

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

As Engrossed: H5/6/03 S5/8/03

A Bill

Call Item 17

HOUSE BILL 1039

5 By: Representatives Ferguson, R. Smith, Bolin, Jackson
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For An Act To Be Entitled

9 AN ACT TO RAISE GENERAL REVENUE BY LEVYING
10 ADDITIONAL TOBACCO EXCISE TAXES ON CIGARETTES AND
11 TOBACCO PRODUCTS OTHER THAN CIGARETTES AND
12 LEVYING AN INCOME TAX SURCHARGE; AND FOR OTHER
13 PURPOSES.
14

Subtitle

15 AN ACT TO RAISE GENERAL REVENUE BY
16 LEVYING ADDITIONAL TOBACCO EXCISE TAXES
17 ON CIGARETTES AND TOBACCO PRODUCTS OTHER
18 THAN CIGARETTES AND LEVYING AN INCOME
19 TAX SURCHARGE.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

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

27 26-57-804. Additional tax.

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

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



1 (2) The tax on cigarettes sold in Arkansas within three hundred
2 feet (300') of a state line, in any Arkansas city that adjoins a state line,
3 or in any city which is separated only by a navigable river from a city which
4 adjoins a state line shall be at the rate imposed by law on cigarettes sold
5 in the adjoining state. The tax shall not exceed the tax upon cigarettes
6 imposed by Arkansas law.

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

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

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

22 (c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-
23 210 shall apply to this section.

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

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

32 (f) The director shall not pay the commission authorized by § 26-57-
33 236(g) with respect to the tax levied by this section.

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

1 revenue collections.

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

5 26-57-805. Additional tax.

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

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

14 (2) Retailers, however, shall be liable for reporting and paying
15 this tax when a retailer purchases tobacco products directly from a
16 manufacturer or from a wholesaler or distributor not licensed pursuant to §
17 26-57-214.

18 (c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-
19 210 shall apply to this section.

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

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

27 26-51-207. Income tax surcharge.

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

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

35 (2) The surcharge shall be computed on the tax liability that
36 would have been due had the income tax exemption of §§ 26-52-601 through 26-

1 52-607 not been available.

2 (3) The income tax exemption of §§ 26-52-601 through 26-52-607
3 shall not apply to the income tax levied in subsection (a) of this section.

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

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

11 (e) This section shall apply to tax years beginning in calendar
12 years 2003 and 2004.

13 (f)(1) This section shall also continue to apply to tax years
14 beginning on and after January 1, 2005, except as provided in this subsection
15 (f).

16 (2) When the budget estimates required by § 19-4-202(b) for the
17 fiscal year ending June 30, 2006, reflect projected growth in general
18 revenues available for distribution equal to or in excess of one hundred
19 twenty-one million dollars (\$121,000,000), then the tax rate levied in § 26-
20 51-207 shall be reduced or expire in accordance with this subsection (f).

21 (3)(A) When the budget estimates required by § 19-4-202(b) for
22 the fiscal year ending June 30, 2006, reflect projected growth in general
23 revenues available for distribution equal to or in excess of one hundred
24 fifty-six million dollars (\$156,000,000), then the tax levied in § 26-51-207
25 shall expire for tax years beginning on and after January 1, 2005.

26 (B) When the budget estimates required by § 19-4-202(b)
27 for the fiscal year ending June 30, 2006, reflect projected growth in general
28 revenues available for distribution equal to or in excess of one hundred
29 thirty-nine million dollars (\$139,000,000) but less than one hundred fifty-
30 six million dollars (\$156,000,000), then the tax rate levied in § 26-51-207
31 shall be reduced to one percent (1%) for tax years beginning in calendar year
32 2005 and for subsequent years.

33 (C) When the budget estimates required by § 19-4-202(b)
34 for the fiscal year ending June 30, 2006, reflect projected growth in general
35 revenues available for distribution equal to or in excess of one hundred
36 twenty-one million dollars (\$121,000,000) but less than one hundred thirty-

1 nine million dollars (\$139,000,000), then the tax rate levied in § 26-51-207
2 shall be reduced to two percent (2%) for tax years beginning in calendar year
3 2005 and for subsequent years.

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

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

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

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

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22 /s/ Ferguson
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