

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: H3/23/21

A Bill

HOUSE BILL 1546

5 By: Representatives L. Fite, Beaty Jr., M. Berry, Bragg, Brooks, Brown, Crawford, Deffenbaugh, Evans,
6 Hollowell, Jean, Lowery, Lundstrum, Lynch, Miller, Ray, Rye, Slape, Warren
7 By: Senators D. Wallace, L. Eads, T. Garner, Gilmore, K. Hammer
8

For An Act To Be Entitled

9
10 AN ACT CONCERNING THE SOFT DRINK TAX AND THE PROGRAMS
11 FUNDED BY THE SOFT DRINK TAX; TO PHASE OUT THE SOFT
12 DRINK TAX; TO REDUCE THE SOFT DRINK TAX; TO PROVIDE
13 FOR THE EXPIRATION OF THE ARKANSAS SOFT DRINK TAX
14 ACT; TO PROVIDE FOR ADDITIONAL AMOUNTS TO BE
15 DISTRIBUTED TO OFFSET THE EFFECT ON THE ARKANSAS
16 MEDICAID PROGRAM TRUST FUND RESULTING FROM THE
17 PHASEOUT OF THE SOFT DRINK TAX; AND FOR OTHER
18 PURPOSES.
19

Subtitle

20
21
22 TO PHASE OUT THE SOFT DRINK TAX; AND TO
23 PROVIDE FOR ADDITIONAL AMOUNTS TO BE
24 DISTRIBUTED TO OFFSET THE REVENUE
25 REDUCTION RESULTING FROM THE PHASEOUT OF
26 THE SOFT DRINK TAX.
27

28
29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
30

31 SECTION 1. Arkansas Code § 26-57-904(a), concerning the tax rate under
32 the Arkansas Soft Drink Tax Act, is amended to read as follows:

33 (a) There is hereby levied and there shall be collected a tax upon
34 every distributor, manufacturer, or wholesale dealer, to be calculated as
35 follows:

36 (1) ~~One dollar and twenty-six cents (\$1.26) per gallon for~~ For



1 each gallon of soft drink syrup or simple syrup sold or offered for sale in
2 the State of Arkansas;

3 (A) One dollar and twenty-six cents (\$1.26) per gallon;

4 (B) Beginning the later of January 1, 2023, or January 1
5 of the calendar year following the fiscal year in which the general revenue
6 portion of the total collections under the Arkansas Gross Receipts Act of
7 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of 1949, §
8 26-53-101 et seq., equals or exceeds two billion six hundred eighty-one
9 million dollars (\$2,681,000,000), ninety-four and five-tenths cents (94.5¢)
10 per gallon; and

11 (C) Beginning January 1 of the calendar year following the
12 fiscal year after the tax rate is reduced under subdivision (a)(1)(B) of this
13 section and in which the general revenue portion of the total collections
14 under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the
15 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., equals or exceeds
16 two billion seven hundred fifty-four million dollars (\$2,754,000,000), forty-
17 seven and three-tenths cents (47.3¢) per gallon;

18 ~~(2) Twenty and six-tenths cents (20.6¢) per gallon for~~ For each
19 gallon of bottled soft drinks sold or offered for sale in the State of
20 Arkansas;

21 (A) Twenty and six-tenths cents (20.6¢) per gallon;

22 (B) Beginning the later of January 1, 2023, or January 1
23 of the calendar year following the fiscal year in which the general revenue
24 portion of the total collections under the Arkansas Gross Receipts Act of
25 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of 1949, §
26 26-53-101 et seq., equals or exceeds two billion six hundred eighty-one
27 million dollars (\$2,681,000,000), fifteen and five-tenths cents (15.5¢) per
28 gallon; and

29 (C) Beginning January 1 of the calendar year following the
30 fiscal year after the tax rate is reduced under subdivision (a)(2)(B) of this
31 section and in which the general revenue portion of the total collections
32 under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the
33 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., equals or exceeds
34 two billion seven hundred fifty-four million dollars (\$2,754,000,000), seven
35 and seven-tenths cents (7.7¢) per gallon; and

36 (3)(A) When a package or container of powder or other base

1 product, other than a syrup or simple syrup, is sold or offered for sale in
 2 Arkansas, and the powder is for the purpose of producing a liquid soft drink,
 3 then the tax on the sale of each package or container shall be equal to
 4 ~~twenty and six-tenths cents (20.6¢)~~ the following tax for each gallon of soft
 5 drink ~~which~~ that may be produced from each package or container by following
 6 the manufacturer's directions:

7 (i) Twenty and six-tenths cents (20.6¢);

8 (ii) Beginning the later of January 1, 2023, or
 9 January 1 of the calendar year following the fiscal year in which the general
 10 revenue portion of the total collections under the Arkansas Gross Receipts
 11 Act of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of
 12 1949, § 26-53-101 et seq., equals or exceeds two billion six hundred eighty-
 13 one million dollars (\$2,681,000,000), fifteen and five-tenths cents (15.5¢);
 14 and

15 (iii) Beginning January 1 of the calendar year
 16 following the fiscal year after the tax rate is reduced under subdivision
 17 (a)(3)(A)(ii) of this section and in which the general revenue portion of the
 18 total collections under the Arkansas Gross Receipts Act of 1941, § 26-52-101
 19 et seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.,
 20 equals or exceeds two billion seven hundred fifty-four million dollars
 21 (\$2,754,000,000), seven and seven-tenths cents (7.7¢).

22 (B) This tax applies when the sale of the powder or other
 23 base is sold to a retailer for sale to the ultimate consumer after the liquid
 24 soft drink is produced by the retailer.

25
 26 SECTION 2. Arkansas Code Title 26, Chapter 57, Subchapter 9, is
 27 amended to add an additional section to read as follows:

28 26-57-910. Sunset.

29 This subchapter expires on January 1 of the calendar year following the
 30 fiscal year after the tax rate is reduced under subdivision (a)(3)(A)(ii) of
 31 this section and in which the general revenue portion of collections under
 32 the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., equals or
 33 exceeds two billion eight hundred thirty million dollars (\$2,830,000,000).

34
 35 SECTION 3. Arkansas Code § 19-5-402(a), concerning the maximum
 36 allocations of revenues for fiscal year 2020-2021 and thereafter, is amended

1 to add an additional subdivision to read as follows:

2 (3)(A) The following amounts shall be included and added to the
 3 amount distributed in subdivisions (a)(1) and (2) of this section and
 4 distributed by the Treasurer of State in monthly amounts to the Arkansas
 5 Medicaid Program Trust Fund under § 19-5-985:

6 (i) For the fiscal year beginning July 1 following
 7 the fiscal year in which the general revenue portion of the total collections
 8 under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the
 9 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., equals or exceeds
 10 two billion six hundred eighty-one million dollars (\$2,681,000,000), four
 11 million one hundred eight thousand dollars (\$4,108,000);

12 (ii) For the fiscal year beginning July 1 of the
 13 calendar year in which a tax reduction occurs under § 26-57-904(a)(1)(B), §
 14 26-57-904(a)(2)(B), and § 26-57-904(a)(3)(A)(ii), sixteen million twenty-two
 15 thousand dollars (\$16,022,000);

16 (iii) For the fiscal year beginning July 1 of the
 17 calendar year in which a tax reduction occurs under § 26-57-904(a)(1)(C), §
 18 26-57-904(a)(2)(C), and § 26-57-904(a)(3)(A)(iii), thirty million eight
 19 hundred eleven thousand dollars (\$30,811,000); and

20 (iv) For fiscal years beginning on and after July 1
 21 of the calendar year in which the Arkansas Soft Drink Tax Act, § 26-57-901 et
 22 seq., expires under § 26-57-910, thirty-nine million four hundred thirty-
 23 eight thousand dollars (\$39,438,000).

24 (B) The amounts allocated in subdivision (a)(3)(A) of this
 25 section or so much of the amounts allocated in subdivision (a)(3)(A) of this
 26 section as is available shall be distributed by the Treasurer of State in
 27 monthly amounts with each allocation's proportion of the total of
 28 subdivisions (a)(1) and (2) of this section and this subdivision (a)(3) to
 29 supplement the Arkansas Medicaid Program Trust Fund.

30
 31 SECTION 4. Arkansas Code § 19-5-985(b)(1)(E), concerning the funds in
 32 the Arkansas Medicaid Program Trust Fund, is amended to read as follows:

33 (E) The ~~amount~~ amounts provided for in § 19-5-402(a)(3);
 34 and

35
 36 /s/L. Fite