

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: H2/2/09

# A Bill

HOUSE BILL 1204

5 By: Representatives Reep, Wills, Shelby, *Everett, Allen*, T. Baker, J. Brown, Carroll, Cheatham, Cook, J.  
6 Edwards, Gaskill, R. Green, Harrelson, House, Hyde, Lindsey, Maloch, Maxwell, Moore, Pennartz,  
7 Powers, Rainey, J. Roebuck, L. Smith, Tyler, Webb, Wells, *McCrary, Patterson, Blount, Pierce, Dunn,*  
8 *Abernathy, Saunders*  
9 By: Senators Steele, J. Jeffress  
10  
11

## For An Act To Be Entitled

13 AN ACT TO INCREASE THE TAX ON CIGARETTES AND  
14 OTHER TOBACCO PRODUCTS; TO AUTHORIZE THE  
15 DEPARTMENT OF FINANCE AND ADMINISTRATION TO PAY  
16 THE COMMISSION TO THE STAMP DEPUTIES FOR CERTAIN  
17 CIGARETTE TAXES; AND FOR OTHER PURPOSES.

## Subtitle

18  
19  
20 TO INCREASE THE TAX ON CIGARETTES AND  
21 CERTAIN TOBACCO PRODUCTS AND TO  
22 AUTHORIZE THE DEPARTMENT OF FINANCE AND  
23 ADMINISTRATION TO PAY THE COMMISSION TO  
24 THE STAMP DEPUTIES FOR CERTAIN CIGARETTE  
25 TAXES.  
26  
27

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
29

30 SECTION 1. Arkansas Code § 26-57-236(g) as amended by Acts 1997, No.  
31 434, is amended to read as follows:

32 (g)(1) A commission shall be paid by the director to stamp deputies  
33 for the sales and collection of cigarette tax stamps and for affixing the tax  
34 stamps to each package of cigarettes.

35 (2) The commission shall not be less than ~~three and eight tenths~~  
36 ~~percent (3.8%)~~ three percent (3%) of the total aggregate cigarette tax



1 collected.

2  
3 SECTION 2. Arkansas Code § 26-57-236(f) as amended by Acts 1997, No.  
4 1337, is amended to read as follows:

5 (f) A commission shall be paid by the director to stamp deputies for  
6 the sale of stamps for cigarettes and the collection of cigarette taxes. The  
7 commission paid shall not be less than ~~three and eight tenths percent (3.8%)~~  
8 three percent (3%) of the total aggregate cigarette tax collected.

9  
10 SECTION 3. Arkansas Code § 26-57-804(e), concerning the additional tax  
11 on tobacco products, is amended to read as follows:

12 (e) The Director of the Department of Finance and Administration shall  
13 ~~not~~ pay the commission authorized by § 26-57-236(g) with respect to the tax  
14 levied by this section.

15  
16 SECTION 4. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended  
17 to add an additional section to read as follows:

18 26-57-806. Additional tax on cigarettes.

19 (a) In addition to the excise or privilege taxes levied under §§ 26-  
20 57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101, there is levied an  
21 additional tax of twenty-eight dollars (\$28.00) per one thousand (1,000)  
22 cigarettes sold in the state.

23 (b)(1)(A) Whenever there are two (2) adjoining cities each with a  
24 population of five thousand (5,000) or more separated by a state line, the  
25 tax on cigarettes sold in the adjoining Arkansas city shall be at the rate  
26 imposed by law on cigarettes sold in the adjoining city outside Arkansas.

27 (B) The tax shall not exceed the tax upon cigarettes  
28 imposed by Arkansas law.

29 (2)(A) The tax on cigarettes sold in Arkansas within three  
30 hundred feet (300') of a state line in any Arkansas city that adjoins a state  
31 line or in any city that is separated only by a navigable river from a city  
32 that adjoins a state line shall be at the rate imposed by law on cigarettes  
33 sold in the adjoining state.

34 (B) The tax shall not exceed the tax upon cigarettes  
35 imposed by Arkansas law.

36 (3)(A) A wholesaler or retailer shall not sell cigarettes to a

1 retailer located outside a border zone described in subdivisions (b)(1) and  
2 (2) of this section unless the full amount of tax levied by this section and  
3  §§ 26-57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101 without regard  
4  to any reduced border zone rate has been paid as evidenced by cigarette  
5  stamps affixed to each container of cigarettes.

6 (B) A retailer located outside a border zone described in  
7  subdivisions (b)(1) and (2) of this section shall not possess or offer for  
8  sale cigarettes unless the full amount of tax levied by this section and §§  
9  26-57-208, 26-57-802, 26-57-803, 26-57-804, and 26-57-1101 without regard to  
10  any reduced border zone rate has been paid as evidenced by cigarette stamps  
11  affixed to each container of cigarettes.

12 (C) A violation of this subdivision (b)(3) shall be  
13  grounds for the suspension or revocation of a permit or license issued by the  
14  Director of the Arkansas Tobacco Control Board.

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

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

21 (e) The revenue derived from the additional tax imposed by this  
22  section shall be credited to the General Revenue Fund Account of the State  
23  Apportionment Fund, there to be distributed with the other gross general  
24  revenue collections for that month in accordance with the Revenue  
25  Stabilization Law, § 19-5-201 et seq.

26 (f) As provided in § 26-57-244, the director may make a direct  
27  assessment of excise tax against any person in possession of unstamped  
28  cigarettes.

29  
30 SECTION 5. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended  
31 to add an additional section to read as follows:

32 26-57-807. Additional tax on tobacco products other than cigarettes.

33 (a)(1) In addition to the excise or privilege taxes levied under §§  
34  26-57-208, 26-57-803, 26-57-805 and 26-57-1102, there is levied an additional  
35  tax on tobacco products other than cigarettes on the first sale to  
36  wholesalers or retailers within the state at thirty-six percent (36%) of the

1 manufacturer's selling price.

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

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

6 (2) However, retailers shall be liable for reporting and paying  
7 this tax when a retailer purchases tobacco products directly from a  
8 manufacturer or from a wholesaler or distributor not licensed under § 26-57-  
9 214.

10 (c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-  
11 210 shall apply to this section.

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

16 (e) The revenue derived from the additional tax imposed by this  
17 section shall be credited to the General Revenue Fund Account of the State  
18 Apportionment Fund, there to be distributed with the other gross general  
19 revenue collections for that month in accordance with the Revenue  
20 Stabilization Law, § 19-5-201 et seq.

21 (f) As provided in § 26-57-244, the Director of the Department of  
22 Finance and Administration may make a direct assessment of excise tax against  
23 any person in possession of an untaxed tobacco product.

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25 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the  
26 General Assembly of the State of Arkansas that existing funding levels are  
27 inadequate to meet the medical care needs of the state. That without  
28 immediately obtaining adequate funding levels for medical care the citizens  
29 of this state will suffer irreparable harm to their health and well-being.  
30 This bill shall immediately provide additional funding that is needed to make  
31 the funding level adequate and humane. Therefore, an emergency is declared  
32 to exist and this act being immediately necessary for the preservation of the  
33 public peace, health, and safety shall become effective on March 1, 2009.

34  
35 /s/ Reep  
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