

1 State of Arkansas  
2 84th General Assembly  
3 First Extraordinary Session, 2003  
4

*As Engrossed: H5/8/03*  
**A Bill**

Call Item 17

HOUSE BILL 1030

5 By: Representative Dees  
6 By: Senator Gullett  
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8

**For An Act To Be Entitled**

10 AN ACT TO LEVY A NEW EXCISE TAX ON THE SALE OF  
11 CIGARETTES BY A WHOLESALER; TO LEVY AN ADDITIONAL  
12 EXCISE TAX ON TOBACCO PRODUCTS; AND FOR OTHER  
13 PURPOSES.  
14

**Subtitle**

15 LEVIES A NEW WHOLESALE CIGARETTE EXCISE  
16 TAX AND AN ADDITIONAL WHOLESALE TOBACCO  
17 PRODUCTS TAX.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended  
24 to add an additional section to read as follows:

25 26-57-804. Cigarette Excise Tax.

26 (a)(1) In addition to the excise or privilege taxes levied on  
27 cigarettes under §§ 26-57-208, 26-57-802, and 26-57-803, there is levied a  
28 new excise tax of twenty-six percent (26%) of the gross invoice cost of  
29 cigarettes sold by a wholesaler to a retailer.

30 (2) For the purpose of this section:

31 (A) "Gross invoice cost" means the wholesaler's price for  
32 the product sold as listed on the invoice to the retailer before any  
33 deduction for allowances, whether manufacturer promotional allowances or  
34 otherwise, or for discounts of any kind; and

35 (B) "Manufacturer promotional allowances" means any  
36 payment or compensation given by a manufacturer of cigarettes to wholesalers



1 or to retailers to promote the sale of cigarettes, and which the manufacturer  
2 requires the wholesaler to pass on to the retailer and the retailer to pass  
3 on to the retailer's customer.

4 (b)(1) The tax levied under this section shall be paid by the  
5 wholesaler when the cigarettes are sold to a retailer.

6 (2) The tax levied under this section shall be paid by a  
7 retailer who purchases cigarettes directly from a manufacturer.

8 (3) The tax shall be reported, remitted, and administered in the  
9 same manner and at the same time as prescribed in § 26-57-211(b).

10 (c) The revenues derived from the tax imposed by this section shall be  
11 credited to the General Revenue Fund Account of the State Apportionment Fund,  
12 there to be distributed with the other gross general revenue collections for  
13 that month.

14 (d) The tax levied by this section shall expire on May 31, 2004.

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16 SECTION 2. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended  
17 to add an additional section to read as follows:

18 26-57-805. Tobacco products tax.

19 (a) In addition to the excise or privilege taxes levied under §§ 26-57-  
20 208(2), 26-57-803(b) and 26-57-1102(a), there is levied an additional tax on  
21 tobacco products other than cigarettes on the first sale to wholesalers or  
22 retailers within the state at twenty-six percent (26%) of the manufacturer's  
23 selling price. The tax shall be computed on the actual manufacturer's invoice  
24 price before discounts.

25 (b)(1)(A) The taxes levied by this section shall be reported and paid  
26 by wholesalers licensed pursuant to § 26-57-214 of the Arkansas Tobacco  
27 Products Tax Act of 1977.

28 (B) Provided, retailers shall be liable for reporting and  
29 paying these taxes when a retailer purchases tobacco products directly from a  
30 manufacturer or from a wholesaler or distributor not licensed pursuant to §  
31 26-57-214 of the Arkansas Tobacco Products Tax Act of 1977.

32 (2)(A) Any taxpayer who fails to report and remit the tobacco tax  
33 due on tobacco products purchased from manufacturers, distributors or  
34 wholesalers who are not licensed under § 26-57-214 of the Arkansas Tobacco  
35 Products Tax Act of 1977 shall be subject to the following penalties:

36 (i) Five percent (5%) of the total tobacco tax due

1 for the first offense;

2 (ii) Twenty percent (20%) of the total tobacco tax  
3 due for the second offense; and

4 (iii) Twenty-five percent (25%) of the total tobacco  
5 tax due for the third and any subsequent offenses.

6 (B) In addition, the taxpayer's retail cigarette/tobacco  
7 permit shall be revoked for a period of ninety (90) days for the third and  
8 any subsequent offenses.

9 (c) The revenues derived from the additional tax imposed by this  
10 section shall be credited to the General Revenue Fund Account of the State  
11 Apportionment Fund, there to be distributed with the other gross general  
12 revenue collections for that month.

13 (d) The tax levied by this section shall expire on May 31, 2004.

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15 SECTION 3. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended  
16 to add an additional section to read as follows:

17 26-57-806. Cigarette Excise Tax.

18 (a)(1) Beginning on June 1, 2004, in addition to the excise or  
19 privilege taxes levied on cigarettes under §§ 26-57-208, 26-57-802, and 26-  
20 57-803, there is levied an new excise tax of seventeen percent (17%) of the  
21 gross invoice cost of cigarettes sold by a wholesaler to a retailer.

22 (2) For the purpose of this section:

23 (A) "Gross invoice cost" means the wholesaler's price for  
24 the product sold as listed on the invoice to the retailer before any  
25 deduction for allowances, whether manufacturer promotional allowances or  
26 otherwise, or for discounts of any kind; and

27 (B) "Manufacturer promotional allowances" means any payment  
28 or compensation given by a manufacturer of cigarettes to wholesalers or to  
29 retailers to promote the sale of cigarettes, and which the manufacturer  
30 requires the wholesaler to pass on to the retailer and the retailer to pass  
31 on to the retailer's customer.

32 (b)(1) The tax levied under this section shall be paid by the  
33 wholesaler when the cigarettes are sold to a retailer.

34 (2) The tax levied under this section shall be paid by a  
35 retailer who purchases cigarettes directly from a manufacturer.

36 (3) The tax shall be reported, remitted, and administered in the

1 same manner and at the same time as prescribed in § 26-57-211(b).

2 (c) The revenues derived from the tax imposed by this section shall be  
3 credited to the General Revenue Fund Account of the State Apportionment Fund,  
4 there to be distributed with the other gross general revenue collections for  
5 that month.

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7 SECTION 4. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended  
8 to add an additional section to read as follows:

9 26-57-807. Tobacco products tax.

10 (a) Beginning June 1, 2004, in addition to the excise or privilege  
11 taxes levied under §§ 26-57-208(2), 26-57-803(b) and 26-57-1102(a), there is  
12 levied an additional tax on tobacco products other than cigarettes on the  
13 first sale to wholesalers or retailers within the state at seventeen percent  
14 (17%) of the manufacturer's selling price. The tax shall be computed on the  
15 actual manufacturer's invoice price before discounts.

16 (b)(1)(A) The taxes levied by this section shall be reported and paid  
17 by wholesalers licensed pursuant to § 26-57-214 of the Arkansas Tobacco  
18 Products Tax Act of 1977.

19 (B) Provided, retailers shall be liable for reporting and  
20 paying these taxes when a retailer purchases tobacco products directly from a  
21 manufacturer or from a wholesaler or distributor not licensed pursuant to §  
22 26-57-214 of the Arkansas Tobacco Products Tax Act of 1977.

23 (2)(A) Any taxpayer who fails to report and remit the tobacco tax  
24 due on tobacco products purchased from manufacturers, distributors or  
25 wholesalers who are not licensed under § 26-57-214 of the Arkansas Tobacco  
26 Products Tax Act of 1977 shall be subject to the following penalties:

27 (i) Five percent (5%) of the total tobacco tax due  
28 for the first offense;

29 (ii) Twenty percent (20%) of the total tobacco tax  
30 due for the second offense; and

31 (iii) Twenty-five percent (25%) of the total tobacco  
32 tax due for the third and any subsequent offenses.

33 (B) In addition, the taxpayer's retail cigarette/tobacco  
34 permit shall be revoked for a period of ninety (90) days for the third and  
35 any subsequent offenses.

36 (c) The revenues derived from the additional tax imposed by this

1 section shall be credited to the General Revenue Fund Account of the State  
2 Apportionment Fund, there to be distributed with the other gross general  
3 revenue collections for that month.

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5 SECTION 5. EFFECTIVE DATE. Sections 1 and 2 of this act shall become  
6 effective on the first day of the month following the effective date of this  
7 act.

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*/s/ Dees, et al*

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