

As Engrossed: 3/17/93 3/23/93 4/8/93

1 **State of Arkansas**

2 **79th General Assembly**

3 **Regular Session, 1993**

4 **By: Senators Gordon, Canada, and Hardin**

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A Bill

SENATE BILL 662

For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR THE ENFORCEMENT OF THE ASSESSMENT
9 OF AN ANNUAL VENDING DEVICE DECAL FEE ON CERTAIN VENDING
10 DEVICES OPERATED IN THE STATE OF ARKANSAS; TO PROVIDE FOR
11 SEIZURE, FORFEITURE, AND SALE OF SUCH VENDING DEVICES ON
12 WHICH THE REQUIRED VENDING DEVICE DECAL IS NOT AFFIXED;
13 AND FOR OTHER PURPOSES."

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Subtitle

17 "THE FORFEITURE PROVISIONS FOR THE VENDING DEVICES DECAL
18 ACT."

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 "SECTION 1. If the General Assembly of the State of Arkansas shall
23 enact a Vending Devices Decal Act whereby the owners, lessors, renters, or
24 operators of coin-operated vending devices or coin-operated bulk vending
25 devices are required to purchase an Annual Vending Device Decal or a Special
26 Vending Device Decal in lieu of the requirement that such persons collect and
27 remit the state and local Gross Receipts (Sales) Taxes otherwise mandated by
28 Arkansas law, then the provisions of Section 2 of this Act shall be deemed to
29 be supplementary to such Vending Device Decal Act of 1993.

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31 SECTION 2. SEIZURE AND FORFEITURE OF VENDING DEVICES WITHOUT DECAL
32 AFFIXED. (a) Where any coin-operated vending device or coin-operated bulk
33 vending device is placed on location for retail sales to the members of the
34 general public in the State of Arkansas, or, after having been placed on
35 location in this state, such vending device is left on location without the

1 required vending device decal affixed thereon (as may otherwise be provided
2 for by the laws of this state), the vending device (including all cash in the
3 receptacle thereof, if any) shall be considered forfeited to the State of
4 Arkansas because of the absence of the required vending device decal from such
5 vending device. Such vending device may be seized and sealed on site at its
6 location by the Director of the Department of Finance and Administration (or
7 his authorized agent) and such vending device shall not be removed from such
8 location by any person, until such vending device is released from seizure by
9 the Director of the Department of Finance and Administration (or his
10 authorized agent). Such vending device may be seized by any authorized agent
11 of the Director of the Department of Finance and Administration, or by any
12 sheriff, or other law enforcement officer of this state acting upon the
13 request, and at the direction of, the Director of the Department of Finance
14 and Administration.

15 (b) Upon the seizure of such vending device, the vending device shall
16 (together with the cash, if any, contained in the receptacle of such vending
17 device), forthwith, be delivered to the Director of the Department of Finance
18 and Administration. The Director of the Department of Finance and
19 Administration (or his authorized agent) shall then proceed to make an
20 administrative determination of whether or not the vending device and cash, if
21 any, that have been seized should, in fact, be forfeited to the State of
22 Arkansas. The owner of the vending device shall be given at least thirty (30)
23 days' written notice of the date of the hearing on such forfeiture of the
24 vending device. Such notice shall be considered a notice of proposed
25 assessment under A.C.A. § 26-18-403 and the owner shall be entitled to an
26 administrative hearing pursuant to A.C.A. §26-18-405. In the event the
27 Director (or his authorized agent) finds that the vending device (including
28 the cash contents, if any) should be forfeited to the State of Arkansas, the
29 Director shall make a written determination of forfeiture of the vending
30 device to the State of Arkansas, and the Director shall direct the sale of
31 such vending device. The vending device shall be sold by the Director, his
32 authorized agent, or the sheriff in the county where it was seized or Pulaski
33 County, after thirty (30) day's written notice of sale, which notice of sale
34 shall be given: (1) in writing to the owner of such vending device at the
35 owner's last-known address and (2) by posting five (5) notices of sale in

1 conspicuous places in the county where the sale of such vending device is to
2 be held (one (1) of such notices of sale shall be posted on a bulletin board
3 at the county courthouse of said county). At the discretion of the Director,
4 notice of sale of such vending device may be given (alternatively to posting)
5 by publishing the notice of sale in a newspaper of general circulation in such
6 county, at least thirty (30) days prior to such sale. The sale of the vending
7 device shall be for cash, and the proceeds of such sale shall be applied as
8 follows:

9 (1) to the payment of the costs incident to the seizure and sale
10 of such vending device;

11 (2) to the payment of any taxes or decal fee costs, including
12 penalties, that may have accrued against the device; and

13 (3) the balance, if any, shall be remitted to the owner of the
14 vending device.

15 (c) The cash contained in any seized vending device (which cash is
16 forfeited under the provisions of this section) shall be forfeited to the
17 State of Arkansas as an additional penalty, and shall be in addition to all
18 other penalties provided for under the Vending Device Decal Act.

19 (d) The written determination of the Director of the Department of
20 Finance and Administration (or his authorized agent) declaring a forfeiture of
21 the vending device (including the cash contents thereof, if any) and directing
22 the sale of such vending device shall be a final determination of the Director
23 and shall be treated, for purposes of the owner's appeal of the Director's
24 determination, as a final assessment, subject to the provisions of the
25 Arkansas Tax Procedure Act. Judicial review of the final determination shall
26 be available pursuant to A.C.A. § 26-18-406.

27 (e) It shall be the duty of all sheriffs, and other law enforcement
28 officers in the State of Arkansas to cooperate with the Director of the
29 Department of Finance and Administration in the enforcement of the seizure and
30 forfeiture provisions of this section.

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32 SECTION 3. All provisions of this Act of a general and permanent nature
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
34 Revision Commission shall incorporate the same in the Code.

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1 SECTION 4. If any provision of this Act or the application thereof to
2 any person or circumstance is held invalid, such invalidity shall not affect
3 other provisions or applications of the Act which can be given effect without
4 the invalid provision or application, and to this end the provisions of this
5 Act are declared to be severable.

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7 SECTION 5. EMERGENCY. It is hereby found by the General Assembly that
8 there exists the possibility that the owners, lessors, renters, and operators
9 of vending devices that are subject to purchase the Annual Vending Device
10 Decal or the Special Vending Device Decal required by the provisions of the
11 Vending Device Decal Act of 1993 may not voluntarily purchase such decals, and
12 therefore undermine the purpose for the Vending Device Decal Act of 1993, and
13 that an emergency therefore exists and that the provisions of this Act are
14 required and necessary for the preservation of the public peace, health, and
15 safety; it is hereby declared that this Act shall be in full force and effect
16 as of July 1, 1993."

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/s/Senator Gordon

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