| 1 2 | State of Arkansas 88th General Assembly | As Engrossed: | ^{H3/11/11} H3/23/11 S3/28/11 A Bill | | | |
|--------|---|--|---|--|--|--|
| 3 | Regular Session, 2011 | | HOUSE BILL 2153 | | | |
| 4 | - | | | | | |
| 5 | By: Representatives Johnsto | By: Representatives Johnston, D. Altes | | | | |
| 6 | | | | | | |
| 7 | For An Act To Be Entitled | | | | | |
| 8 | AN ACT TO REPLACE THE GROSS RECEIPTS AND COMPENSATING | | | | | |
| 9 | USE TAX ON WRECKER AND TOWING SERVICES WITH AN EXCISE | | | | | |
| 10 | TAX ON WRECKER AND TOWING SERVICES; AND FOR OTHER | | | | | |
| 11 | PURPOSES. | | | | | |
| 12 | | | | | | |
| 13 | | | | | | |
| 14 | Subtitle | | | | | |
| 15 | TO I | REPLACE THE G | ROSS RECEIPTS AND | | | |
| 16 | COMI | PENSATING USE | TAX ON WRECKER AND | | | |
| 17 | TOW | ING SERVICES V | VITH AN EXCISE TAX ON | | | |
| 18 | WREG | CKER AND TOWIN | IG SERVICES. | | | |
| 19 | | | | | | |
| 20 | | | | | | |
| 21 | BE IT ENACTED BY THE | GENERAL ASSEM | BLY OF THE STATE OF ARKANSAS: | | | |
| 22 | | | | | | |
| 23 | SECTION 1. Ark | ansas Code § | 26-52-301(3)(D), regarding the levy of the | | | |
| 24 | gross receipts tax, i | s amended to | read as follows: | | | |
| 25 | <i>(D)</i> | (i) Service | of: | | | |
| 26 | | (a) | Providing transportation or delivery of | | | |
| 27 | money, property, or w | valuables by a | rmored car; | | | |
| 28 | | <i>(b)</i> | Providing cleaning or janitorial work; | | | |
| 29 | | (c) | Pool cleaning and servicing; | | | |
| 30 | | (d) | Pager services; | | | |
| 31 | | (e) | Telephone answering services; | | | |
| 32 | | (f) | Lawn care and landscaping services; | | | |
| 33 | | (g) | Parking a motor vehicle or allowing the | | | |
| 34 | motor vehicle to be p | parked; | | | | |
| 35 | | (h) | Storing a motor vehicle; | | | |
| 36 | | (i) | Storing furs; and | | | |



.

HB2153

| 1 | (j) Providing indoor tanning at a tanning | | |
|----|--|--|--|
| 2 | salon. | | |
| 3 | (ii) As used in subdivision (3)(D)(i) of this | | |
| 4 | section: | | |
| 5 | (a) "Landscaping" means the installation, | | |
| 6 | preservation, or enhancement of ground covering by planting trees, bushes and | | |
| 7 | shrubbery, grass, flowers, and other types of decorative plants; | | |
| 8 | (b) "Lawn care" means the maintenance, | | |
| 9 | preservation, or enhancement of ground covering of nonresidential property | | |
| 10 | and does not include planting trees, bushes and shrubbery, grass, flowers, | | |
| 11 | and other types of decorative plants; and | | |
| 12 | (c) "Residential" means a single family | | |
| 13 | residence used solely as the principal place of residence of the owner; <u>and</u> | | |
| 14 | (d) "Storing a motor vehicle" does not include | | |
| 15 | storage after the vehicle has been towed or removed if the storage is subject | | |
| 16 | to the Excise Tax on Wrecker, Towing, and Storage Services Act, § 26-63-501 | | |
| 17 | <u>et seq.</u> | | |
| 18 | | | |
| 19 | SECTION 2. Arkansas Code § 26-52-316(a), regarding services subject to | | |
| 20 | the gross receipts tax, is amended to read as follows: | | |
| 21 | (a) The gross proceeds or gross receipts derived from the following | | |
| 22 | services are subject to this chapter: | | |
| 23 | (1) Wrecker and towing services; | | |
| 24 | (2)(1) Collection and disposal of solid wastes; | | |
| 25 | (3)(2) The cleaning of parking lots and gutters; | | |
| 26 | (4)(3) Dry cleaning and laundry services; | | |
| 27 | (5)<u>(4)</u> Industrial laundry services; | | |
| 28 | (6)(5) Body piercing, tattooing, and electrolysis services; | | |
| 29 | (7)(6) Pest control services; | | |
| 30 | (8)(7) Security and alarm monitoring services; | | |
| 31 | (9)<u>(8)</u> Boat storage and docking fees; | | |
| 32 | (10)<u>(9)</u> The furnishing of camping spaces or trailer spaces at | | |
| 33 | public or privately owned campgrounds, except for federal campgrounds, on | | |
| 34 | less than a month-to-month basis; | | |
| 35 | (11)(10) Locksmith services; and | | |
| 36 | (12)(11) Pet grooming and kennel services. | | |

| 1 | | | |
|----|---|--|--|
| 2 | SECTION 3. Arkansas Code Title 26, Chapter 63, is amended to add an | | |
| 3 | additional subchapter to read as follows: | | |
| 4 | <u>Subchapter 5 —</u> | | |
| 5 | Excise Tax on Wrecker, Towing, and Storage Services Act | | |
| 6 | | | |
| 7 | <u>26-63-501. Title.</u> | | |
| 8 | This subchapter is known and may be cited as the "Excise Tax on | | |
| 9 | Wrecker, Towing, and Storage Services Act". | | |
| 10 | | | |
| 11 | <u>26-63-502. Definitions.</u> | | |
| 12 | <u>As used in this subchapter:</u> | | |
| 13 | (1) "Administrative services" means the administrative | | |
| 14 | activities related to providing wrecker and towing services and includes: | | |
| 15 | (A) Labor services for cargo recovery; | | |
| 16 | (B) Removal of debris; | | |
| 17 | (C) Providing statutory notices; and | | |
| 18 | (D) Processing of paperwork; | | |
| 19 | (2) "Storage services" means the impounding or holding of a | | |
| 20 | vehicle, trailer, or semitrailer related to providing wrecker and towing | | |
| 21 | services; and | | |
| 22 | (3)(A) "Wrecker and towing services" means the pushing, pulling, | | |
| 23 | carrying, or hoisting of any vehicle, trailer, or semitrailer from an initial | | |
| 24 | point of service to some other destination. | | |
| 25 | (B) "Wrecker and towing services" includes the rendering, | | |
| 26 | furnishing, or performing of a removal service on a damaged, disabled, | | |
| 27 | immovable, or nonoperable vehicle, trailer, or semitrailer from a location | | |
| 28 | such as a ditch, pond, hole, or other place before towing. | | |
| 29 | (C) "Wrecker and towing services" does not include the | | |
| 30 | transportation of a motor vehicle to or from a new or used car dealership for | | |
| 31 | the purpose of placing the motor vehicle into inventory for sale or returning | | |
| 32 | the motor vehicle to an automobile auction for sale. | | |
| 33 | | | |
| 34 | <u>26-63-503. Tax levied.</u> | | |
| 35 | (a) In lieu of the gross receipts tax levied by the Arkansas Gross | | |
| 36 | Receipts Act of 1941, § 26-52-101 et seq., and the compensating use tax | | |

03-07-2011 14:19:26 JSE244

As Engrossed: H3/11/11 H3/23/11 S3/28/11

| 1 | levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., | | |
|----|--|--|--|
| 2 | there is levied a wrecker, towing, administration, and storage tax at the | | |
| 3 | rate of eight percent (8%) on the gross proceeds or gross receipts derived | | |
| 4 | from the following: | | |
| 5 | (1) The furnishing of wrecker and towing services when both the | | |
| 6 | origin and destination of towing services are performed within this state; | | |
| 7 | (2) The furnishing of storage services within this state; and | | |
| 8 | (3) Administrative services performed in this state. | | |
| 9 | (b) Twenty-five percent (25%) of the revenues collected under this | | |
| 10 | section shall be deposited by the Treasurer of State into the Identification | | |
| 11 | Pending Trust Fund for Local Sales and Use Taxes and distributed according to | | |
| 12 | <u>§ 19-5-957(b)(2)(A).</u> | | |
| 13 | (c) Except as provided under the Arkansas Constitution or federal law, | | |
| 14 | an exemption under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et | | |
| 15 | seq., does not apply to this subchapter. | | |
| 16 | | | |
| 17 | SECTION 4. Arkansas Code § 19-5-957(b), concerning the Identification | | |
| 18 | Pending Trust Fund for Local Sales and Use Taxes, is amended to read as | | |
| 19 | follows: | | |
| 20 | (b) <u>(1)(A)</u> Such fund The Identification Pending Trust Fund for Local | | |
| 21 | Sales and Use Taxes shall consist of money reported as local sales and use | | |
| 22 | taxes collected in local taxing jurisdictions which <u>that</u> are not immediately | | |
| 23 | identifiable and money collected in local jurisdictions that have no tax. $,$ | | |
| 24 | there to be used for transfers to the Local Sales and Use Tax Trust Fund when | | |
| 25 | a local tax jurisdiction is identified for money and for transfers to general | | |
| 26 | revenues when the total amount in this fund exceeds fifty thousand dollars | | |
| 27 | (\$50,000) as set out in \$\$ 26-74-221 and 26-74-317, and | | |
| 28 | (B) Moneys under subdivision (b)(1)(A) of this section | | |
| 29 | shall be used for transfers to the Local Sales and Use Tax Trust Fund when a | | |
| 30 | local tax jurisdiction is identified and for transfers to general revenues | | |
| 31 | when the total amount in the Identification Pending Trust Fund for Local | | |
| 32 | Sales and Use Taxes exceeds fifty thousand dollars (\$50,000) as set out in §§ | | |
| 33 | <u>26-74-221 and 26-74-317.</u> | | |
| 34 | (2)(A) The Identification Pending Trust Fund for Local Sales and | | |
| 35 | <u>Use Taxes</u> shall also <u>shall</u> consist of <u>:</u> | | |
| 36 | <u>(i)</u> | | |

4

03-07-2011 14:19:26 JSE244

| 1 | 1002(d)(2) <u>;</u> | | | | |
|----------|--|--|--|--|--|
| 2 | (ii) The portion of vending devices decal fees and | | | | |
| 3 | penalties , <u>under</u> <i>\$</i> \$ 26-57-1206 and <u>that is specified in \$</u> 26-57-1208(b)(2) , | | | | |
| 4 | there to be distributed to cities and counties as provided in \$\$ 26-74- | | | | |
| 5 | 221(a)(2)(C)(ii) and 26-75-223(a)(2)(C)(ii) ; and | | | | |
| 6 | (iii) The portion of revenues under the Excise Tax | | | | |
| 7 | on Wrecker, Towing, and Storage Services Act, § 26-63-501 et seq., that is | | | | |
| 8 | specified in § 26-63-503(b). | | | | |
| 9 | (B) Revenues under subdivision (b)(2)(A) of this section | | | | |
| 10 | shall be distributed to cities and counties as provided in §§ 26-74- | | | | |
| 11 | <u>221(a)(2)(C)(ii) and 26-75-223(a)(2)(C)(ii)</u> . | | | | |
| 12 | | | | | |
| 13 | SECTION 5. EFFECTIVE DATE. <u>This act is effective on and after January</u> | | | | |
| 14 | <u>1, 2012.</u> | | | | |
| 15 | | | | | |
| 16 | /s/Johnston | | | | |
| 17 | | | | | |
| 18 | | | | | |
| 19 | | | | | |
| 20 | | | | | |
| 21 | | | | | |
| 22 | | | | | |
| 23 | | | | | |
| 24 25 | | | | | |
| 25 26 | | | | | |
| 20 | | | | | |
| 28 | | | | | |
| 29 | | | | | |
| 30 | | | | | |
| 31 | | | | | |
| 32 | | | | | |
| 33 | | | | | |
| 34 | | | | | |
| 35 | | | | | |
| 36 | | | | | |

5