

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

SENATE BILL 273

5 By: Senator T. Smith  
6  
7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE THAT NO TAX IS DUE ON  
10 ADMISSIONS OR ACCESS TO A PLACE OF AMUSEMENT,  
11 ENTERTAINMENT, RECREATION, OR ATHLETIC EVENT FOR  
12 WHICH NO CONSIDERATION IS PAID; TO REPEAL  
13 OBSOLETE LAW; AND FOR OTHER PURPOSES.  
14

## Subtitle

15 TO PROVIDE THAT NO TAX IS DUE FOR A FREE  
16 PASS TO A RECREATIONAL EVENT.  
17  
18  
19

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

22 SECTION 1. Arkansas Code § 26-52-103(9) [Effective until July 1,  
23 2007], concerning the definition of "sale" for Arkansas gross receipts tax  
24 purposes, is amended to read as follows:

25 (9)(A) "Sale" means the transfer of either the title or  
26 possession, except in the case of leases or rentals, for a valuable  
27 consideration of tangible personal property, regardless of the manner,  
28 method, instrumentality, or device by which the transfer is accomplished.

29 (B) "Sale" also includes the exchange, barter, lease, or  
30 rental of tangible personal property.

31 (C)(i) In the case of leases or rentals for less than  
32 thirty (30) days of tangible personal property including motor vehicles and  
33 trailers, the tax shall be paid on the basis of rental or lease payments made  
34 to the lessor of such tangible personal property during the term of the lease  
35 or rental regardless of whether Arkansas gross receipts tax or compensating  
36 use tax was paid by the lessor at the time of the purchase of the property.



1 (ii) In the case of leases or rentals for thirty  
 2 (30) days or more of tangible personal property including motor vehicles and  
 3 trailers, the tax shall be paid on the basis of rental or lease payments made  
 4 to the lessor of the tangible personal property during the term of the lease  
 5 or rental unless Arkansas gross receipts tax or compensating use tax was paid  
 6 by the lessor at the time of the purchase of the property.

7 (iii) Any person engaged in the business of leasing  
 8 or renting motor vehicles shall collect, report, and remit gross receipts tax  
 9 on the lease or rental payments in lieu of paying tax at the time of  
 10 registration.

11 (D) "Sale" shall also include the sale, ~~giving away,~~  
 12 exchanging, or other disposition of admissions, dues, or fees to clubs, to  
 13 places of amusement, or recreational or athletic events, or for the privilege  
 14 of having access to or the use of amusement, athletic, or entertainment  
 15 facilities.

16 (E) "Sale" shall not include the furnishing or rendering  
 17 of services, except as otherwise provided in this section.

18 (F) "Sale" shall not include the transfer of title to a  
 19 vehicle by the vehicle owner to an insurance company as a result of the  
 20 settlement of a claim for damages to the vehicle;

21  
 22 SECTION 2. Arkansas Code § 26-52-103(12)[Effective July 1, 2007],  
 23 concerning the definition of "sale" for Arkansas gross receipts tax purposes,  
 24 is amended to read as follows:

25 (12)(A) "Sale" means the transfer of either the title or  
 26 possession except in the case of a lease or rental for a valuable  
 27 consideration of tangible personal property regardless of the manner, method,  
 28 instrumentality, or device by which the transfer is accomplished.

29 (B) "Sale" includes the:

30 (i) Exchange, barter, lease, or rental of tangible  
 31 personal property; or

32 (ii) Sale, ~~giving away,~~ exchanging, or other  
 33 disposition of admissions, dues, or fees to clubs, to places of amusement, or  
 34 to recreational or athletic events or for the privilege of having access to  
 35 or the use of amusement, athletic, or entertainment facilities.

36 (C) "Sale" does not include the:

1 (i) Furnishing or rendering of services except as  
 2 otherwise provided in this section; or

3 (ii) Transfer of title to a vehicle by the vehicle  
 4 owner to an insurance company as a result of the settlement of a claim for  
 5 damages to the vehicle;

6 (D)(i) In the case of a lease or rental of tangible  
 7 personal property, including motor vehicles and trailers for less than thirty  
 8 (30) days, the tax shall be paid on the basis of rental or lease payments  
 9 made to the lessor of the tangible personal property during the term of the  
 10 lease or rental regardless of whether Arkansas gross receipts tax or  
 11 compensating use tax was paid by the lessor at the time of the purchase of  
 12 the tangible personal property.

13 (ii) In the case of a lease or rental of tangible  
 14 personal property, including motor vehicles and trailers for thirty (30) days  
 15 or more, the tax shall be paid on the basis of rental or lease payments made  
 16 to the lessor of the tangible personal property during the term of the lease  
 17 or rental unless Arkansas gross receipts tax or compensating use tax was paid  
 18 by the lessor at the time of the purchase of the tangible personal property.

19 (iii) Any person engaged in the business of leasing  
 20 or renting motor vehicles shall collect, report, and remit gross receipts tax  
 21 on the lease or rental payments in lieu of paying tax at the time of  
 22 registration.

23  
 24 SECTION 3. Arkansas Code § 26-52-301(5) [Effective until July 1,  
 25 2007], concerning taxable admissions, is amended to read as follows:

26 (5)(A) Tickets or admissions to places of amusement or to  
 27 athletic, entertainment, or recreational events; or

28 (B) Fees for the privilege of having access to or the use  
 29 of amusement, entertainment, athletic, or recreational facilities including  
 30 free or complimentary passes and tickets, admissions, dues, or fees, with  
 31 such free or complimentary passes, tickets, dues, or fees being declared to  
 32 have a value equivalent to the sale price of tickets, passes, admissions,  
 33 fees, or dues of like kind or character;

34  
 35 SECTION 4. Arkansas Code § 26-52-301(5) [Effective July 1, 2007],  
 36 concerning taxable admissions, is amended to read as follows:

1           (5)~~(A)~~ Tickets or admissions to places of amusement or to  
 2 athletic, entertainment, or recreational events, or fees for ~~the privilege of~~  
 3 ~~having~~ access to or the use of amusement, entertainment, athletic, or  
 4 recreational facilities.

5           ~~(B) Subdivision (5)(A) of this section includes free or~~  
 6 ~~complimentary passes, tickets, admissions, dues, or fees, with such free or~~  
 7 ~~complimentary passes, tickets, admissions, dues, or fees being declared to~~  
 8 ~~have a value equivalent to the sale price of passes, tickets, admissions,~~  
 9 ~~dues, or fees of like kind or character;~~

10  
 11           SECTION 5. Arkansas Code § 26-52-508 is amended to read as follows:  
 12           26-52-508. Collection of tax by sellers or admissions collectors.  
 13 [Effective until July 1, 2007.]

14           (a) The tax levied by this act shall be paid to the Director of the  
 15 Department of Finance and Administration by the seller of tangible personal  
 16 property; and by the seller or collector of admissions to places of  
 17 amusement, recreational, or athletic events; and by the seller of privileges  
 18 of access to or the use of amusement, entertainment, athletic, or  
 19 recreational facilities; and by any other person furnishing any service  
 20 subject to the provisions hereof.

21           (b) The taxes, penalty, and interest shall at all times constitute a  
 22 prior, superior, and paramount claim as against the claims of unsecured  
 23 creditors.

24           (c) The seller or person furnishing such taxable service shall collect  
 25 the tax levied from the purchaser.

26           ~~(d)(1) In order to make such collections convenient, the director may~~  
 27 ~~in his discretion issue tokens in the denominations of one tenth of one cent~~  
 28 ~~(1/10 of 1) and five tenths of one cent (5/10 of 1) in such quantity as he~~  
 29 ~~deems necessary.~~

30           ~~(2) Tax tokens shall not be accepted by the state in payment of~~  
 31 ~~taxes due. Tax tokens shall be redeemed at face value by the director at~~  
 32 ~~Little Rock, Arkansas, and at such other points as he may designate.~~

33           ~~(3) The director may, in the alternative and at his discretion,~~  
 34 ~~set up by regulation a bracket system of collecting the tax due hereunder.~~

35           (d)(1) No tax is due on admission to a place of amusement, recreation,  
 36 entertainment, or athletic event for which no consideration is paid.

1           (2) No tax is due on the access to or the use of an amusement,  
 2 entertainment, athletic, or recreational facility for which no consideration  
 3 is paid.

4  
 5           SECTION 6. Arkansas Code § 26-52-508 is amended to read as follows:

6           26-52-508. Collection of tax by sellers or admissions collectors.

7 [Effective July 1, 2007.]

8           (a) The tax levied by the Arkansas Gross Receipts Act of 1941, § 26-  
 9 52-101 et seq., shall be paid to the Director of the Department of Finance  
 10 and Administration by:

11                 (1) The seller of tangible personal property;

12                 (2) The seller or collector of admissions to places of  
 13 amusement, recreational, or athletic events;

14                 (3) The seller of privileges of access to or the use of  
 15 amusement, entertainment, athletic, or recreational facilities; and

16                 (4) Any other person furnishing any service subject to the  
 17 provisions of the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

18           (b) The taxes, penalty, and interest shall at all times constitute a  
 19 prior, superior, and paramount claim as against the claims of unsecured  
 20 creditors.

21           (c) The seller or person furnishing the taxable service shall collect  
 22 the tax levied from the purchaser.

23           ~~(d)(1) In order to make the collections convenient, the director may~~  
 24 ~~issue tokens in the denominations of one tenth of one cent (1/10 of 1) and~~  
 25 ~~five tenths of one cent (5/10 of 1) in such quantity as he or she deems~~  
 26 ~~necessary.~~

27           ~~(2)(A) Tax tokens shall not be accepted by the state in payment~~  
 28 ~~of taxes due.~~

29           ~~(B) Tax tokens shall be redeemed at face value by the~~  
 30 ~~director at Little Rock, Arkansas, and at such other points as he or she may~~  
 31 ~~designate.~~

32           (d)(1) No tax is due on admission to a place of amusement,  
 33 entertainment, recreation, or an athletic event for which no consideration is  
 34 paid.

35           (2) No tax is due on the access to or the use of an amusement,  
 36 entertainment, athletic, or recreational facility for which no consideration

1 is paid.

2  
3 SECTION 7. Effective Date. Sections 1-6 of this act shall be  
4 effective on the first day of the calendar month following the effective date  
5 of this act.

6  
7 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the  
8 General Assembly of the State of Arkansas that the tax for free admission  
9 defeats the primary intent of a "free" admission; that the recordkeeping for  
10 the seller or person furnishing the free admission is cost prohibitive and  
11 unnecessarily burdensome to the philanthropist and that the tax does not  
12 yield significant revenues to the state to justify the expense of the  
13 recordkeeping and submission of the tax; and that this act is immediately  
14 necessary for the state to enjoy the economic benefit from persons and  
15 entities giving free tickets to tourist attractions during the springtime  
16 Therefore, an emergency is declared to exist and this act being immediately  
17 necessary for the preservation of the public peace, health, and safety shall  
18 become effective on:

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

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

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