

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/25/99

A Bill

Act 1246 of 1999
HOUSE BILL 2235

5 By: Representative Simmons
6
7

For An Act To Be Entitled

9 "AN ACT TO AMEND THE ARKANSAS TOBACCO PRODUCTS TAX ACT
10 TO CLARIFY THAT AN ARKANSAS RETAILER WHO PURCHASES
11 TOBACCO PRODUCTS FROM AN UNLICENSED WHOLESALER OR
12 DISTRIBUTOR IS REQUIRED TO REPORT AND REMIT ARKANSAS
13 TOBACCO TAX DIRECTLY TO THE STATE; AND FOR OTHER
14 PURPOSES. "

Subtitle

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16 "CLARIFIES THAT AN ARKANSAS RETAILER WHO
17 PURCHASES TOBACCO PRODUCTS FROM AN
18 UNLICENSED DISTRIBUTOR IS REQUIRED TO
19 REMIT ARKANSAS TOBACCO TAX DIRECTLY TO
20 THE STATE. "

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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code 26-57-208 is hereby amended to read as follows:

27 "26-57-208. Levy of tax - Rates of tax.

28 An excise or privilege tax is levied as follows:

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

31 (A) Whenever there are two (2) adjoining cities each with a
32 population of five thousand (5,000) or more separated by a state line, the tax
33 on cigarettes sold in such adjoining Arkansas city shall be at the rate
34 imposed by law on cigarettes sold in the adjoining city outside of Arkansas.
35 The tax shall not exceed the tax upon cigarettes imposed by this subchapter.

36 (B) The tax on cigarettes sold in Arkansas within three hundred

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

3 The tax shall not exceed the tax upon cigarettes imposed by this subchapter;

4 (C)(i) The reduced border zone tax rates set forth in subsections
5 (A) and (B) above apply only to sales made at retail by Arkansas border zone
6 retailers to actual consumers of the cigarettes.

7 (ii) The sale of cigarettes by an Arkansas border zone
8 retailer to any other retailer or wholesaler does not qualify for the reduced
9 border zone tax rate. The full amount of Arkansas cigarette excise tax will
10 be due on any cigarettes sold in such a manner.

11 (2) The excise or privilege tax on tobacco products, other than
12 cigarettes, on the sale by wholesalers to retailers, or by licensed retailers
13 to the Director of the Department of Finance and Administration, within the
14 state is sixteen percent (16%) of the manufacturer's selling price. The tax
15 shall be computed on the actual manufacturer invoice price before discounts
16 ~~and shall be paid by the wholesaler, or by the retailer if he purchases~~
17 ~~directly from the manufacturer.~~

18 (3) The taxes levied by this section shall be reported and paid by
19 wholesalers licensed pursuant to § 26-57-214 of the Arkansas Tobacco Products
20 Tax Act, provided that retailers shall be liable for reporting and paying
21 these taxes when a retailer purchases tobacco products directly from a
22 manufacturer or from a wholesaler or distributor not licensed pursuant to §
23 26-57-214 of the Arkansas Tobacco Products Tax Act. Any taxpayer who fails to
24 report and remit the tobacco tax due on tobacco products purchased from
25 manufacturers, distributors or wholesalers who are not licensed under Arkansas
26 Code 26-57-214 shall be subject to the following penalties: five percent (5%)
27 of the total tobacco tax due for the first offense; twenty percent (20%) of
28 the total tobacco tax due for the second offense; twenty-five percent (25%) of
29 the total tobacco tax due for the third and any subsequent offenses. In
30 addition, the taxpayer's Retail Cigarette/Tobacco Permit shall be revoked for
31 a period of ninety (90) days for the third and any subsequent offenses. The
32 provisions of this subsection shall not affect the provisions of Arkansas Code
33 26-57-228."

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35 SECTION 2. Arkansas Code 26-57-211(a) as amended by Acts 1997, No.
36 1337, is hereby amended to read as follows:

1 ~~"(a) Every wholesaler, or retailer who purchases tobacco products~~
 2 ~~directly from the manufacturer, shall pay the taxes levied by this subchapter.~~
 3 The taxes levied by this subchapter shall be reported and paid by wholesalers
 4 licensed pursuant to § 26-57-214 of the Arkansas Tobacco Products Tax Act,
 5 provided that retailers shall be liable for reporting and paying these taxes
 6 when a retailer purchases tobacco products directly from a manufacturer or
 7 from a wholesaler or distributor not licensed pursuant to § 26-57-214 of the
 8 Arkansas Tobacco Products Tax Act. Any taxpayer who fails to report and remit
 9 the tobacco tax due on tobacco products purchased from manufacturers,
 10 distributors or wholesalers who are not licensed under Arkansas Code 26-57-214
 11 shall be subject to the following penalties: five percent (5%) of the total
 12 tobacco tax due for the first offense; twenty percent (20%) of the total
 13 tobacco tax due for the second offense; twenty-five percent (25%) of the total
 14 tobacco tax due for the third and any subsequent offenses. In addition, the
 15 taxpayer's Retail Cigarette/Tobacco Permit shall be revoked for a period of
 16 ninety (90) days for the third and any subsequent offenses. The provisions of
 17 this subsection shall not affect the provisions of Arkansas Code 26-57-228."

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 19 SECTION 3. Arkansas Code 26-57-212(a) is hereby amended to read as
 20 follows:

21 "(a) Every licensed wholesaler and warehouseman who handles, receives,
 22 stores, sells, and disposes of tobacco products in any manner in this state,
 23 shall file a report with the Director of the Department of Finance and
 24 Administration on or before the fifteenth day of each month. Retailers shall
 25 be liable for reporting and paying these taxes when a retailer purchases
 26 tobacco products directly from a manufacturer or from a wholesaler or
 27 distributor not licensed pursuant to § 26-57-214 of the Arkansas Tobacco
 28 Products Tax Act. Any taxpayer who fails to report and remit the tobacco tax
 29 due on tobacco products purchased from manufacturers, distributors or
 30 wholesalers who are not licensed under Arkansas Code 26-57-214 shall be
 31 subject to the following penalties: five percent (5%) of the total tobacco
 32 tax due for the first offense; twenty percent (20%) of the total tobacco tax
 33 due for the second offense; twenty-five percent (25%) of the total tobacco tax
 34 due for the third and any subsequent offenses. In addition, the taxpayer's
 35 Retail Cigarette/Tobacco Permit shall be revoked for a period of ninety (90)
 36 days for the third and any subsequent offenses. The provisions of this

1 subsection shall not affect the provisions of Arkansas Code 26-57-228."

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3 SECTION 4. Arkansas Code 26-57-803(b) is hereby amended to read as
4 follows:

5 "(b) In addition to the tax imposed by § 26-57-208(2), for the months of
6 February, March, April, May, and June, 1993, there is hereby imposed an
7 additional excise or privilege tax on tobacco products, other than cigarettes,
8 on the sale by wholesalers to retailers, or by licensed retailers, to the
9 Director of the Department of Finance and Administration at nine percent (9%)
10 of the manufacturer's selling price, and for all months beginning on or after
11 July 1, 1993, there is hereby levied an additional excise or privilege tax on
12 tobacco products at seven percent (7%) of the manufacturer's selling price.
13 The tax shall be computed before discounts ~~and shall be paid by the~~
14 ~~wholesaler, or by the retailer if he purchases directly from the~~
15 ~~manufacturer."~~

16
17 SECTION 5. Arkansas Code 26-57-803 is hereby amended to add a new
18 subsection (d) to read as follows:

19 "(d) The taxes levied by this section shall be reported and paid by
20 wholesalers licensed pursuant to § 26-57-214 of the Arkansas Tobacco Products
21 Tax Act, provided that retailers shall be liable for reporting and paying
22 these taxes when a retailer purchases tobacco products directly from a
23 manufacturer or from a wholesaler or distributor not licensed pursuant to §
24 26-57-214 of the Arkansas Tobacco Products Tax Act. Any taxpayer who fails to
25 report and remit the tobacco tax due on tobacco products purchased from
26 manufacturers, distributors or wholesalers who are not licensed under Arkansas
27 Code 26-57-214 shall be subject to the following penalties: five percent (5%)
28 of the total tobacco tax due for the first offense; twenty percent (20%) of
29 the total tobacco tax due for the second offense; twenty-five percent (25%) of
30 the total tobacco tax due for the third and any subsequent offenses. In
31 addition, the taxpayer's Retail Cigarette/Tobacco Permit shall be revoked for
32 a period of ninety (90) days for the third and any subsequent offenses. The
33 provisions of this subsection shall not affect the provisions of Arkansas Code
34 26-57-228."

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36 SECTION 6. Arkansas Code 26-57-1102 is hereby amended to read as

1 follows:

2 "26-57-1102. Additional tax - Tobacco products other than cigarettes.

3 (a) In addition to the tax imposed by § 26-57-208 (2), there is hereby
4 imposed an additional excise or privilege tax on tobacco products, other than
5 cigarettes, on the first sale to wholesalers or retailers within the state at
6 two percent (2%) of the manufacturer's selling price. The tax shall be
7 computed on the actual manufacturer invoice price before discounts and deals
8 ~~and shall be paid by the wholesaler, or by the retailer if he purchases~~
9 ~~directly from the manufacturer.~~

10 (b) The taxes levied by this section and § 26-57-1101 shall be reported
11 and paid by wholesalers licensed pursuant to § 26-57-214 of the Arkansas
12 Tobacco Products Tax Act, provided that retailers shall be liable for
13 reporting and paying these taxes when a retailer purchases tobacco products
14 directly from a manufacturer or from a wholesaler or distributor not licensed
15 pursuant to § 26-57-214 of the Arkansas Tobacco Products Tax Act. Any
16 taxpayer who fails to report and remit the tobacco tax due on tobacco products
17 purchased from manufacturers, distributors or wholesalers who are not licensed
18 under Arkansas Code 26-57-214 shall be subject to the following penalties:
19 five percent (5%) of the total tobacco tax due for the first offense; twenty
20 percent (20%) of the total tobacco tax due for the second offense; twenty-five
21 percent (25%) of the total tobacco tax due for the third and any subsequent
22 offenses. In addition, the taxpayer's Retail Cigarette/Tobacco Permit shall
23 be revoked for a period of ninety (90) days for the third and any subsequent
24 offenses. The provisions of this subsection shall not affect the provisions
25 of Arkansas Code 26-57-228."

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27 SECTION 7. All provisions of this act of a general and permanent nature
28 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
29 Revision Commission shall incorporate the same in the Code.

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31 SECTION 8. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 act are declared to be severable.

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1 SECTION 9. All laws and parts of laws in conflict with this act are
2 hereby repealed.

3 /s/ Simmons

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6 APPROVED: 4/8/1999

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