

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

*As Engrossed: S3/5/13 S3/6/13*

# A Bill

SENATE BILL 540

5 By: Senator Maloch  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAWS PERTAINING TO TAXES LEVIED  
9 ON TOBACCO PRODUCTS; TO CLARIFY THAT CURRENT LAW  
10 IMPOSES AN EXCISE TAX ON ALL TOBACCO PRODUCTS OFFERED  
11 FOR SALE IN THE STATE; TO DECLARE AN EMERGENCY; AND  
12 FOR OTHER PURPOSES.  
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## Subtitle

15 TO AMEND THE LAWS PERTAINING TO TAXES  
16 LEVIED ON TOBACCO PRODUCTS; TO CLARIFY  
17 THAT CURRENT LAW IMPOSES AN EXCISE TAX ON  
18 ALL TOBACCO PRODUCTS OFFERED FOR SALE IN  
19 THE STATE; AND TO DECLARE AN EMERGENCY.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 26-57-203(10), concerning the definitions  
26 to be used under the Arkansas Tobacco Products Tax Act of 1977, is amended to  
27 read as follows:

28 (10) "First sale" means the sale of tobacco products made by a  
29 manufacturer to licensed wholesalers and licensed vendors or a licensed  
30 retailer ~~only~~;  
31

32 SECTION 2. Arkansas Code § 26-57-203(16)(A), concerning the  
33 definitions to be used under the Arkansas Tobacco Products Tax Act of 1977,  
34 is amended to read as follows:

35 (16)(A) "Manufacturer" means a person that produces or offers a  
36 tobacco product for sale, including without limitation importers and



1 *distributors that deal in tobacco products as manufacturers and that are*  
2 *required under this subchapter to sell only to licensed wholesalers or*  
3 *licensed retailers located in the state.*  
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5 SECTION 3. Arkansas Code § 26-57-203(26)(A), concerning the  
6 definitions to be used under the Arkansas Tobacco Products Tax Act of 1977,  
7 is amended to read as follows:

8 (26)(A) "Sales entity affiliate" means an entity that:

- 9 (i) Sells cigarettes or other tobacco products that  
10 the entity acquires directly from a manufacturer or importer; and  
11 (ii) Is affiliated with the manufacturer or importer  
12 from which the entity acquires the cigarettes or other tobacco products.  
13

14 SECTION 4. Arkansas Code § 26-57-203(33)(A), concerning the  
15 definitions to be used under the Arkansas Tobacco Products Tax Act of 1977,  
16 is amended to read as follows:

17 (33)(A) "Wholesaler" means a person other than a manufacturer or  
18 a person owned or operated by a manufacturer that:

- 19 (i) Does business within the state ~~at or from an~~  
20 ~~established place of business that~~ and purchases unstamped or untaxed  
21 cigarettes or other tobacco products directly from manufacturers that  
22 distribute tobacco products in the state; and

23 (ii) Sells to properly licensed cigarette or other  
24 tobacco product vendors or retailers.  
25

26 SECTION 5. Arkansas Code § 26-57-203, concerning the definitions to be  
27 used under the Arkansas Tobacco Products Tax Act of 1977, is amended to add  
28 an additional subdivision to read as follows:

29 (34) "Invoice price" means the price that a wholesaler or  
30 retailer of tobacco products pays to a manufacturer, importer, or distributor  
31 for tobacco products that the wholesaler or retailer subsequently sells in  
32 the state.  
33

34 SECTION 6. Arkansas Code § 26-57-208(2), concerning the levy and  
35 computation of tax on sales of tobacco products other than cigarettes, is  
36 amended to read as follows:

1           (2)(A) The excise or privilege tax levied on tobacco products  
2 other than cigarettes ~~on the sale by wholesalers to retailers, or by licensed~~  
3 ~~retailers to the Director of the Department of Finance and Administration~~  
4 ~~within the state~~ that are offered for sale in the state is sixteen percent  
5 (16%) of the ~~manufacturer's selling price,~~ invoice price to a wholesaler or  
6 retailer, before discounts;

7           ~~(B) The tax shall be computed on the actual manufacturer's~~  
8 ~~invoice price before discounts;~~

9  
10           SECTION 7. Arkansas Code § 26-57-803(b), concerning the levy of tax on  
11 the sale of tobacco products other than cigarettes, is amended to read as  
12 follows:

13           (b) In addition to the tax imposed by § 26-57-208(2), there is levied  
14 an additional excise or privilege tax on ~~the sale of~~ tobacco products other  
15 than cigarettes ~~by wholesalers to retailers or by licensed retailers to the~~  
16 ~~Director of the Department of Finance and Administration~~ that are offered for  
17 sale in the state at seven percent (7%) of the ~~manufacturer's selling price.~~  
18 ~~The tax shall be computed before discounts~~ invoice price to a wholesaler or  
19 retailer, before discounts.

20  
21           SECTION 8. Arkansas Code § 26-57-805(a), concerning the levy of tax on  
22 tobacco products other than cigarettes, is amended to read as follows:

23           (a)~~(1)~~ In addition to the excise or privilege taxes levied under §§  
24 26-57-208, 26-57-803, and 26-57-1102, there is levied an additional tax on  
25 tobacco products other than cigarettes ~~on the first sale to wholesalers or~~  
26 ~~retailers within~~ that are offered for sale in the state at seven percent (7%)  
27 of the ~~manufacturer's selling price~~ invoice price to a wholesaler or  
28 retailer, before discounts.

29           ~~(2) The tax shall be computed on the manufacturer's actual~~  
30 ~~invoice price before discounts and deals.~~

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32           SECTION 9. Arkansas Code § 26-57-807(a), concerning the levy of tax on  
33 tobacco products other than cigarettes, is amended to read as follows:

34           (a)~~(1)~~ In addition to the excise or privilege taxes levied under §§  
35 26-57-208, 26-57-803, 26-57-805 and 26-57-1102, there is levied an additional  
36 tax on tobacco products other than cigarettes ~~on the first sale to~~

1 ~~wholesalers or retailers within~~ that are offered for sale in the state at  
2 thirty-six percent (36%) of the ~~manufacturer's selling price~~ invoice price to  
3 a wholesaler or retailer, before discounts.

4 ~~(2) The tax shall be computed on the manufacturer's actual~~  
5 ~~invoice price before discounts and deals.~~

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7 SECTION 10. Arkansas Code § 26-57-1102(a), concerning the computation  
8 of tax levied on tobacco products other than cigarettes, is amended to read  
9 as follows:

10 (a)~~(1)~~ In addition to the tax imposed by § 26-57-208(2), there is  
11 ~~imposed~~ levied an additional excise or privilege tax on tobacco products  
12 other than cigarettes ~~on the first sale to wholesalers or retailers within~~  
13 that are offered for sale in the state at two percent (2%) of the  
14 ~~manufacturer's selling price~~ invoice price to a wholesaler or retailer,  
15 before discounts.

16 ~~(2) The tax shall be computed on the actual manufacturer's~~  
17 ~~invoice price before discounts and deals.~~

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19 SECTION 11. EMERGENCY CLAUSE. It is found and determined by the  
20 General Assembly of the State of Arkansas that it is the intent of the  
21 General Assembly to clarify that each excise tax on tobacco products levied  
22 under current law is applicable to all tobacco products offered for sale  
23 within the State of Arkansas; that revenues from excise taxes under current  
24 law on all tobacco products offered for sale within the state are vital to  
25 protect the health and welfare of the citizens of this state; and that this  
26 act is immediately necessary to ensure and maintain the efficient  
27 administration and collection of revenues levied under current law on tobacco  
28 products sold within the state. Therefore, an emergency is declared to exist,  
29 and this act being immediately necessary for the preservation of the public  
30 peace, health, and safety shall become effective on:

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

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

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

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*/s/Maloch*