

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 87th General Assembly  
3 Regular Session, 2009  
4

*As Engrossed: H3/13/09*

# A Bill

HOUSE BILL 1942

5 By: Representative Ingram  
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7

## For An Act To Be Entitled

9 AN ACT TO ALLOW A CITY THAT ADJOINS A BORDER CITY  
10 THAT IS SEPARATED BY A NAVIGABLE RIVER FROM A  
11 CITY IN ANOTHER STATE TO SELL CIGARETTES AT THE  
12 RATE USED BY THE BORDER CITY; AND FOR OTHER  
13 PURPOSES.  
14

## Subtitle

15 TO ALLOW A CITY THAT ADJOINS A BORDER  
16 CITY THAT IS SEPARATED BY A RIVER FROM A  
17 CITY IN ANOTHER STATE TO SELL CIGARETTES  
18 AT THE RATE USED BY THE BORDER CITY.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 26-57-208(1), concerning the tax rate on  
25 cigarettes, is amended to read as follows:

26 (1)(A) The excise or privilege tax on cigarettes sold in this  
27 state is ten dollars and fifty cents (\$10.50) per one thousand (1,000)  
28 cigarettes sold.

29 (B)(i) Whenever there are two (2) adjoining cities each  
30 with a population of five thousand (5,000) or more separated by a state line,  
31 the tax on cigarettes sold in such adjoining Arkansas city shall be at the  
32 rate imposed by law on cigarettes sold in the adjoining city outside of  
33 Arkansas.

34 (ii) The tax shall not exceed the tax upon  
35 cigarettes imposed by this subchapter.

36 (C)(i) The tax on cigarettes sold in Arkansas within three



1 hundred feet (300') of a state line or in any Arkansas city which adjoins a  
 2 state line shall be at the rate imposed by law on cigarettes sold in the  
 3 adjoining state.

4 (ii) The tax shall not exceed the tax upon  
 5 cigarettes imposed by this subchapter.

6 (D)(i) The tax on cigarettes shall be at the rate imposed  
 7 by law on cigarettes sold in the adjoining state when the cigarettes are sold  
 8 in an Arkansas city or incorporated town whose corporate limits adjoin the  
 9 corporate limits of an Arkansas border city.

10 (ii) As used in subdivision (1)(D)(i) of this  
 11 section, "Arkansas border city" means a city which is entitled to the border  
 12 zone cigarette tax rate and is separated by a navigable river from a city in  
 13 the other state that is located in a metropolitan statistical area designated  
 14 by the United States Census Bureau with a population of at least one million  
 15 (1,000,000).

16 (iii) The tax shall not exceed the tax upon  
 17 cigarettes otherwise imposed under Arkansas law.

18 ~~(D)(i)(E)(i)~~ (i) The reduced border zone tax rates set forth  
 19 in subdivisions ~~(1)(B) and (C)~~ (1)(B)-(D) of this section apply only to sales  
 20 made at retail by Arkansas border zone retailers to actual consumers of the  
 21 cigarettes.

22 (ii)(a) The sale of cigarettes by an Arkansas border  
 23 zone retailer to any other retailer or wholesaler does not qualify for the  
 24 reduced border zone tax rate.

25 (b) The full amount of Arkansas cigarette  
 26 excise tax will be due on any cigarettes sold in such a manner;

27  
 28 *SECTION 2. Arkansas Code § 26-57-803(a), concerning the cigarette tax,*  
 29 *is amended to read as follows:*

30 (a)(1) *In addition to the excise or privilege taxes levied under §§*  
 31 *26-57-208 and 26-57-802, there is levied a tax of four dollars and seventy-*  
 32 *five cents (\$4.75) per one thousand (1,000) cigarettes sold in the state.*

33 (2) *Whenever there are two (2) adjoining cities, each with a*  
 34 *population of five thousand (5,000) or more separated by a state line, the*  
 35 *tax on cigarettes sold in such adjoining Arkansas city shall be at the rate*  
 36 *imposed by law on cigarettes sold in the adjoining city outside of Arkansas*

1 plus the fifty cents (50¢) per one thousand (1,000) cigarettes presently  
2 imposed by § 26-57-802. The tax shall not exceed the tax upon cigarettes  
3 imposed by this subchapter.

4 (3) The tax on cigarettes sold in Arkansas within three hundred  
5 feet (300') of a state line, in any Arkansas city which adjoins a state line,  
6 or in any city which is separated only by a navigable river from a city which  
7 adjoins a state line shall be at the rate imposed by law on cigarettes sold  
8 in the adjoining state plus the twenty-five cents (25¢) per one thousand  
9 (1,000) cigarettes presently imposed by § 26-57-802. The tax shall not exceed  
10 the tax upon cigarettes imposed by this subchapter.

11 (4)(A) The tax on cigarettes shall be at the rate imposed by law  
12 on cigarettes sold in the adjoining state plus the additional tax levied by §  
13 26-57-802 when the cigarettes are sold in an Arkansas city or incorporated  
14 town whose corporate limits adjoin the corporate limits of an Arkansas border  
15 city.

16 (B) As used in subdivision (a)(4)(A) of this section,  
17 "Arkansas border city" means a city which is entitled to the border zone  
18 cigarette tax rate and is separated by a navigable river from a city in the  
19 other state that is located in a metropolitan statistical area designated by  
20 the United States Census Bureau with a population of at least one million  
21 (1,000,000).

22 (C) The tax shall not exceed the tax upon cigarettes  
23 otherwise imposed under Arkansas law.

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25 SECTION 3. Arkansas Code § 26-57-804(b), concerning an additional tax  
26 on cigarettes, is amended to read as follows:

27 (b)(1)(A) Whenever there are two (2) adjoining cities each with a  
28 population of five thousand (5,000) or more separated by a state line, the  
29 tax on cigarettes sold in the adjoining Arkansas city shall be at the rate  
30 imposed by law on cigarettes sold in the adjoining city outside Arkansas.

31 (B) The tax shall not exceed the tax upon cigarettes  
32 imposed by Arkansas law.

33 (2)(A) The tax on cigarettes sold in Arkansas within three  
34 hundred feet (300') of a state line in any Arkansas city that adjoins a state  
35 line or in any city that is separated only by a navigable river from a city  
36 that adjoins a state line shall be at the rate imposed by law on cigarettes

1 sold in the adjoining state.

2 (B) The tax shall not exceed the tax upon cigarettes  
3 imposed by Arkansas law.

4 (3)(A) The tax on cigarettes shall be at the rate imposed by law  
5 on cigarettes sold in the adjoining state if the cigarettes are sold in an  
6 Arkansas city or incorporated town whose corporate limits adjoin the  
7 corporate limits of an Arkansas border city.

8 (B) As used in subdivision (b)(3)(A) of this section,  
9 "Arkansas border city" means a city which is entitled to the border zone  
10 cigarette tax rate and is separated by a navigable river from a city in the  
11 other state that is located in a metropolitan statistical area designated by  
12 the United States Census Bureau with a population of at least one million  
13 (1,000,000).

14 (C) The tax shall not exceed the tax upon cigarettes  
15 otherwise imposed under Arkansas law.

16 ~~(3)(A)~~(4)(A) A wholesaler or retailer shall not sell cigarettes  
17 to a retailer located outside a border zone described in subdivisions ~~(b)(1)~~  
18 ~~and (2)~~ (b)(1)-(3) of this section unless the full amount of tax levied by  
19 this section and §§ 26-57-208, 26-57-802, 26-57-803, and 26-57-1101 without  
20 regard to any reduced border zone rate has been paid as evidenced by  
21 cigarette stamps affixed to each container of cigarettes.

22 (B) A retailer located outside a border zone described in  
23 subdivisions ~~(b)(1) and (2)~~ (b)(1)-(3) of this section shall not possess or  
24 offer for sale cigarettes unless the full amount of tax levied by this  
25 section and §§ 26-57-208, 26-57-802, 26-57-803, and 26-57-1101 without regard  
26 to any reduced border zone rate has been paid as evidenced by cigarette  
27 stamps affixed to each container of cigarettes.

28 (C) A violation of this subdivision ~~(b)(3)~~ (b)(4) shall be  
29 grounds for the suspension or revocation of a permit or license issued by the  
30 Director of the Arkansas Tobacco Control Board.

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32 SECTION 4. Arkansas Code § 26-57-806(b)(3), of Acts 2009, No. 180, § 4  
33 concerning an additional tax on cigarettes, is amended to read as follows:

34 (3)(A) The tax on cigarettes sold in any Arkansas city or  
35 incorporated town whose corporate limits adjoin the corporate limits of an  
36 Arkansas border city shall be at the rate imposed by law on cigarettes sold

1 in the adjoining state.

2 (B) As used in subdivision (a)(3)(A) of this section,  
3 "Arkansas border city" means a city which is entitled to the border zone  
4 cigarette tax rate and is separated by a navigable river from the city in the  
5 other state that is located in a metropolitan statistical area designated by  
6 the United States Census Bureau with a population of at least one million  
7 (1,000,000).

8 (C) The tax shall not exceed the tax upon cigarettes  
9 otherwise imposed under Arkansas law.

10 (4)(A) A wholesaler or retailer shall not sell cigarettes to a  
11 retailer located outside a border zone described in subdivisions ~~(b)(1) and~~  
12 ~~(2)~~ (b)(1)-(3) of this section unless the full amount of tax levied by this  
13 section and §§ 26-57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101  
14 without regard to any reduced border zone rate has been paid as evidenced by  
15 cigarette stamps affixed to each container of cigarettes.

16 (B) A retailer located outside a border zone described in  
17 subdivisions ~~(b)(1) and (2)~~ (b)(1)-(3) of this section shall not possess or  
18 offer for sale cigarettes unless the full amount of tax levied by this  
19 section and §§ 26-57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101  
20 without regard to any reduced border zone rate has been paid as evidenced by  
21 cigarette stamps affixed to each container of cigarettes.

22 (C) A violation of this subdivision ~~(b)(3)~~ (b)(4) shall be  
23 grounds for the suspension or revocation of a permit or license issued by the  
24 Director of the Arkansas Tobacco Control Board.

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26 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
27 General Assembly of the State of Arkansas that the tax on cigarettes has been  
28 drastically increased; that the increase went into effect on March 1, 2009;  
29 that there are cities that adjoin border cities that are separated by a river  
30 from a city in an adjoining state; that these border cities are able to sell  
31 cigarettes at the rate of the adjoining state; and that this creates a  
32 drastic loss in cigarette sales for the cities that adjoin these border  
33 cities. Therefore, an emergency is declared to exist and this act being  
34 immediately necessary for the preservation of the public peace, health, and  
35 safety shall become effective on:

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

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

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

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*/s/ Ingram*