

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

SENATE BILL 394

5 By: Senator J. Boyd  
6 By: Representative L. Johnson  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING SALES AND USE TAX  
10 ON MOTORBOATS; TO AMEND THE LAW CONCERNING THE  
11 COLLECTION OF SALES AND USE TAX ON MOTORBOATS; TO  
12 SUBJECT CERTAIN USED MOTORBOATS TO A SPECIAL RATE OF  
13 TAX; AND FOR OTHER PURPOSES.  
14

## Subtitle

15  
16 TO AMEND THE LAW CONCERNING THE  
17 COLLECTION OF SALES AND USE TAX ON  
18 MOTORBOATS; AND TO SUBJECT CERTAIN USED  
19 MOTORBOATS TO A SPECIAL RATE OF TAX.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. Arkansas Code § 26-52-324 is amended to read as follows:

26 26-52-324. Special tax rate for certain used motor vehicles,  
27 motorboats, trailers, and semitrailers.

28 (a) In lieu of the gross receipts or gross proceeds taxes levied under  
29 §§ 26-52-301 and 26-52-302, there is levied an excise tax on the gross  
30 receipts or gross proceeds derived from the sale of a used motor vehicle,  
31 motorboat, trailer, or semitrailer that has a sales price of at least four  
32 thousand dollars (\$4,000) but less than ten thousand dollars (\$10,000) at the  
33 rate of two and eight hundred seventy-five thousandths percent (2.875%).

34 (b) The tax levied in this section shall be in addition to:

35 (1) Any gross receipts or gross proceeds tax levied in the  
36 Arkansas Constitution;



1 (2) Any gross receipts or gross proceeds tax levied by a  
2 municipality or county; and

3 (3) Any additional gross receipts or gross proceeds tax levied  
4 in an Arkansas city and resulting from an election within that city conducted  
5 in accordance with §§ 26-52-601 – 26-52-606.

6 (c) For the purpose of determining whether the tax levied by this  
7 section applies to the sale of a used motor vehicle, motorboat, trailer, or  
8 semitrailer, the sales price for the used motor vehicle, motorboat, trailer,  
9 or semitrailer shall not be reduced by:

10 (1) The value of a motor vehicle, motorboat, trailer or  
11 semitrailer traded in as part payment on the purchase price of the newly  
12 acquired motor vehicle, trailer, or semitrailer; or

13 (2) The amount received by the purchaser for the sale of another  
14 motor vehicle, motorboat, trailer, or semitrailer.

15 (d) The revenues generated by the tax levied under this section shall  
16 be distributed as follows:

17 (1) Seventy-six and six-tenths percent (76.6%) of the taxes,  
18 interest, penalties, and costs received by the Secretary of the Department of  
19 Finance and Administration under this section shall be deposited as general  
20 revenues;

21 (2) Eight and five-tenths percent (8.5%) of the taxes, interest,  
22 penalties, and costs received by the secretary under this section shall be  
23 deposited into the Property Tax Relief Trust Fund; and

24 (3) Fourteen and nine-tenths percent (14.9%) of the taxes,  
25 interest, penalties, and costs received by the secretary under this section  
26 shall be deposited into the Educational Adequacy Fund.

27 (e) The excise tax levied under this section shall be collected and  
28 paid in the same manner and at the same time as is prescribed in § 26-52-510  
29 for the collection and payment of gross receipts taxes on motor vehicles,  
30 motorboats, trailers, and semitrailers.

31 (f) As used in this section, "motorboat" means the same as defined in  
32 § 27-101-103.

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34 SECTION 2. Arkansas Code Title 26, Chapter 52, Subchapter 5, is  
35 amended to add an additional section to read as follows:

36 26-52-524. Direct payment of tax by consumer-user – New and used

1 motorboats – Definition.

2 (a) As used in this section, "motorboat" means the same as defined in  
3 § 27-101-103.

4 (b)(1) On or before the time for applying for a certificate of number  
5 as prescribed by § 27-101-304, a consumer shall pay to the Secretary of the  
6 Department of Finance and Administration the tax levied by this chapter and  
7 all other gross receipts taxes levied by the state with respect to the sale  
8 of a new or used motorboat required to be numbered in this state, instead of  
9 the taxes being collected by the dealer or seller.

10 (2) The secretary shall require the payment of the taxes at the  
11 time of registration before issuing a certificate of number for the new or  
12 used motorboat.

13 (3)(A) The taxes apply regardless of whether the motorboat is  
14 sold by a motorboat dealer or an individual, corporation, or partnership not  
15 licensed as a motorboat dealer.

16 (B) The exemption in § 26-52-401(17) for isolated sales  
17 does not apply to the sale of a motorboat.

18 (4) If the consumer fails to pay the taxes when due:

19 (A) There is assessed a penalty equal to ten percent (10%)  
20 of the amount of taxes due; and

21 (B) The consumer shall pay to the secretary the penalty  
22 under subdivision (b)(4)(A) of this section and the taxes due before the  
23 secretary issues a certificate of number for the motorboat.

24 (c)(1)(A) Except as provided in this section, when a used motorboat is  
25 taken in trade as a credit or part payment on the sale of a new or used  
26 motorboat, the tax levied by this chapter and all other gross receipts taxes  
27 levied by the state shall be paid on the net difference between the total  
28 consideration for the new or used motorboat sold and the credit for the used  
29 motorboat taken in trade.

30 (B)(i)(a) If the total consideration for the sale of the  
31 new or used motorboat is less than four thousand dollars (\$4,000), no tax is  
32 due.

33 (b) If the total consideration for the sale of  
34 a new motorboat is four thousand dollars (\$4,000) or more, the full gross  
35 receipts tax rate levied under this chapter shall be levied and collected.

36 (ii) If the total consideration for the sale of a

1 used motorboat is at least four thousand dollars (\$4,000) but less than ten  
2 thousand dollars (\$10,000), the gross receipts tax due shall be determined  
3 under § 26-52-324.

4 (iii) If the total consideration for the sale of a  
5 used motorboat is ten thousand dollars (\$10,000) or more:

6 (a) The exemption under subdivision

7 (c)(1)(B)(i)(a) of this section does not apply;

8 (b) The special tax rate provided in § 26-52-  
9 324 does not apply; and

10 (c) The full gross receipts tax rate levied  
11 under this chapter shall be levied and collected.

12 (C)(i) When a used motorboat is sold by a consumer, rather  
13 than traded-in as a credit or part payment on the sale of a new or used  
14 motorboat, and the consumer subsequently purchases a new or used motorboat of  
15 greater value within sixty (60) days of the sale, the tax levied by this  
16 chapter and all other gross receipts taxes levied by the state shall be paid  
17 on the net difference between the total consideration for the new or used  
18 motorboat purchased subsequently and the amount received from the sale of the  
19 used motorboat sold in lieu of a trade-in.

20 (ii)(a) Upon applying for a certificate of  
21 number for the new or used motorboat, a consumer claiming the deduction  
22 provided by subdivision (c)(1)(C)(i) of this section shall provide a bill of  
23 sale signed by all parties to the transaction which reflects the total  
24 consideration paid to the seller for the motorboat.

25 (b) A copy of the bill of sale shall be  
26 deposited with the revenue office at the time of applying for a certificate  
27 of number for the new or used motorboat.

28 (c) The deduction provided by this section  
29 shall not be allowed unless the taxpayer claiming the deduction provides a  
30 copy of a bill of sale signed by all parties to the transaction which  
31 reflects the total consideration paid to the seller for the motorboat.

32 (iii) If the taxpayer claiming the deduction provided  
33 in this section fails to provide a bill of sale signed by all parties to the  
34 transaction that reflects the total consideration paid to the seller for the  
35 motorboat, tax shall be due on the total consideration paid for the new or  
36 motorboat without any deduction for the value of the item sold.

1           (2)(A)(i) When a motorboat dealer removes a motorboat from its  
2 inventory and the motorboat is used by the dealership as a service motorboat,  
3 the dealer shall obtain a certificate of number, register and obtain a  
4 certificate of title, and pay sales tax on the listed retail price of the new  
5 motorboat.

6                   (ii)(a) When the motorboat dealer returns the  
7 service motorboat to inventory as a used motorboat and replaces it with a new  
8 motorboat for dealership use as a service motorboat, the dealer shall pay  
9 sales tax on the difference between the listed retail price of the new  
10 service motorboat to be used by the dealership and the value of the used  
11 service motorboat being returned to inventory.

12                   (b) The value of the used service motorboat  
13 shall be the highest listed wholesale price reflected in the most current  
14 edition of a publication that is generally accepted by the industry as  
15 providing an accurate valuation of used motorboats.

16                   (B)(i) As used in this subsection, "service motorboat"  
17 means a motorboat driven exclusively by an employee of the dealership and  
18 used either to transport dealership customers or dealership parts and  
19 equipment.

20                   (ii) "Service motorboat" does not include motorboats  
21 that are rented by the dealership, used as demonstration motorboats, or used  
22 by dealership employees for personal use.

23           (d) All parts and accessories purchased by motorboat sellers for  
24 resale or used by them for the reconditioning or rebuilding of used  
25 motorboats intended for resale are exempt from gross receipts tax, provided  
26 that the motorboat seller meets the requirements of § 26-52-401(12)(A) and  
27 applicable rules promulgated by the secretary.

28           (e) This section does not repeal any exemption from this chapter.

29           (f) A credit is not allowed for sales or use taxes paid to another  
30 state with respect to the purchase of a motorboat that first obtained a  
31 certificate of number or title by the purchaser in Arkansas.

32           (g)(1)(A) A motorboat dealer with a permit under § 27-101-302(5) who  
33 has purchased a used motorboat upon payment of all applicable fees may apply  
34 for a certificate of number for the motorboat for the sole purpose of  
35 obtaining a certificate of title to the motorboat without payment of gross  
36 receipts tax, except as provided in subdivision (g)(1)(B) of this section.

1           (B)(i) The sale of a motorboat from the original franchise  
2 dealer to any other dealer, person, corporation, or other entity other than a  
3 franchise dealer of the same make of motorboat and which sale is reflected on  
4 the statement of origin shall be subject to gross receipts tax.

5           (ii) The motorboat shall be considered a used  
6 motorboat that shall have a registered certificate of number and be titled,  
7 and tax shall be paid at the time of application for a certificate of number.

8           (iii) Subdivision (g)(1)(A) of this section does not  
9 apply in those instances.

10           (2) If a certificate of number is issued for a motorboat under §  
11 27-101-302(5)(C), the used motorboat titled by a dealer under this subsection  
12 shall not be operated on the waters of this state unless there is displayed  
13 on the used motorboat the identifying certificate of number issued under §  
14 27-101-302(5)(C).

15           (h)(1) For purposes of this section, the total consideration for a  
16 used motorboat shall be presumed to be the greater of the actual sales price  
17 as provided on the bill of sale, invoice or financing agreement, or the  
18 average loan value price of the motorboat as listed in the most current  
19 edition of a publication that is generally accepted by the industry as  
20 providing an accurate valuation of used motorboats.

21           (2) If the published loan value exceeds the invoiced price, then  
22 the taxpayer shall establish to the secretary's satisfaction that the price  
23 reflected on the invoice or other document is true and correct.

24           (3) If the secretary determines that the invoiced price is not  
25 the actual selling price of the motorboat, then the total consideration will  
26 be deemed to be the published loan value.

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28           SECTION 3. Arkansas Code § 26-53-150 is amended to read as follows:

29           26-53-150. Special tax rate for certain used motor vehicles,  
30 motorboats, trailers, and semitrailers.

31           (a)(1) In lieu of the compensating use taxes levied under §§ 26-53-106  
32 and 26-53-107, there is levied an excise tax for the privilege of storing,  
33 using, distributing, or consuming a used motor vehicle, motorboat, trailer,  
34 or semitrailer within this state if the sales price of the used motor  
35 vehicle, motorboat, trailer, or semitrailer is at least four thousand dollars  
36 (\$4,000) but less than ten thousand dollars (\$10,000).

1           (2) The excise tax levied under subdivision (a)(1) of this  
2 section is levied at the rate of two and eight hundred seventy-five  
3 thousandths percent (2.875%) of the sales price of the used motor vehicle,  
4 motorboat, trailer, or semitrailer.

5           (b) The tax levied in this section shall be in addition to:

6           (1) Any compensating use tax levied in the Arkansas  
7 Constitution;

8           (2) Any compensating use tax levied by a municipality or county;  
9 and

10           (3) Any additional compensating use tax levied in an Arkansas  
11 city under § 26-52-607.

12           (c) For the purpose of determining whether the tax levied by this  
13 section applies to the sale of a used motor vehicle, motorboat, trailer, or  
14 semitrailer, the sales price for the used motor vehicle, motorboat, trailer,  
15 or semitrailer shall not be reduced by:

16           (1) The value of a motor vehicle, motorboat, trailer, or  
17 semitrailer traded in as part payment on the purchase price of the newly  
18 acquired motor vehicle, motorboat, trailer, or semitrailer; or

19           (2) The amount received by the purchaser for the sale of another  
20 motor vehicle, motorboat, trailer, or semitrailer.

21           (d) The revenues generated by the tax levied under this section shall  
22 be distributed as follows:

23           (1) Seventy-six and six-tenths percent (76.6%) of the taxes,  
24 interest, penalties, and costs received by the Secretary of the Department of  
25 Finance and Administration under this section shall be deposited as general  
26 revenues;

27           (2) Eight and five-tenths percent (8.5%) of the taxes, interest,  
28 penalties, and costs received by the secretary under this section shall be  
29 deposited into the Property Tax Relief Trust Fund; and

30           (3) Fourteen and nine-tenths percent (14.9%) of the taxes,  
31 interest, penalties, and costs received by the secretary under this section  
32 shall be deposited into the Educational Adequacy Fund.

33           (e) The excise tax levied under this section shall be collected and  
34 paid in the same manner and at the same time as is prescribed in § 26-53-126  
35 for the collection and payment of compensating use taxes on motor vehicles,  
36 motorboats, trailers, and semitrailers.

1       (f) As used in this section, "motorboat" means the same as defined in  
2 § 27-101-103.

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4       SECTION 4. Arkansas Code Title 26, Chapter 53, Subchapter 1, is  
5 amended to add an additional section to read as follows:

6       26-53-151. Tax on new and used motorboats – Payment and collection –  
7 Definition.

8       (a) As used in this section, "motorboat" means the same as defined in  
9 § 27-101-103.

10       (b)(1) Upon applying for a certificate of number in this state, a new  
11 or used motorboat required to be registered with a certificate of number in  
12 this state is subject to the tax levied in this subchapter and all other use  
13 taxes levied by the state regardless of whether the motorboat was purchased  
14 from a dealer or an individual.

15       (2)(A) On or before the time for applying for a certificate of  
16 number as prescribed by § 27-101-304, the person making application for a  
17 certificate of number for the motorboat shall pay the taxes to the Secretary  
18 of the Department of Finance and Administration instead of the taxes being  
19 collected by the dealer or individual seller.

20       (B) The secretary shall collect the taxes before issuing a  
21 certificate of number for the motorboat.

22       (3) The exemption in § 26-52-401(17) for isolated sales does not  
23 apply to the sale of a motorboat.

24       (4) If the person making application for a certificate of number  
25 for a motorboat fails to pay the taxes when due:

26       (A) There is assessed a penalty equal to ten percent (10%)  
27 of the amount of taxes due; and

28       (B) The person making application for a certificate of  
29 number for a motorboat shall pay to the secretary the penalty under  
30 subdivision (a)(4)(A) of this section and the taxes due before the secretary  
31 issues a certificate of number for the motorboat.

32       (c)(1) When a used motorboat is taken in trade as a credit or part  
33 payment on the sale of a new or used motorboat, the tax levied in this  
34 subchapter and all other use taxes levied by the state shall be paid on the  
35 net difference between the total consideration for the new or used motorboat  
36 sold and the credit for the used motorboat taken in trade.





1 that reflects the total consideration paid to the seller for the motorboat.

2 (C) If the taxpayer claiming the deduction provided in  
3 this subdivision (c)(3) fails to provide a bill of sale signed by all parties  
4 to the transaction that reflects the total consideration paid to the seller  
5 for the motorboat, tax shall be due on the total consideration paid for the  
6 new or used motorboat without any deduction for the value of the item sold.

7 (d) The tax imposed by this subchapter does not apply to a motorboat  
8 to be registered by a bona fide nonresident of this state.

9 (e) This section does not repeal any exemption from this subchapter.

10 (f)(1) Upon payment of all applicable fees, a motorboat dealer with a  
11 permit under § 27-101-302(5) who has purchased a used motorboat may apply for  
12 a certificate of number for the motorboat for the sole purpose of obtaining a  
13 certificate of title to the vehicle without payment of use tax.

14 (2) If a certificate of number is issued for a motorboat under §  
15 27-101-302(5)(C), and the used motorboat titled by a dealer under this  
16 subsection may not be operated on the waters of this state unless there is  
17 displayed on the used motorboat the identifying certificate of number issued  
18 under § 27-101-302(5)(C).

19 (g)(1) For purposes of this section, the total consideration for a  
20 used motorboat shall be presumed to be the greater of the actual sales price  
21 as provided on a bill of sale, invoice or financing agreement, or the average  
22 loan value of the motorboat as listed in the most current edition of a  
23 publication which is generally accepted by the industry as providing an  
24 accurate valuation of used motorboats.

25 (2) If the published loan value exceeds the invoiced price, then  
26 the taxpayer shall establish to the secretary's satisfaction that the price  
27 reflected on the invoice or other document is true and correct.

28 (3) If the secretary determines that the invoiced price is not  
29 the actual selling price of the motorboat, then the total consideration shall  
30 be deemed to be the published loan value.

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32 SECTION 5. EFFECTIVE DATE. Sections 1 through 4 of this act are  
33 effective on the first day of the calendar quarter following the effective  
34 date of this act.

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