven hundred seventy-three dollars (\$36,109,773) shall be distributed as
16 follows:

17 (i) Forty-one and fifty-four hundredths percent
18 (41.54%) to the Community Health Centers of Arkansas;

19 (ii) Thirteen and eighty-four hundredths percent
20 (13.84%) to the Department of Education to be used exclusively for the school
21 nurses program;

22 (iii) Thirteen and fifteen hundredths percent
23 (13.15%) to the Division of Health of the Department of Health and Human
24 Services to be used exclusively for the Breast Cancer Control Program;

25 (iv) Eight and three-tenths percent (8.3%) to the
26 Department of Education to be used exclusively for the coordinated school
27 health program;

28 (v) Seven and seventy-five hundredths percent
29 (7.75%) to the Arkansas Minority Health Commission;

30 (vi) Six and ninety-two hundredths percent (6.92%)
31 to the Arkansas Association of Charitable Clinics;

32 (vii) Four and fifteen hundredths percent (4.15%)
33 to the Arkansas Tobacco Control Board;

34 (viii) Three and seventy-seven hundredths percent
35 (3.77%) to the Prostate Cancer Foundation; and

36 (ix) Fifty-eight hundredths percent (0.58%) to the

1 Division of Health of the Department of Health and Human Services to be used
2 exclusively for the Arkansas Central Cancer Registry.

3
4 SECTION 2. Arkansas Code § 26-57-236, as amended by Acts 1997, No.
5 1337, is amended to read as follows:

6 26-57-236. Stamp deputies. [As amended by Acts 1997, No. 1337.]

7 (a) The Director of the Department of Finance and Administration shall
8 furnish stamps to licensed wholesalers directly or through stamp deputies.

9 (b) The Director of the Department of Finance and Administration may
10 appoint and commission stamp deputies, who shall be the owners or officers of
11 wholesalers, to handle the stamps and collect the tax on tobacco products
12 before sales of tobacco products are made to the retailers.

13 (c) Stamp deputies are, within the scope of their authority, agents of
14 the Director of the Department of Finance and Administration and shall be
15 accountable as such for any wrongful acts.

16 (d) Each stamp deputy shall furnish a bond in an amount and in the
17 form as prescribed by the Director of the Department of Finance and
18 Administration.

19 (e) Stamp deputies shall keep records of all stamp sales and tax
20 collections and shall make the reports prescribed by the Director of the
21 Department of Finance and Administration.

22 (f) A commission shall be paid by the Director of the Department of
23 Finance and Administration to stamp deputies for the sale of stamps for
24 cigarettes and the collection of cigarette taxes. The commission paid shall
25 not be less than three and eight-tenths percent (3.8%) of the total aggregate
26 cigarette tax collected under §§ 26-57-208, 26-57-802, 26-57-803, 26-57-804,
27 26-57-1101, and 26-57-1401.

28 (g) All deposits held by any bank for a stamp deputy which represent
29 the sales of stamps are trust funds and shall be held as a special deposit.
30 In the event of the failure or insolvency of the bank, the deposits shall be
31 classed and considered as preferred claims due the State of Arkansas.

32
33 SECTION 3. Arkansas Code § 26-57-236, as amended by Acts 1997, No.
34 434, is repealed.

35 ~~26-57-236. Stamp deputies. [As amended by Acts 1997, No. 434.]~~

36 ~~(a) The Director of the Department of Finance and Administration shall~~

1 ~~furnish stamps to licensed wholesalers directly or through stamp deputies.~~

2 ~~(b) The director may appoint and commission stamp deputies, who shall~~
3 ~~be the owners or officers of wholesalers, to handle the stamps and collect~~
4 ~~the tax on cigarettes before sales of cigarettes are made to the retailers.~~

5 ~~(c) Stamp deputies are, within the scope of their authority, agents of~~
6 ~~the director and shall be accountable as such for any wrongful acts.~~

7 ~~(d) Each stamp deputy shall furnish a bond in an amount and in the~~
8 ~~form as prescribed by the director.~~

9 ~~(e) A stamp deputy's open account shall not exceed seventy five~~
10 ~~percent (75%) of the total amount of the bond provided by the stamp deputy.~~

11 ~~(f) Stamp deputies shall keep records of all stamp sales and tax~~
12 ~~collections and shall make the reports prescribed by the director.~~

13 ~~(g)(1) A commission shall be paid by the director to stamp deputies~~
14 ~~for the sales and collection of cigarette tax stamps and for affixing the tax~~
15 ~~stamps to each package of cigarettes.~~

16 ~~(2) The commission shall not be less than three and eight tenths~~
17 ~~percent (3.8%) of the total aggregate cigarette tax collected.~~

18 ~~(h)(1) All deposits held by any bank for a stamp deputy which~~
19 ~~represent the sales of stamps are trust funds and shall be held as a special~~
20 ~~deposit.~~

21 ~~(2) In the event of the failure or insolvency of the bank, the~~
22 ~~deposits shall be classed and considered as preferred claims due the State of~~
23 ~~Arkansas.~~

24
25 SECTION 4. NOT TO BE CODIFIED. Aggregate purchases of cigarette
26 stamps pursuant to § 26-57-236, by any wholesaler or stamp deputy during
27 March, April, May, and June 2007, shall be limited to one hundred ten percent
28 (110%) of the aggregate amount of each wholesaler's or stamp deputy's
29 cigarette stamp purchases during March, April, May, and June 2006.

30
31 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
32 General Assembly of the State of Arkansas that there is an urgent need for
33 funding for public health programs and services for the underserved for the
34 next fiscal year and beyond; that the additional taxes on tobacco products
35 established by this act are necessary to provide funding for these health
36 programs for the next fiscal year and beyond; and that this act is necessary

1 to provide the needed funding for these public health programs and services
2 for the next fiscal year and beyond. Therefore, an emergency is declared to
3 exist and this act being immediately necessary for the preservation of the
4 public peace, health, and safety shall become effective on:

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

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

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

11
12 /s/ Shelby, et al
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