

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

A Bill

Call Item 17

HOUSE BILL 1039

5 By: Representatives Ferguson, R. Smith, Bolin, Jackson
6
7

For An Act To Be Entitled

9 AN ACT TO LEVY ADDITIONAL TOBACCO EXCISE TAXES ON
10 CIGARETTES AND TOBACCO PRODUCTS OTHER THAN
11 CIGARETTES; TO LEVY AN INCOME TAX SURCHARGE; AND
12 FOR OTHER PURPOSES.
13

Subtitle

15 AN ACT TO LEVY ADDITIONAL TOBACCO EXCISE
16 TAXES ON CIGARETTES AND TOBACCO PRODUCTS
17 OTHER THAN CIGARETTES AND TO LEVY AN
18 INCOME TAX SURCHARGE.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

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. Additional tax.

26 (a) Beginning June 1, 2003, in addition to the excise or privilege
27 taxes levied under §§ 26-57-208, 26-57-802, 26-57-803, and 26-57-1101, there
28 is levied an additional tax of twelve dollars and fifty cents (\$12.50) per
29 one thousand (1,000) cigarettes sold in the state.

30 (b)(1) Whenever there are two (2) adjoining cities each with a
31 population of five thousand (5,000) or more separated by a state line, the
32 tax on cigarettes sold in the adjoining Arkansas city shall be at the rate
33 imposed by law on cigarettes sold in the adjoining city outside of Arkansas.
34 The tax shall not exceed the tax upon cigarettes imposed by Arkansas law.

35 (2) The tax on cigarettes sold in Arkansas within three hundred
36 feet (300') of a state line, in any Arkansas city that adjoins a state line,



1 or in any city which is separated only by a navigable river from a city which
 2 adjoins a state line shall be at the rate imposed by law on cigarettes sold
 3 in the adjoining state. The tax shall not exceed the tax upon cigarettes
 4 imposed by Arkansas law.

5 (3)(A) A wholesaler or retailer shall not sell cigarettes to a
 6 retailer located outside of a border zone described in subdivisions (b)(1)
 7 and (2) of this section unless the full amount of tax levied by this section
 8 and §§ 26-57-208, 26-57-802, 26-57-803, and 26-57-1101, without regard to any
 9 reduced border zone rate, has been paid as evidenced by cigarette stamps
 10 affixed to each container of cigarettes.

11 (B) A retailer located outside of a border zone described
 12 in subdivisions (b)(1) and (2) of this section shall not possess or offer for
 13 sale cigarettes unless the full amount of tax levied by this section and §§
 14 26-57-208, 26-57-802, 26-57-803, and 26-57-1101, without regard to any
 15 reduced border zone rate, has been paid as evidenced by cigarette stamps
 16 affixed to each container of cigarettes.

17 (C) A violation of subdivisions (b)(3)(A) or (B) of this
 18 section shall be grounds for the suspension or revocation of a permit or
 19 license issued by the Director of the Arkansas Tobacco Control Board.

20 (c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-
 21 210 shall apply to this section.

22 (d) Purchases of stamps pursuant to § 26-57-236, by wholesalers and
 23 stamp deputies during May 2003, shall be limited to one hundred and ten
 24 percent (110%) of the amount of each purchaser's average stamp purchase for
 25 the period January 2003 through April 2003.

26 (e) The additional tax levied under this section shall be imposed,
 27 reported, remitted, and administered in the same manner and at the same time
 28 as other taxes levied on cigarettes in the Arkansas Tobacco Products Tax Act
 29 of 1977, § 26-57-201, et seq.

30 (f) The director shall not pay the commission authorized by § 26-57-
 31 236(g) with respect to the tax levied by this section.

32 (g) The revenue derived from the additional tax imposed by this
 33 section shall be credited to the General Revenue Fund Account of the State
 34 Apportionment Fund, there to be distributed with the other gross general
 35 revenue collections.

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

3 26-57-805. Additional tax.

4 (a) Beginning June 1, 2003, in addition to the excise or privilege
 5 taxes levied under §§ 26-57-208, 26-57-803, and 26-57-1102, there is levied
 6 an additional tax on tobacco products other than cigarettes on the first sale
 7 to wholesalers or retailers within the state at seven percent (7%) of the
 8 manufacturer's selling price. The tax shall be computed on the actual
 9 manufacturer's invoice price before discounts and deals.

10 (b)(1) The tax levied by this section shall be reported and paid by
 11 wholesalers licensed pursuant to § 26-57-214.

12 (2) Retailers, however, shall be liable for reporting and paying
 13 this tax when a retailer purchases tobacco products directly from a
 14 manufacturer or from a wholesaler or distributor not licensed pursuant to §
 15 26-57-214.

16 (c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-
 17 210 shall apply to this section.

18 (d) The revenue derived from the additional tax imposed by this
 19 section shall be credited to the General Revenue Fund Account of the State
 20 Apportionment Fund, there to be distributed with the other gross general
 21 revenue collections for that month.

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 23 SECTION 3. Title 26, Chapter 51, Subchapter 2, is amended to add a new
 24 section to read as follows:

25 26-51-207. Income tax surcharge.

26 (a) In addition to the tax levied by §§ 26-51-201 through 26-51-206,
 27 26-51-301, and 26-51-302, there is hereby levied an income tax surcharge of
 28 three percent (3%) of the tax liability of every person required to file an
 29 Arkansas income tax return.

30 (b)(1) If an individual is a resident of an Arkansas border city
 31 described in §§ 26-52-601 through 26-52-607, then the individual shall be
 32 liable for the income tax surcharge levied in subsection (a) of this section.

33 (2) The surcharge shall be computed on the tax liability that
 34 would have been due had the income tax exemption of §§ 26-52-601 through 26-
 35 52-607 not been available.

36 (3) The income tax exemption of §§ 26-52-601 through 26-52-607

1 shall not apply to the income tax levied in subsection (a) of this section.

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

6 (d) For purposes of this section, "tax liability" means the tax
7 imposed pursuant to §§ 26-51-201 through 26-51-206, 26-51-301, and 26-52-302,
8 before the application of any tax credits.

9 (e) This section shall apply only to tax years beginning in calendar
10 years 2003 and 2004.

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12 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
13 General Assembly of the State of Arkansas that revenue available for the
14 support of necessary state services has declined significantly as a result of
15 the nationwide economic slowdown; that without additional revenue some state
16 services will be reduced or eliminated; that some Arkansas residents will
17 suffer as a result of service reductions or cuts; and that this bill will
18 provide the necessary revenue to avoid state service reductions or cuts.
19 Therefore, an emergency is declared to exist and this act being immediately
20 necessary for the preservation of the public peace, health, and safety shall
21 become effective on:

22 (1) The date of its approval by the Governor;

23 (2) If the bill is neither approved nor vetoed by the Governor, the
24 expiration of the period of time during which the Governor may veto the bill;
25 or

26 (3) If the bill is vetoed by the Governor and the veto is overridden,
27 the date the last house overrides the veto.

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