

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

As Engrossed: H3/23/21 H4/7/21

# 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

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.

## Subtitle

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

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

10 (C) Beginning the later of July 1 of the calendar year  
11 following the tax rate reduction under subdivision (a)(1)(B) of this section  
12 or July 1 of the calendar year beginning after the fiscal year in which the  
13 general revenue portion of the total collections under the Arkansas Gross  
14 Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax  
15 Act of 1949, § 26-53-101 et seq., equals or exceeds two billion seven hundred  
16 fifty-four million dollars (\$2,754,000,000), forty-seven and three-tenths  
17 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 July 1, 2023, or July 1 of the  
23 calendar year following the fiscal year in which the general revenue portion  
24 of the total collections under the Arkansas Gross Receipts Act of 1941, § 26-  
25 52-101 et seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et  
26 seq., equals or exceeds two billion six hundred eighty-one million dollars  
27 (\$2,681,000,000), fifteen and five-tenths cents (15.5¢) per gallon; and

28 (C) Beginning the later of July 1 of the calendar year  
29 following the tax rate reduction under subdivision (a)(2)(B) of this section  
30 or July 1 of the calendar year beginning after the fiscal year in which the  
31 general revenue portion of the total collections under the Arkansas Gross  
32 Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax  
33 Act of 1949, § 26-53-101 et seq., equals or exceeds two billion seven hundred  
34 fifty-four million dollars (\$2,754,000,000), seven and seven-tenths cents  
35 (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 July 1, 2023, or July 1  
9 of the calendar year following the fiscal year in which the general revenue  
10 portion of the total collections under the Arkansas Gross Receipts Act of  
11 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of 1949, §  
12 26-53-101 et seq., equals or exceeds two billion six hundred eighty-one  
13 million dollars (\$2,681,000,000), fifteen and five-tenths cents (15.5¢); and

14 (iii) Beginning the later of July 1 of the calendar  
15 year following the tax rate reduction under subdivision (a)(3)(A)(ii) of this  
16 section or July 1 of the calendar year beginning after the fiscal year in  
17 which the general revenue portion of the total collections under the Arkansas  
18 Gross Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas  
19 Compensating Tax Act of 1949, § 26-53-101 et seq., equals or exceeds two  
20 billion seven hundred fifty-four million dollars (\$2,754,000,000), seven and  
21 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 the later of July 1 of the calendar year  
30 following the tax rate reductions under § 26-57-904(a)(1)(C), § 26-57-  
31 904(a)(2)(C), and § 26-57-904(a)(3)(A)(iii) or July 1 of the calendar year  
32 beginning after the fiscal year in which the general revenue portion of  
33 collections under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et  
34 seq., equals or exceeds two billion eight hundred thirty million dollars  
35 (\$2,830,000,000).

36

1 SECTION 3. Arkansas Code § 19-5-402(a), concerning the maximum  
2 allocations of revenues for fiscal year 2020-2021 and thereafter, is amended  
3 to add an additional subdivision to read as follows:

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

8 (i) For the fiscal year beginning July 1 in which  
9 the first soft drink tax rate reduction occurs under § 26-57-904(a)(1)(B), §  
10 26-57-904(a)(2)(B), and § 26-57-904(a)(3)(A)(ii), nine million thirty-eight  
11 thousand dollars (\$9,038,000);

12 (ii) For fiscal years beginning on and after July 1  
13 following the fiscal year in which the first soft drink tax rate reduction  
14 occurs under § 26-57-904(a)(1)(B), § 26-57-904(a)(2)(B), and § 26-57-  
15 904(a)(3)(A)(ii) and until July 1 of the fiscal year in which the second soft  
16 drink tax rate reduction occurs under § 26-57-904(a)(1)(C), § 26-57-  
17 904(a)(2)(C), and § 26-57-904(a)(3)(A)(iii), nine million eight hundred  
18 fifty-nine thousand dollars (\$9,859,000);

19 (iii) For the fiscal year beginning July 1 in which  
20 the second soft drink tax rate reduction occurs under § 26-57-904(a)(1)(C), §  
21 26-57-904(a)(2)(C), and § 26-57-904(a)(3)(A)(iii), twenty-three million four  
22 hundred sixteen thousand dollars (\$23,416,000);

23 (iv) For fiscal years beginning on and after July 1  
24 following the fiscal year in which the second soft drink tax rate reduction  
25 occurs under § 26-57-904(a)(1)(C), § 26-57-904(a)(2)(C), and § 26-57-  
26 904(a)(3)(A)(iii) and until July 1 of the fiscal year in which the soft drink  
27 tax expires under § 26-57-910, twenty-four million six hundred forty-nine  
28 thousand dollars (\$24,649,000);

29 (v) For the fiscal year beginning July 1 in which  
30 the soft drink tax expires under § 26-57-910, thirty-eight million two  
31 hundred six thousand dollars (\$38,206,000); and

32 (vi) For fiscal years beginning on and after July 1  
33 following the fiscal year in which the Arkansas Soft Drink Tax Act, § 26-57-  
34 901 et seq., expires under § 26-57-910, thirty-nine million four hundred  
35 thirty-eight thousand dollars (\$39,438,000).

36 (B) The amounts allocated in subdivision (a)(3)(A) of this

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

6  
7 SECTION 4. Arkansas Code § 19-5-985(b)(1)(E), concerning the funds in  
8 the Arkansas Medicaid Program Trust Fund, is amended to read as follows:

9 (E) The ~~amount~~ amounts provided for in § 19-5-402(a)(3);  
10 and"

11  
12 /s/L. Fite  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36