

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: S3/5/07
A Bill

SENATE BILL 795

5 By: Senators Wilkins, Critcher, Laverty
6
7

For An Act To Be Entitled

9 AN ACT TO LEVY AN EXCISE TAX ON LIQUOR, BEER, AND
10 WINE SOLD IN ARKANSAS; TO PROVIDE AN ARKANSAS
11 SUBSTANCE ABUSE PROGRAMS TRUST FUND; AND FOR
12 OTHER PURPOSES.
13

Subtitle

15 AN ACT TO LEVY AN EXCISE TAX ON LIQUOR,
16 BEER, AND WINE AND TO PROVIDE AN
17 ARKANSAS SUBSTANCE ABUSE PROGRAMS TRUST
18 FUND.
19
20

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

23 SECTION 1. Arkansas Code Title 26, Chapter 57 is amended to add a new
24 subchapter as follows:

25 26-57-1401. Title.

26 This subchapter shall be known and may be cited as the "Arkansas
27 Substance Abuse Programs Trust Fund Act".
28

29 26-57-1402. Intent.

30 This subchapter levies an excise tax as defined in the Arkansas Tax
31 Procedure Act § 26-18-101 et seq.
32

33 26-57-1403. Definitions.

34 (a) As used in this subchapter:

35 (1) "Alcoholic beverage" means beverages that are suitable for
36 human consumption and contain one-half of one percent (0.5%) or more of



1 alcohol by volume;

2 (2) "Bottle" means any closed or sealed glass, metal, paper,
3 plastic, can, aluminum or otherwise, or any other type of container
4 regardless of the size or shape of such container;

5 (3) "Bottled or canned liquor, beer, or wine" means any
6 complete, ready to consume, alcoholic beverage, whether carbonated or not,
7 contained in any bottle or can;

8 (4) "Distributor, manufacturer, or wholesale dealer" means any
9 person that receives, stores, manufactures, bottles, or sells liquor, beer,
10 or wine to a retail dealer, other distributor, manufacturer, or wholesale
11 dealer for resale purposes;

12 (5) "Liquor, beer, or wine" means any alcoholic beverage sold
13 for human consumption, including without limitation, the following:

14 (A) Bourbon whiskey;

15 (B) Scotch whiskey;

16 (C) Vodka;

17 (D) Gin;

18 (E) Brandy;

19 (F) Wine;

20 (G) Beer;

21 (H) Malt liquor;

22 (I) Liquor beer;

23 (J) Ale; and

24 (K) Any wine-based product commonly referred to as a wine
25 cooler;

26 (6) "Person" means an individual, trust, estate, fiduciary,
27 partnership, limited liability company, limited liability partnership,
28 corporation, or any other legal entity;

29 (7) "Place of business" means any place where liquor, beer, or
30 wine are received or sold;

31 (8) "Retailer" means any person other than a distributor,
32 manufacturer, or wholesale dealer, that receives, stores, mixes, compounds,
33 or manufactures any liquor, beer, or wine and sells or otherwise dispenses
34 the liquor, beer, or wine to the ultimate consumer; and

35 (9)(A) "Sale" means the transfer of title or possession for a
36 valuable consideration of tangible personal property regardless of the manner

1 by which the transfer is accomplished.

2 (B) When a retailer is also acting as a distributor,
3 manufacturer, or wholesale dealer, the duty to report and pay the excise tax
4 imposed by this subchapter arises when the tangible personal property is
5 transferred to a retail store or for sale to the ultimate consumer as
6 reflected by the records of the taxpayer.

7
8 26-57-1404. Licenses.

9 (a) A distributor, manufacturer, or wholesale dealer, whether located
10 within or without the State of Arkansas, that sells liquor, beer, or wine to
11 a retailer within the State of Arkansas shall obtain a license from the
12 Director of the Department of Finance and Administration for the privilege of
13 conducting such business.

14 (b) Any retailer who purchases liquor, beer, or wine from an
15 unlicensed distributor, manufacturer, or wholesale dealer shall obtain a
16 license from the director for the privilege of conducting such business.

17 (c) Any person required to obtain a license under this subchapter
18 shall obtain a license for each place of business owned or operated.

19 (d) The license shall be conspicuously displayed at the place of
20 business for which it was issued.

21
22 26-57-1405. Tax rate.

23 (a) There is levied and there shall be collected an excise tax upon
24 every distributor, manufacturer, or wholesale dealer to be calculated as
25 follows:

26 (1) A five percent (5%) excise tax is levied at the point of
27 sale on bottled or canned liquor, beer, or wine in the State of Arkansas; and

28 (2) When liquor, beer, or wine is sold in a different container
29 such as by the bottle, keg, pitcher, glass, or cup the five percent (5%)
30 excise tax is still in effect at the point of sale.

31 (b) When the liquor, beer, or wine is purchased from an unlicensed
32 distributor, manufacturer, or wholesale dealer, there is levied and shall be
33 collected an excise tax upon the retailer to be calculated as follows:

34 (1) A five percent (5%) excise tax is levied at the point of
35 sale on bottled or canned liquor, beer, or wine in the State of Arkansas; and

36 (2) When liquor, beer, or wine is sold in a different container

1 such as by the bottle, keg, pitcher, glass, or cup the five percent (5%)
2 excise tax is still in effect at the point of sale.

3
4 26-57-1406. Tax reporting.

5 (a) The distributor, manufacturer, or wholesale dealer and any
6 retailer subject to the excise tax levied in this subchapter shall file a
7 monthly return and remit the tax for the month to the Director of the
8 Department of Finance and Administration on or before the 15th day of the
9 month next following the month in which the sale or purchase was made.

10 (b) The return shall be made upon a form prescribed and furnished by
11 the director and signed by the person required to collect and remit the tax
12 or its agent.

13 (c) The return shall contain such information as the director shall
14 require for the proper administration of this subchapter.

15
16 26-57-1407. Border city tax.

17 (a) If a distributor, manufacturer, or wholesale dealer sells liquor,
18 beer, or wine to a retailer located in a city or incorporated town which is
19 subject to the border city tax rate provided in § 26-52-303, then the excise
20 tax levied in this subchapter shall be at the same rate as imposed by the
21 adjoining state on a distributor, manufacturer, or wholesale dealer, not to
22 exceed the rate imposed by this subchapter.

23 (b) If a retailer is located in a city or incorporated town which is
24 subject to the border city tax rate provided by § 26-52-303 and the retailer
25 purchased liquor, beer, or wine from an unlicensed distributor, manufacturer,
26 or wholesale dealer, then the excise tax levied by this subchapter shall be
27 at the same rate imposed by the adjoining state, not to exceed the rate
28 imposed by this subchapter.

29
30 26-57-1408. Administration.

31 (a) This subchapter is to be administered in all respects and in
32 accordance with the Arkansas Tax Procedure Act, § 26-18-101 et seq., unless
33 otherwise provided.

34 (b) The Director of the Department of Finance and Administration shall
35 promulgate rules to implement this subchapter.

36

1 26-57-1409. Disposition of revenues.

2 The revenues derived and collected from the excise tax levied by this
3 subchapter shall be remitted to the Treasurer of State who shall deposit the
4 revenues into the State Treasury and shall credit the revenues to the
5 Arkansas Substance Abuse Programs Trust Fund.

6
7 26-57-1410. Arkansas Substance Abuse Programs Trust Fund.

8 (a) There is established on the books of the Treasurer of State,
9 Auditor of State, and Chief Fiscal Officer of the State a fund to be known as
10 the "Arkansas Substance Abuse Programs Trust Fund".

11 (b)(1) This fund shall consist of all tax, interest, penalties, and
12 costs received by the Director of the Department of Finance and
13 Administration derived from excise taxes levied under this subchapter, to be
14 used exclusively for the state match of federal funds for participation under
15 the Arkansas Substance Abuse Program.

16 (2) If the Arkansas Substance Abuse Program is discontinued for
17 any reason, the revenues derived from the excise tax levied in this
18 subchapter shall be used exclusively to provide services to Arkansas
19 residents comparable to the services now provided under the Arkansas
20 Substance Abuse Program.

21 (3) The revenues in the fund shall be administered through the
22 Bureau of Alcohol and Drug Abuse Prevention, Division of Behavioral Health of
23 the Department of Health and Human Services, with final approval maintained
24 by the Arkansas Alcohol and Drug Abuse Coordinating Council and be
25 distributed as follows:

26 (A) Sixty-nine percent (69%) of the revenues shall be
27 deposited into the Drug Abuse Prevention and Treatment Fund as follows:

28 (i) Twenty-nine percent (29%) for specialized women
29 services;

30 (ii) Sixteen percent (16%) for adolescent treatment
31 services;

32 (iii) Nineteen percent (19%) for adult treatment
33 services; and

34 (iv) Five percent (5%) for prevention services;

35 (B) Sixteen percent (16%) of the revenues shall be
36 deposited into the Domestic Peace Fund;

1 (C) Five percent (5%) of the revenues shall be deposited
2 into the Department of Human Services Grant Fund Account;

3 (D) Five percent (5%) of the revenues shall be deposited
4 into the Department of Arkansas State Police Fund for use by the Crimes
5 Against Children Division; and

6 (E) Five percent (5%) of the revenues shall be deposited
7 into the Special State Asset Forfeiture Fund for use in drug interdiction and
8 eradication.

9 (4) In the event that any future State of Arkansas Medicaid
10 plan, federal or state legislation, or Medicaid waiver allows for substance
11 abuse services to be billed to Medicaid then the Arkansas Alcohol and Drug
12 Abuse Coordinating Council and Bureau of Alcohol and Drug Abuse Prevention,
13 Division of Behavioral Health of the Department of Health and Human Services,
14 shall develop a plan to redistribute the funding formula to be submitted for
15 legislative enactment by the General Assembly at the next regular session.

16
17 SECTION 2. EMERGENCY CLAUSE. It is hereby found and determined by the
18 General Assembly of the State of Arkansas that there is a serious need to
19 provide treatment services for the abuse of alcohol and drugs; that the use
20 of alcohol and drugs is on the rise; that the effects of drug and alcohol
21 abuse on the citizens of this state is far reaching; that less than thirty
22 percent (30%) of treatment funding currently goes to women; and that
23 additional revenues are necessary to provide adequate funding for these
24 essential services. Therefore, an emergency is declared to exist and this
25 act being necessary for the preservation of the public peace, health, and
26 safety shall become effective on June 1, 2007.

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28 /s/ Wilkins
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