

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

SENATE BILL 3

4
5 By: Senator Glover
6
7

For An Act To Be Entitled

9 AN ACT TO PHASE OUT THE STATE GENERAL SALES AND
10 USE TAX ON FOOD AND FOOD INGREDIENTS; TO PRESERVE
11 THE LOCAL SALES AND USE TAX ON FOOD AND FOOD
12 INGREDIENTS; AND FOR OTHER PURPOSES.

Subtitle

14 AN ACT TO PHASE OUT THE STATE GENERAL
15 SALES AND USE TAX ON FOOD AND FOOD
16 INGREDIENTS.
17
18
19

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

22 SECTION 1. Arkansas Code § 26-52-317 is amended to read as follows:
23 26-52-317. Food and food ingredients.

24 ~~(a)(1) The Director of the Department of Finance and Administration~~
25 ~~shall determine the following conditions:~~

26 ~~(A) That federal law authorizes the state to collect sales~~
27 ~~and use tax from some or all of the sellers who have no physical presence in~~
28 ~~the State of Arkansas and who make sales of taxable goods and services to~~
29 ~~Arkansas purchasers;~~

30 ~~(B) That initiating the collection of sales and use tax~~
31 ~~from these sellers would increase the net available general revenues needed~~
32 ~~to fund state agencies, services, and programs; and~~

33 ~~(C)(i) That during a six month consecutive period, the~~
34 ~~amount of net available general revenues attributable to the collection of~~
35 ~~sales and use tax from sellers who have no physical presence in the State of~~
36 ~~Arkansas is equal to or greater than one hundred fifty percent (150%) of~~



1 ~~sales and use tax collected under §§ 26-52-301, 26-52-302(a), (b), and (d),~~
2 ~~26-53-106, and 26-53-107(a), (b), and (d) on food and food ingredients.~~

3 ~~(ii) The director shall make the determination under~~
4 ~~subdivision (a)(1)(C)(i) of this section on a monthly basis following the~~
5 ~~determination that the conditions under subdivision (a)(1)(A) of this section~~
6 ~~have been met.~~

7 ~~(2) When the director finds that all of the conditions in~~
8 ~~subdivision (a)(1) of this section have been met, then the gross receipts or~~
9 ~~gross proceeds taxes levied under §§ 26-52-301 and 26-52-302(a), (b), and (d)~~
10 ~~shall be levied at the rate of zero percent (0%) on the sale of food and food~~
11 ~~ingredients beginning on the first day of the second calendar month following~~
12 ~~the determination of the director.~~

13 (a) Except as provided in subsection (b), the excise tax levied on the
14 gross proceeds or gross receipts on any sale of food or food ingredients
15 shall be at the following rates in lieu of any other gross proceeds or gross
16 receipts excise tax imposed by this state:

17 (1) July 1, 2007, through June 30, 2008, three percent (3.00%);

18 (2) July 1, 2008, through June 30, 2009, one and a half percent
19 (1.5%);

20 (3) July 1, 2009, and thereafter, zero percent (0%).

21 (b) The gross receipts or gross proceeds derived from the sale of food
22 and food ingredients shall continue to be subject to the:

23 (1) Taxes levied under § 26-52-302(c) and (d);

24 (2) Excise tax levied under Arkansas Constitution, Amendment 75,
25 § 2; and

26 (3) All municipal and county gross receipts taxes.

27 (c) The Department of Finance and Administration shall promulgate
28 rules to implement the provisions of this section.

29
30 SECTION 2. Arkansas Code § 26-53-145 is amended to read as follows:
31 26-53-145. Food and food ingredients.

32 ~~(a)(1) The Director of the Department of Finance and Administration~~
33 ~~shall determine the following conditions:~~

34 ~~(A) That federal law authorizes the state to collect sales~~
35 ~~and use tax from some or all of the sellers who have no physical presence in~~
36 ~~the State of Arkansas and who make sales of taxable goods and services to~~

1 ~~Arkansas purchasers;~~

2 ~~(B) That initiating the collection of sales and use tax~~
 3 ~~from these sellers would increase the net available general revenues needed~~
 4 ~~to fund state agencies, services, and programs; and~~

5 ~~(C)(i) That during a six month consecutive period, the~~
 6 ~~amount of net available general revenues attributable to the collection of~~
 7 ~~sales and use tax from sellers who have no physical presence in the State of~~
 8 ~~Arkansas is equal to or greater than one hundred fifty percent (150%) of~~
 9 ~~sales and use tax collected under §§ 26-52-301, 26-52-302(a), (b), and (d),~~
 10 ~~26-53-106, and 26-53-107(a), (b), and (d) on food and food ingredients.~~

11 ~~(ii) The director shall make the determination under~~
 12 ~~subdivision (a)(1)(C)(i) of this section on a monthly basis following the~~
 13 ~~determination that the conditions under subdivision (a)(1)(A) of this section~~
 14 ~~have been met.~~

15 ~~(2) When the director finds that all of the conditions in~~
 16 ~~subdivision (a)(1) of this section have been met, then the compensating use~~
 17 ~~taxes levied under §§ 26-53-106 and 26-53-107(a), (b), and (d) shall be~~
 18 ~~levied at the rate of zero percent (0%) on the sale of food and food~~
 19 ~~ingredients beginning on the first day of the second calendar month following~~
 20 ~~the determination of the director.~~

21 ~~(b) The following shall continue to apply to the sales price of food~~
 22 ~~and food ingredients:~~

23 ~~(1) The compensating use tax levied under § 26-53-107(e);~~

24 ~~(2) The compensating use tax levied under Arkansas Constitution,~~
 25 ~~Amendment 75, § 2; and~~

26 ~~(3) All municipal and county use taxes.~~

27 ~~(c) The Department of Finance and Administration shall promulgate~~
 28 ~~rules to implement the provisions of this section.~~

29 (a) Except as provided in subsection (b), the compensating use tax on
 30 the sales price of any article of food or food ingredient purchased,
 31 produced, or manufactured outside this state and transported within this
 32 state for storage, use, distribution, or consumption shall be at the
 33 following rates in lieu of any other compensating use tax imposed by this
 34 state:

35 (1) July 1, 2007, through June 30, 2008, three percent (3.00%);

36 (2) July 1, 2008, through June 30, 2009, one and a half percent

1 (1.5%);

2 (3) July 1, 2009, and thereafter, zero percent (0%).

3 (b) The following shall continue to apply to the sales price of food
4 and food ingredients:

5 (1) The compensating use tax levied under § 26-53-107(c) and
6 (d);

7 (2) The compensating use tax levied under Arkansas Constitution,
8 Amendment 75, § 2; and

9 (3) All municipal and county gross receipts taxes.

10 (c) The Department of Finance and Administration shall promulgate
11 rules to implement the provisions of this section.

12
13 SECTION 3. EMERGENCY CLAUSE. The General Assembly of the State of
14 Arkansas finds that the purchase of food and food ingredients is an
15 inescapable financial burden; that the gross proceeds or gross receipts taxes
16 and compensating use taxes on the sale of food and food ingredients create a
17 significant financial burden on low-income or fixed-income residents; and
18 that this act is necessary to reduce the burden as soon as is reasonably
19 possible. Therefore, an emergency is declared to exist and this act being
20 necessary for the preservation of the public peace, health, and safety shall
21 become effective on July 1, 2007.

22
23
24
25
26
27
28
29
30
31
32
33
34
35
36