

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: H3/12/07

# A Bill

HOUSE BILL 2236

5 By: Representative D. Evans  
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7

## For An Act To Be Entitled

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

15 TO AUTHORIZE THE DIRECT ASSESSMENT OF  
16 EXCISE TAX FOR CONSUMERS WHO PURCHASE  
17 UNTAXED TOBACCO PRODUCTS AND UNSTAMPED  
18 CIGARETTES.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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 possession  
34 for sale, consumption, or any other purpose, any untaxed tobacco products or  
35 unstamped cigarettes ~~tobacco products upon which~~ unless the tax prescribed by  
36 this subchapter has ~~not~~ been paid directly to the director by the person in



1 possession of the untaxed tobacco products or unstamped cigarettes.

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

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

9 (d) The provisions of this section do not relieve any retail cigarette  
10 and tobacco permit holder from the obligations placed on them by §26-57-228.

11 (e) No retail cigarette or tobacco permit holder shall have in their  
12 possession any unstamped cigarettes nor shall they have in their possession  
13 any tobacco products on which the tax prescribed by this subchapter has not  
14 been paid.

15 (f) An Arkansas consumer who purchases any untaxed tobacco products or  
16 unstamped cigarettes shall be liable for reporting and remitting all excise  
17 tax due on such tobacco products or cigarettes as levied under the Arkansas  
18 Tobacco Products Tax Act, § 26-57-201 et seq.

19 (1) The tax due shall be reported on forms provided by the  
20 director on or before the fifteenth (15th) day of the month following the  
21 month in which the untaxed purchase was made.

22 (2) The report shall provide the information prescribed by the  
23 director.

24 (3) When a report is filed, the consumer shall remit the full  
25 amount of tax due on the untaxed purchase to the director.

26 (g) The director of the Arkansas Department of Finance and  
27 Administration is authorized to directly assess the excise tax due on any  
28 untaxed tobacco products or unstamped cigarettes against a consumer who  
29 purchases such items and fails to report and remit the excise tax due in a  
30 timely manner.

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

33 ~~(e)~~(i) The provisions of this section shall not apply to wholesalers  
34 and common carriers.

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36 SECTION 3. Arkansas Code § 26-57-802, concerning the levy of excise

1 tax on cigarettes and other tobacco products, is amended to add an additional  
2 subsection to read as follows:

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

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

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

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

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

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

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

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28 SECTION 7. Arkansas Code § 26-57-1101 is amended to read as follows:  
29 26-57-1101. Additional tax – Cigarettes.

30 (a) In addition to the excise or privilege taxes levied under §§ 26-  
31 57-208 and 26-57-802 there is hereby levied a tax of one dollar twenty-five  
32 cents (\$1.25) per one thousand (1000) cigarettes sold in the state.

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

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

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

7 /s/ D. Evans

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