

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 H3/30/99

A Bill

HOUSE BILL 1955

5 By: Representatives Shoffner, King, Ammons, House, Hale
6
7

For An Act To Be Entitled

9 "AN ACT TO AMEND THE LAW PROHIBITING THE PURCHASE OF
10 TOBACCO PRODUCTS AND CIGARETTES BY MINORS; TO ADDRESS
11 THE USE OF MINORS IN ENFORCEMENT OF THE TOBACCO
12 CONTROL LAWS BY GOVERNMENT AGENCIES; TO PROVIDE
13 PENALTY SCHEDULES FOR VIOLATIONS OF § 5-27-227; AND
14 FOR OTHER PURPOSES. "

Subtitle

15
16
17 "TO AMEND THE LAW PROHIBITING THE
18 PURCHASE OF TOBACCO PRODUCTS AND
19 CIGARETTES BY MINORS; TO ADDRESS THE USE
20 OF MINORS IN ENFORCEMENT OF THE TOBACCO
21 CONTROL LAWS BY GOVERNMENT AGENCIES. "

22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code 5-27-227 is amended to read as follows:

27 "5-27-227. Providing minors with tobacco products and cigarette papers -
28 Purchase, use, or possession of tobacco products and cigarette papers by
29 minors prohibited - Placement of tobacco vending machines.

30 (a) It shall be unlawful for any person, ~~other than the parent or~~
31 ~~guardian,~~ to give, barter, or sell to a minor under eighteen (18) years of
32 age, tobacco in any form or cigarette papers.

33 (b) It shall be unlawful for any person under eighteen (18) years of
34 age:

35 (1) To use or possess, unless acting as an agent of the minor's
36 employer within the scope of employment, tobacco in any form or cigarette

1 papers;

2 (2) To purchase or attempt to purchase tobacco in any form or
3 cigarette papers; or

4 (3) To use any falsified identification, or use any
5 identification other than his or her own, for the purpose of obtaining or
6 attempting to obtain tobacco in any form or cigarette papers.

7 (c) It shall not be an offense under subdivisions (b)(1) or (2) of this
8 section if the minor was acting at the direction of an employee or authorized
9 agent of a governmental agency authorized to enforce or ensure compliance with
10 laws relating to the prohibition of the sale of tobacco in any form or
11 cigarette papers to such minors. All minors used in this manner by a
12 governmental agency shall display the appearance of a person under eighteen
13 (18) years of age. The person under eighteen (18) years of age, if questioned
14 by the retailer or the agent or employee of the retailer about his or her age,
15 shall state his or her actual age and shall present a true and correct
16 identification if verbally asked to present it. Any failure on the part of
17 the person under eighteen (18) years of age to provide true and correct
18 identification, if verbally asked for it, shall be a defense to any action
19 pursuant to this section or a civil action under § 26-57-257.

20 (d) No person shall engage or direct a person under eighteen (18) years
21 of age to violate any provision of this section for purposes of determining
22 compliance with provisions of this section unless such person has procured the
23 written consent of a parent or guardian of the minor to so engage or direct
24 the minor and such person is:

25 (1) An officer having authority to enforce the provisions of this
26 section;

27 (2) An employee of the Arkansas Tobacco Control Board, or a
28 prosecuting attorney;

29 (3) An authorized representative of a business acting pursuant to
30 a self-compliance program designed to increase compliance with this section;

31 (4) An employee or authorized representative of the Department of
32 Health;

33 (5) An employee or authorized agent of a governmental agency
34 authorized to enforce or ensure compliance with the provisions of this
35 section.

36 (e) Any person who sells tobacco in any form or cigarette papers shall

1 have the right to deny the sale of any such tobacco in any form or cigarette
2 papers to any person.

3 ~~(b)~~(f) It shall be unlawful for any person who has been issued a permit
4 or a license under the Arkansas Tobacco Products Tax Act of 1977, beginning at
5 § 26-57-201 et seq., as amended, to fail to display prominently, at each
6 retail sales counter or each vending machine, a sign that meets the following
7 requirements:

8 (1) The sign shall contain in red lettering at least one-half
9 inch (1/2") high on a white background, 'IT IS A VIOLATION OF THE LAW FOR
10 CIGARETTES OR OTHER TOBACCO PRODUCTS TO BE SOLD TO OR PURCHASED BY A PERSON
11 UNDER THE AGE OF 18'; and

12 (2) The sign shall include a depiction of a pack of cigarettes at
13 least two inches (2") high defaced by a red diagonal diameter of a surrounding
14 red circle.

15 ~~(c)~~(g) It shall be unlawful for any manufacturer whose tobacco products
16 are distributed in this state and any person who has been issued a permit or
17 license under the Arkansas Tobacco Products Tax Act of 1977, beginning at §
18 26-57-201 et seq., to distribute free samples of any tobacco product or
19 coupons that entitle the holder of the coupon to any free sample of any
20 tobacco product:

21 (1) In or on any public street or sidewalk within five hundred
22 feet (500') of any playground, public school, or other facility when such
23 facility is being used primarily by persons under eighteen (18) years of age
24 for recreational, education, or other purposes; or

25 (2) To any person under eighteen (18) years of age.

26 ~~(d)~~(h)(1) Except as provided in subdivision ~~(d)~~(h)(2) of this section,
27 it shall be unlawful for any person who owns or leases tobacco vending
28 machines to place a tobacco vending machine in a public place. For purposes
29 of this subdivision, 'public place' means a publicly or privately owned place
30 to which the public or substantial numbers of people have access.

31 (2) Tobacco vending machines may be placed in restricted areas
32 within a factory, business, office, or other structure to which members of the
33 general public are not given access; in permitted premises which have a permit
34 for the sale of dispensing of alcoholic beverages for on-premises consumption
35 which restrict entry to persons age twenty-one (21) or older; or places where
36 the vending machine is under the supervision of the owner or an employee of

1 the owner.

2 ~~(e) Any person~~ (i) Any retail permit holder or license holder who
3 violates any of the provisions in this section shall be deemed guilty of a
4 ~~misdemeanor violation~~ and subject to the following penalties:

5 ~~(1) A fine of one hundred dollars (\$100) for the first violation;~~

6 (1) If the alleged violator has received a notice of an alleged
7 violation from the Arkansas Tobacco Control Board or other agency or official
8 with the authority to assess penalties containing the information specified in
9 this subchapter, a fine not to exceed two hundred fifty dollars (\$250) for a
10 first violation within a forty-eight (48) month period;

11 ~~(2)(2) A fine of two hundred fifty dollars (\$250), plus~~
12 ~~revocation and suspension of the permit or license to distribute or sell~~
13 ~~tobacco products from the site and vending machine for seven (7) days where~~
14 ~~the violation occurred, for a violation occurring within two (2) years of the~~
15 ~~first violation not to exceed five hundred dollars (\$500) for a second~~
16 ~~violation within a forty-eight (48) month period and suspension of the license~~
17 ~~or permit enumerated in § 26-57-219 for a period not to exceed two (2) days;~~

18 ~~(3) A fine not to exceed five hundred dollars (\$500) one thousand~~
19 ~~dollars (\$1,000), suspension of the permit or license to distribute or sell~~
20 ~~tobacco products from the site and vending machine for not less than one (1)~~
21 ~~month nor more than six (6) months, for a third violation occurring within two~~
22 ~~(2) years of the the first violation; for a third violation within a forty-~~
23 ~~eight (48) month period and suspension of the license or permit enumerated in~~
24 ~~§26-57-219 for a period not to exceed seven (7) days;~~

25 ~~(4) A fine of one thousand dollars (\$1,000), not to exceed plus~~
26 ~~revocation and suspension of the permit or license to distribute or sell~~
27 ~~tobacco products from the site and vending machine for not less than nine (9)~~
28 ~~months nor more than eighteen (18) months, for each additional violation~~
29 ~~occurring within two (2) years of the first violation, two thousand dollars~~
30 ~~(\$2,000) for a fourth or subsequent violation within a forty- eight (48) month~~
31 ~~period and suspension of the license or permit enumerated in § 26-57-219 for a~~
32 ~~period not to exceed fourteen (14) days; and~~

33 (5)(A) For a fifth violation within a forty-eight (48) month period,
34 the license or permit enumerated in 26-57-219 may be revoked;

35 (B) Upon any revocation or suspension of a permit or
36 license under the provisions of subsection ~~(f)~~(i) of this section, the person

1 shall not be issued any new permit or license to distribute or sell tobacco
2 products during the period of suspension or revocation.

3 (j) A notice of alleged violation of this section shall be given to the
4 holder of a retail permit or license within ten (10) days of the alleged
5 violation. The notice must contain the date and time of the alleged
6 violation. It shall also include either the name of the person making such
7 alleged sale or information reasonably necessary to determine the location in
8 the store that allegedly made such sale. Such information should include,
9 where appropriate, but not be limited to the cash register number, physical
10 location of the sale in the store, and if possible the lane or aisle number.

11 ~~(f) In addition to the penalties in subsection (e) of this section,~~
12 ~~upon the fourth or subsequent violation of subsection (a) of this section~~
13 ~~within a two-year period, all of that person's licenses or permits to~~
14 ~~distribute or sell tobacco products at all sites, locations, and vending~~
15 ~~machines shall be suspended or revoked and shall not be renewed for a period~~
16 ~~of not less than nine (9) nor more than eighteen (18) months. Further, that~~
17 ~~person shall not be issued any new permit or license for not less than nine~~
18 ~~(9) nor more than eighteen (18) months. It shall be a defense to the penalty~~
19 ~~imposed under this subsection if the person affirmatively demonstrates that~~
20 ~~the person has an effective system in place to prevent violations of the~~
21 ~~prohibition in subsection (a) of this section.~~

22 (k) Notwithstanding the provisions of subsection (i) of this section,
23 the court shall consider the following factors when reviewing a possible
24 violation:

25 (1) The business has adopted and enforced a written policy
26 against selling cigarettes or tobacco products to persons under the age of
27 eighteen (18) years;

28 (2) The business has informed its employees of the applicable
29 laws regarding the sale of cigarettes and tobacco products to persons under
30 the age of eighteen (18) years;

31 (3) The business required employees to verify the age of
32 cigarette or tobacco product customers by way of photographic identification;

33 (4) The business has established and imposed disciplinary
34 sanctions for noncompliance; and

35 (5) That the appearance of the purchaser of the tobacco in any
36 form or cigarette papers was such that an ordinary prudent person would

1 believe him or her to be of legal age to make the purchase.

2 (1)(1) Any cigarettes or tobacco products found in the possession of a
3 person under eighteen (18) years of age may be confiscated.

4 (2) An employee of a permit holder who violates § 5-27-227 shall
5 be subject to a fine not to exceed one hundred dollars (\$100) per violation.

6 ~~(g)~~(m) The person convicted of violating any provision of this section
7 whose permit or license to distribute or sell tobacco products is suspended or
8 revoked shall, upon conviction, surrender to the court all such permits or
9 licenses, and the court shall transmit those permits and licenses to the
10 Director of the Department of Finance and Administration and instruct the
11 Director of the Arkansas Tobacco Control Board to suspend or revoke, and not
12 renew, the person's permit or license to distribute or sell tobacco products,
13 and not to issue any new permit or license to that person for the period of
14 time determined by the court in accordance with this section.”

15
16 SECTION 2. Arkansas Code 26-57-257 is amended to read as follows:

17 “26-57-257. Director of Arkansas Tobacco Control Board.

18 (a) The Governor shall employ a person to serve as Director of the
19 Arkansas Tobacco Control Board. The director shall serve at the pleasure of
20 the Governor.

21 (b) The Director of the Arkansas Tobacco Control Board shall present
22 all evidence tending to prove violations of law or regulations at hearings
23 held by the board.

24 (c) The Director of the Arkansas Tobacco Control Board may employ such
25 other personnel as he deems necessary, subject to approval of the board and as
26 authorized by the General Assembly.

27 (d) Any personnel employed by the Director of the Arkansas Tobacco
28 Control Board shall serve at his pleasure.

29 (e) The Director of the Arkansas Tobacco Control Board and the board
30 each may adopt, keep, and use a common seal. This seal shall be used for
31 authentication of the records, process, and proceedings of the director and
32 board respectively. Judicial notice shall be taken of each use of this seal in
33 all of the courts of the state.

34 (f) Any process, notice, or other paper which the Director of the
35 Arkansas Tobacco Control Board may be authorized by law to issue shall be
36 deemed sufficient if signed by the director and authenticated by the seal of

1 the director.

2 (g) Any process, notice, or other paper which the board may be
3 authorized by law to issue shall be deemed sufficient if signed by the
4 chairman of the board and authenticated by the seal of the board.

5 (h) All acts, orders, proceedings, rules, regulations, entries,
6 minutes, and other records of the Director of the Arkansas Tobacco Control
7 Board and all reports and documents filed with the director may be proved in
8 any court of this state by copy thereof, certified to by the director with the
9 seal of the director attached.

10 (i) All acts, orders, proceedings, rules, regulations, entries,
11 minutes, and other records of the Arkansas Tobacco Control Board and all
12 reports and documents filed with the board's director may be proved in any
13 court of this state by copy thereof, certified to by the chairman of the board
14 with the seal of the board attached.

15 (j) The Director of the Arkansas Tobacco Control Board shall maintain
16 records of all permits and licenses issued, suspended, denied, or revoked by
17 the board. The records shall be in such form as to provide ready information
18 as to the identity of the licensees including the names of major stockholders
19 and directors of corporations holding licenses or permits and the location of
20 the license or permitted premises.

21 (k) The Director of the Arkansas Tobacco Control Board shall recognize
22 the ~~Arkansas~~ Department of Health, Bureau of Alcohol and Drug Abuse Prevention
23 as the agency responsible for ensuring full compliance with Section 1926(b) of
24 the Public Health Service Act and shall call upon administrative departments
25 of the state, county, and city governments, sheriffs, city police departments,
26 or other law enforcement officers for such information and assistance as the
27 director may deem necessary in the performance of the duties imposed upon him
28 by this subchapter.

29 (l) The Director of the Arkansas Tobacco Control Board may inspect or
30 cause to be inspected any premises where tobacco products are distributed,
31 stored or sold.

32 (m) In the conduct of any hearings, the Director of the Arkansas
33 Tobacco Control Board may:

34 (1) Examine or cause to be examined any person under oath and
35 examine or cause to be examined books and records of any licensee;

36 (2) Hear testimony and take proof material to his information and

1 the discharge of his duties hereunder;

2 (3) Administer or cause to be administered oaths;

3 (4) Issue subpoenas to require the attendance of witnesses and
4 the production of books and records. Any circuit court may, by written order,
5 require the attendance of witnesses or the production of relevant books or
6 other records subpoenaed by the director and the court may compel obedience to
7 its order by proceedings for contempt.

8 (n) All hearings and appeals from any hearing shall be conducted in
9 accordance with the Arkansas Administrative Procedure Act.

10 (o) The Director of the Arkansas Tobacco Control Board shall exercise
11 other powers, functions, and duties as are or may be imposed or conferred upon
12 him by law or the board;

13 (p) The Director of the Arkansas Tobacco Control Board shall have other
14 powers, functions, and duties pertaining to the issuance, suspension, and
15 revocation of the permits and licenses enumerated in § 26-57-219 which
16 previously were granted to the Director of the Department of Finance and
17 Administration (except the authority to regulate manufacturers) and which are
18 specifically delegated to the department by this subchapter; and

19 (q) The power and duty to collect taxes imposed on tobacco and tobacco
20 products, is specifically exempted from the powers and duties granted or
21 assigned to the board or the department. However, a permit or license holder's
22 failure to pay taxes or fees imposed on tobacco products or any permit or
23 license fees imposed by this subchapter, in a timely manner, is grounds for
24 the nonissuance, suspension, revocation, or nonrenewal of any *permits or*
25 *licenses issued by the board.*

26 (r) The Arkansas Tobacco Control Board may assess penalties for
27 violation of § 5-27-227(a) according to the following schedule:

28 (1) If the alleged violator has received a notice of an alleged
29 violation from the Arkansas Tobacco Control Board or other agency or official
30 with the authority to assess penalties containing the information specified in
31 this subchapter, a civil penalty not to exceed two hundred fifty dollars
32 (\$250) for a first violation within a forty-eight (48) month period;

33 (2) A civil penalty not to exceed five hundred dollars (\$500) for
34 a second violation within a forty-eight (48) month period and suspension of
35 the license or permit enumerated in § 26-57-219 for a period not to exceed two
36 (2) days;

1 (3) A civil penalty not to exceed one thousand dollars (\$1,000)
2 for a third violation within a forty-eight (48) month period and suspension of
3 the license or permit enumerated in §26-57-219 for a period not to exceed
4 seven (7) days;

5 (4) A civil penalty not to exceed two thousand dollars (\$2,000)
6 for a fourth or subsequent violation within a forty-eight (48) month period
7 and suspension of the license or permit enumerated in § 26-57-219 for a period
8 not to exceed fourteen (14) days; and

9 (5) For a fifth violation within a forty-eight (48) month period,
10 the license or permit enumerated in 26-57-219 may be revoked.

11 (s) A notice of alleged violation of. § 5-27-227 shall be
12 given to the holder of a retail permit or license within ten (10) days
13 of the alleged violation. The notice must contain the date and time of
14 the alleged violation. It shall also include either the name of the
15 person making such alleged sale or information reasonably necessary to
16 determine the location in the store that allegedly made such sale. Such
17 information should include, where appropriate, but not be limited to the
18 cash register number, physical location of the sale in the store, and if
19 possible the lane or aisle number.

20 (t) Notwithstanding the provisions of subsection (r) of this section,
21 the Arkansas Tobacco Control Board shall consider the following factors when
22 reviewing a possible violation:

23 (1) The business has adopted and enforced a written policy
24 against selling cigarettes or tobacco products to persons under the age of
25 eighteen (18) years;

26 (2) The business has informed its employees of the applicable
27 laws regarding the sale of cigarettes and tobacco products to persons under
28 the age of eighteen (18) years;

29 (3) The business required employees to verify the age of
30 cigarette or tobacco product customers by way of photographic identification;

31 (4) The business has established and imposed disciplinary
32 sanctions for noncompliance; and

33 (5) That the appearance of the purchaser of the tobacco in any
34 form or cigarette papers was such that an ordinary prudent person would
35 believe him or her to be of legal age to make the purchase.

36 (u) Notwithstanding the provisions of subsection (r) of this section,

1 no penalty for a violation of § 5-27-227 shall be imposed upon a retailer or
2 agent or employee of such retailer that can establish an affirmative defense
3 that, prior to the date of the violation, that the retailer or agent or
4 employee of the retailer furnishing the tobacco in any form or cigarette
5 papers reasonably relied upon proof of age which identified the person
6 receiving the tobacco in any form or cigarette papers as being eighteen (18)
7 years of age or older.

8 (v) 'Proof of age' means any document issued by a governmental agency
9 containing a description of the person, such person's photograph, or both, and
10 giving such person's date of birth and includes, without being limited to, a
11 passport, military identification card, or driver's license.

12 (w) Any cigarettes or tobacco products found in the possession of a
13 person under eighteen (18) years of age may be confiscated.

14 (x) An employee of a permit holder who violates § 5-27-227 shall be
15 subject to a civil penalty not to exceed one hundred dollars (\$100) per
16 violation.

17 (y)(1) In the case of a corporation or business with more than one
18 retail location, to determine the number of accumulated violations for
19 purposes of the penalty schedule set forth in subsection (i) of this section,
20 violations of § 5-27-227(a) by one retail location shall not be accumulated
21 against other retail locations of that same corporation or business.

22 (2) In the case of a retail location that for purposes of the
23 penalty schedule set forth in subsection (i) of this section, violations
24 accumulated and assessed against a prior owner of the retail location shall
25 not be accumulated against a new owner of the same retail location.

26 (z) If a penalty has been assessed pursuant to this section against any
27 person, business, or corporation for a single, specific violation of
28 § 5-27-227(a) or (b), the person, business, or corporation shall not be
29 prosecuted under § 5-27-227(a) or (b) for a violation based on the same facts
30 or specific incident for which the penalty was assessed under this section.

31 (aa) If any person, business, or corporation has been prosecuted for a
32 single, specific violation of § 5-27-227(a) or (b), the person, business, or
33 corporation shall not be assessed a civil penalty under this section based on
34 the same facts or specific incident upon which the prosecution under § 5-27-
35 227(a) or (b) was based.

36 (bb) The enforcement of state laws relating to the prohibition of the

1 barter or sale of tobacco in any form or cigarette papers to minors by
2 multiple state agencies shall be coordinated to avoid duplicative inspections
3 of the same retailer by multiple state agencies.

4 (cc) All penalties collected pursuant to the authority of this
5 subsection shall be deposited in the State Treasury."

6
7 SECTION 3. No minor shall be subject to arrest or search by any law
8 enforcement officer merely on the grounds that the minor has or may have
9 possession of tobacco or cigarette papers.

10
11 SECTION 4. *Arkansas Code 26-57-256 is amended to read as follows:*

12 *"26-57-256. Powers of the board.*

13 *(a) The Tobacco Control Board shall:*

14 *(1) Promulgate regulations for the proper enforcement and*
15 *implementation of the Arkansas Tobacco Products Tax Act, as amended, and the*
16 *Arkansas Unfair Cigarette Sales Act, as amended, subject to the restrictions*
17 *in § 26-57-212(d);*

18 *(2) Receive applications for and issue, refuse, suspend and revoke*
19 *licenses and permits listed in § 26-57-219;*

20 *(3) Prescribe forms of applications for permits and licenses under*
21 *this subchapter;*

22 *(4) Cooperate with the Revenue Division, Department of Finance and*
23 *Administration in the enforcement of the tax laws affecting the sale of*
24 *tobacco products in this state;*

25 *(5) Conduct public hearings where appropriate regarding any permit*
26 *and license authorized by this subchapter or violation of this subchapter, the*
27 *Arkansas Tobacco Products Tax Act, ~~or~~ the Arkansas Unfair Cigarette Sales Act,*
28 *§ 5-27-227 or any other federal, state, or local statute, ordinance, rule or*
29 *regulation concerning the sale of tobacco products to minors or the rules and*
30 *regulations promulgated by the board. and take appropriate actions regarding*
31 *issuance, refusal, suspension or revocation of any permit and license*
32 *enumerated in § 26-57-219. In addition to any mandatory duties of the Tobacco*
33 *Control Board under § 5-27-227 to suspend, revoke, and not renew licenses and*
34 *permits, After a notice and hearing held in accordance with the Arkansas*
35 *Administrative Procedure Act, if the board finds a violation of this*
36 *subchapter, the Arkansas Tobacco Products Tax Act, the Arkansas Unfair*

1 Cigarette Sales Act, or the rules and regulations promulgated by the board,
 2 the Tobacco Control Board board may suspend, revoke, or not renew any or all
 3 permits and licenses issued by the board to any person or entity that violates
 4 § 5-27-227 or any other federal, state, or local statute, ordinance, rule or
 5 regulation concerning the sale of tobacco products to minors and in addition,
 6 the board may levy a civil penalty, in an amount not to exceed one thousand
 7 dollars (\$1,000) for each violation against any person or entity found to be
 8 in violation. Each day of violation shall be deemed a separate violation. In
 9 that regard, the board is authorized to examine or cause to be examined under
 10 oath any witness and the books and records of any licensee, person or entity;
 11 and

12 (6) When requested by the written petition of at least three (3)
 13 interested parties, conduct public hearings to receive testimony on the facts
 14 relevant to the issuance of any license or permit under this subchapter.

15 (b) Unless the civil penalty assessed under this section is paid within
 16 fifteen (15) days following the date for an appeal from the order, the
 17 director of the Tobacco Control Board shall have the power to institute a
 18 civil action in the Circuit Court of Pulaski County to recover the civil
 19 penalties assessed pursuant to the provisions of this subchapter.

20 ~~(b)(c)~~ The Tobacco Control Board shall have no authority in criminal
 21 prosecutions or the assessment or collection of any taxes or penalties related
 22 to the taxing of tobacco products.”

23
 24 SECTION 5. Arkansas Code 25-16-903 is amended to read as follows:

25 “25-16-903. Stipend - Authorization for \$50.

26 Each of the following state boards may, by a majority vote of the total
 27 membership of the board cast during its first regularly scheduled meeting of
 28 each calendar year, authorize payment to its members of a stipend not to
 29 exceed fifty dollars (\$50.00) per meeting attended, and the board members
 30 shall receive no other compensation, expense reimbursement, or in-lieu-of
 31 payments except as provided in § 25-16-902:

- 32 (1) Arkansas State Board of Public Accountancy;
 33 (2) Arkansas State Board of Acupuncture and Related Techniques;
 34 (3) Arkansas Alcohol and Drug Abuse Coordinating Council;
 35 (4) Alcoholic Beverage Control Board;
 36 (5) Athletics and Activities Board;

- 1 (6) Arkansas Appraiser Licensing and Certification Board;
- 2 (7) Arkansas State Board of Architects;
- 3 (8) Arkansas Black History Advisory Committee;
- 4 (9) Board of Directors of the Arkansas Development Finance Authority;
- 5 (10) Arkansas History Commission;
- 6 (11) State Board of Barber Examiners;
- 7 (12) Boiler Advisory Board;
- 8 (13) Burial Association Board;
- 9 (14) Capitol Zoning District Commission;
- 10 (15) Arkansas Cemetery Board;
- 11 (16) Arkansas Child Abuse/Rape/Domestic Violence Commission;
- 12 (17) Arkansas State Board of Chiropractic Examiners;
- 13 (18) Community Work, Recreation, and Youth Opportunities Commission;
- 14 (19) Contractors Licensing Board;
- 15 (20) State Board of Cosmetology;
- 16 (21) State Crime Laboratory Board;
- 17 (22) Board of Developmental Disabilities Services;
- 18 (23) Arkansas Educational Television Commission;
- 19 (24) Board of Electrical Examiners of the State of Arkansas;
- 20 (25) State Board of Election Commissioners;
- 21 (26) Emergency Medical Services Advisory Council;
- 22 (27) State Employment Security Advisory Council;
- 23 (28) State Board of Registration for Professional Engineers and Land
- 24 Surveyors;
- 25 (29) State Library Board;
- 26 (30) Arkansas Fire Protection Licensing Board;
- 27 (31) Arkansas Fire and Police Pension Review Board;
- 28 (32) Arkansas State Board of Registration for Foresters;
- 29 (33) HVACR Licensing Board;
- 30 (34) Liquefied Petroleum Gas Board;
- 31 (35) Arkansas Livestock and Poultry Commission;
- 32 (36) Marriage and Family Therapy Licensure Board;
- 33 (37) Arkansas State Board of Massage Therapy;
- 34 (38) Mississippi River Parkway Commission;
- 35 (39) Arkansas Motor Vehicle Commission;
- 36 (40) Arkansas Natural Heritage Commission;

- 1 (41) Arkansas State Board of Nursing;
- 2 (42) Arkansas State Occupational Therapy Examining Committee;
- 3 ~~(43) [Repealed].~~
- 4 ~~(44)(43)~~ Arkansas State Board of Physical Therapy;
- 5 ~~(45)(44)~~ Arkansas Board of Dispensing Opticians;
- 6 ~~(46)(45)~~ Advisory Committee on Petroleum Storage Tanks;
- 7 ~~(47)(46)~~ Arkansas Board of Podiatric Medicine;
- 8 ~~(48)(47)~~ Arkansas Real Estate Commission;
- 9 ~~(49)(48)~~ Red River Commission;
- 10 ~~(50)(49)~~ State Marketing Board for Recyclables;
- 11 ~~(51)(50)~~ Board of Review;
- 12 ~~(52)(51)~~ Arkansas Rural Medical Practice Student Loan and Scholarship
- 13 Board;
- 14 ~~(53)(52)~~ Arkansas Geological Commission;
- 15 ~~(54)(53)~~ Land Survey Advisory Board;
- 16 ~~(55)(54)~~ Arkansas Soil and Water Conservation Commission;
- 17 ~~(56)(55)~~ Licensing Committee for Operators of Solid Waste Management
- 18 Facilities for the Arkansas Pollution Control and Ecology Commission;
- 19 ~~(57)(56)~~ Arkansas State Employee and Public School Personnel Board;
- 20 ~~(58)(57)~~ State Hospital Department of Human services State Institutional
- 21 System Board;
- 22 ~~(59)(58)~~ Arkansas State Police Commission;
- 23 ~~(60)(59)~~ State Building Services Council;
- 24 ~~(61) Governor's Telecommunications and Information Technology Advisory~~
- 25 ~~Board [repealed].~~
- 26 ~~(62)(60)~~ Arkansas Towing and Recovery Board;
- 27 ~~(63)(61)~~ Governor's Commission on Veterans' Affairs;
- 28 ~~(64)(62)~~ Veterinary Medical Examining Board;
- 29 ~~(65)(63)~~ Arkansas Water Well Construction Commission on Water Well
- 30 Construction;
- 31 ~~(66)(64)~~ Arkansas Waterways Commission;
- 32 ~~(67)(65)~~ Committee of Plumbing Examiners;
- 33 ~~(67) [As added by Acts 1997, No. 377.] Committee of Plumbing Examiners;~~
- 34 ~~(67)(66)~~ ~~[As added by Acts 1997, No. 697.]~~ Arkansas Waste Water
- 35 Treatment Plant Operators' Licensing Committee;
- 36 ~~(67)(67)~~ ~~[As added by Acts 1997, No. 1018.]~~ State Board of Collection

1 ~~Agencies;~~

2 ~~(68)(68) Elevator Safety Board; and~~

3 ~~(69)(69) Arkansas State Apprenticeship Coordinating Steering Committee;~~

4 ~~(70) The Arkansas Board of Hearing Aid Dispensers; and~~

5 ~~(71) Arkansas Tobacco Control Board."~~

6
7 SECTION 6. Arkansas Code 26-57-219, as amended by Act 1359 of 1997, is
8 repealed.

9 ~~26-57-219. Permits and licenses - Annual privilege tax. [As amended by~~
10 ~~Acts 1997, No. 1359.]~~

11 ~~(a) The annual privilege tax or fee for each permit or license~~
12 ~~authorized by § 26-57-215 is established as follows:~~

13 ~~(1) Wholesale Cigarette Permit \$ 250.00~~

14 ~~(2) Wholesale Tobacco Permit 250.00~~

15 ~~(3) General Tobacco Products Vending Permit (vendor) 100.00~~

16 ~~(4) Manufacturer's Permit 50.00~~

17 ~~(5) Tobacco Products Vending Machine License, per machine 10.00~~

18 ~~(6)(i) Retail Cigarette/Tobacco Permit for retailers whose~~
19 ~~monthly gross sales are less than \$5,000..... 20.00~~

20 ~~(ii) Retail Cigarette/Tobacco Permit for retailers whose~~
21 ~~monthly gross sales are between \$5,000 and \$15,000..... 30.00~~

22 ~~(iii) Retail Cigarette/Tobacco Permit for retailers whose~~
23 ~~monthly gross sales are in excess of \$15,000 50.00~~

24 ~~(7) Salesman's License 25.00~~

25 ~~(8) Dealer's License 25.00~~

26 ~~(9) Manufacturer's Representative License 25.00~~

27 ~~(b) All permits and licenses issued hereunder shall expire on June 30~~
28 ~~of the year following the effective date of issuance.~~

29
30 SECTION 7. Arkansas Code 26-57-219, as amended by Act 1337 of 1997, is
31 amended to read as follows:

32 ~~"26-57-219. Permits and licenses - Annual privilege tax. [As amended by~~
33 ~~Acts 1997, No. 1337.]~~

34 ~~(a) The annual privilege tax or fee for each permit or license~~
35 ~~authorized by § 26-57-215 is established as follows:~~

36 ~~(1) Wholesale Cigarette Permit \$ 500.00~~

1	(2) Wholesale Tobacco Permit	500.00
2	(3) General Tobacco Products Vending Permit (vendor)	100.00
3	(4) Tobacco Products Vending Machine License, per machine .	10.00
4	(6) (5)(i) Retail Cigarette/Tobacco Permit for retailers whose	
5	weekly gross sales are less than \$5,000	20.00
6	(ii) Retail Cigarette/Tobacco Permit for retailers whose	
7	weekly gross sales are between \$5,000 and \$15,000	30.00
8	(iii) Retail Cigarette/Tobacco Permit for retailers whose	
9	weekly gross sales are in excess of \$15,000	50.00
10	(7) (6) Salesman's License	25.00
11	(8) (7) Dealer's License	25.00
12	(9) (8) Manufacturer's Representative Fee	25.00

13 (b) All permits and licenses issued hereunder shall expire on June 30
 14 of the year following the effective date of issuance. Upon the failure to
 15 timely pay the annual privilege fee, a late fee of twice the amount of any
 16 license or permit fee in question will be owed in addition to the annual
 17 privilege fee. No permit or license shall be issued to the applicant until the
 18 late fee and the license or permit fee has been paid."

19
 20 SECTION 8. All provisions of this act of a general and permanent nature
 21 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 22 Revision Commission shall incorporate the same in the Code.

23
 24 SECTION 9. If any provision of this act or the application thereof to
 25 any person or circumstance is held invalid, such invalidity shall not affect
 26 other provisions or applications of the act which can be given effect without
 27 the invalid provision or application, and to this end the provisions of this
 28 act are declared to be severable.

29
 30 SECTION 10. All laws and parts of laws in conflict with this act are
 31 hereby repealed.

32 /s/ Shoffner, et al

33
 34
 35
 36