

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 2236

4
5 By: Representative D. Evans
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7

For An Act To Be Entitled

8
9 AN ACT TO AUTHORIZE THE DIRECT ASSESSMENT OF
10 EXCISE TAX FOR CONSUMERS WHO PURCHASE UNTAXED
11 TOBACCO PRODUCTS OR UNSTAMPED CIGARETTES; AND FOR
12 OTHER PURPOSES.
13

Subtitle

14
15 TO AUTHORIZE THE DIRECT ASSESSMENT OF
16 EXCISE TAX FOR CONSUMERS WHO PURCHASE
17 UNTAXED TOBACCO PRODUCTS AND UNSTAMPED
18 CIGARETTES.
19
20

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

23 SECTION 1. Arkansas Code § 26-57-208, concerning the levy of excise
24 tax on cigarettes and other tobacco products, is amended to add an additional
25 subsection to read as follows:

26 (4) As provided in § 26-57-244, the director shall have the
27 authority to make a direct assessment of excise tax against any person in
28 possession of an untaxed tobacco product or unstamped cigarettes.
29

30 SECTION 2. Arkansas Code § 26-57-244 is amended to read as follows:
31 26-57-244. Possession of untaxed, unstamped products – Notice and
32 prima facie evidence.

33 (a) It is unlawful for any person to receive or have in his or her
34 possession for sale, consumption, or any other purpose, any untaxed tobacco
35 product or unstamped cigarettes ~~tobacco products upon which~~ unless the tax
36 prescribed by this subchapter has ~~not~~ been paid directly to the director by



1 the person in possession of the untaxed tobacco product or unstamped
 2 cigarettes.

3 (b) The absence of the stamps from any container of cigarettes is
 4 notice to all persons that the tax ~~has~~ may not have been paid and is prima
 5 facie evidence of ~~the~~ nonpayment of the tax.

6 (c) If tax has been paid to the director on any untaxed tobacco
 7 product or unstamped cigarette, a consumer may establish proof of the payment
 8 by providing a receipt or any other documentation that clearly indicates that
 9 the tax was paid.

10 (d)(1) An Arkansas consumer who purchases any untaxed tobacco product
 11 or unstamped cigarette shall be liable for reporting and remitting all excise
 12 tax due on such tobacco product or cigarette as levied under the Arkansas
 13 Tobacco Products Tax Act, §26-57-201 et seq.

14 (2) The tax due shall be reported on forms provided by the
 15 Director on or before the fifteenth (15th) day of the month following the
 16 month in which the untaxed purchase was made.

17 (3) The report shall provide the information prescribed by the
 18 Director.

19 (4) When a report is filed, the consumer shall remit the full
 20 amount of excise tax due on the untaxed purchase to the Director.

21 (e) The director may directly assess the excise tax due on any untaxed
 22 tobacco product or unstamped cigarettes against a consumer who makes an
 23 untaxed purchase and fails to report and remit the excise tax due in a timely
 24 manner.

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

27 ~~(e)~~(g) The provisions of this section shall not apply to wholesalers
 28 and common carriers.

29
 30 SECTION 3. Arkansas Code § 26-57-802, concerning the levy of excise
 31 tax on cigarettes and other tobacco products, is amended to add an additional
 32 subsection to read as follows:

33 (e) As provided in § 26-57-244, the director may make a direct
 34 assessment of excise tax against any person in possession of an untaxed
 35 tobacco product or unstamped cigarettes.

1 SECTION 4. Arkansas Code § 26-57-803, concerning the levy of excise
 2 tax on cigarettes and other tobacco products, is amended to add an additional
 3 subsection to read as follows:

4 (e) As provided in § 26-57-244, the director may make a direct
 5 assessment of excise tax against any person in possession of an untaxed
 6 tobacco product or unstamped cigarettes.

7
 8 SECTION 5. Arkansas Code § 26-57-804, concerning the levy of excise
 9 tax on cigarettes, is amended to add an additional subsection to read as
 10 follows:

11 (h) As provided in § 26-57-244, the director may make a direct
 12 assessment of excise tax against any person in possession of unstamped
 13 cigarettes.

14
 15 SECTION 6. Arkansas Code § 26-57-805, concerning the levy of excise
 16 tax on tobacco products other than cigarettes, is amended to add an
 17 additional subsection to read as follows:

18 (e) As provided in § 26-57-244, the director may make a direct
 19 assessment of excise tax against any person in possession of an untaxed
 20 tobacco product.

21
 22 SECTION 7. Arkansas Code § 26-57-1101 is amended to read as follows:
 23 26-57-1101. Additional tax – Cigarettes.

24 (a) In addition to the excise or privilege taxes levied under §§ 26-
 25 57-208 and 26-57-802 there is hereby levied a tax of one dollar twenty-five
 26 cents (\$1.25) per one thousand (1000) cigarettes sold in the state.

27 (b) As provided in § 26-57-244, the director may make a direct
 28 assessment of excise tax against any person in possession of unstamped
 29 cigarettes.

30
 31 SECTION 8. Arkansas Code § 26-57-1102, concerning the levy of excise
 32 tax on tobacco products other than cigarettes, is amended to add an
 33 additional subsection to read as follows:

34 (c) As provided in § 26-57-244, the director may make a direct
 35 assessment of excise tax against any person in possession of untaxed tobacco
 36 products.