

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1005

By: Representative A. Davis

By: Senator Irvin

For An Act To Be Entitled

AN ACT CONCERNING THE TAXATION OF CANDY AND SOFT DRINKS; TO CLARIFY THE APPLICATION OF THE SALES AND USE TAX TO CANDY AND SOFT DRINKS; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE APPLICATION OF THE SALES AND USE TAX TO CANDY AND SOFT DRINKS.

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

SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3, is amended to add an additional section to read as follows:

26-52-323. Application of tax to candy and soft drinks.

The Director of the Department of Finance and Administration shall either:

(1)(A) Publish a list of the Universal Product Codes for items that meet the definition of:

(i) A candy under § 26-52-103(3) or § 26-53-102(3);

or

(ii) A soft drink under § 26-52-103(28) or § 26-53-102(22).

(B) The list published by the director under subdivision (1)(A) of this section shall provide guidance to retailers, sellers, and vendors regarding which items are defined as a candy or a soft drink but not defined as food and food ingredients under the Arkansas Gross Receipts Act of



1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

(C) The list published by the director under subdivision (1)(A) of this section is exempt from the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; or

(2) Not subject a retailer, seller, or vendor to the penalties under § 26-18-201, § 26-18-202, § 26-18-208, § 26-18-209, § 26-52-512, or § 26-53-125 if the retailer, seller, or vendor:

(A) Collects and remits tax payments to the Department of Finance and Administration on the gross receipts and gross proceeds derived from the sale of items that meet the definition of:

(i) A candy under § 26-52-103(3) or § 26-53-102(3) at the taxable rate for food and food ingredients under § 26-52-317 or § 26-53-145; or

(ii) A soft drink under § 26-52-103(28) or § 26-53-102(22) at the taxable rate for food and food ingredients under § 26-52-317 or § 26-53-145; and

(B) Demonstrates a good faith effort to collect and remit tax payments to the department on the gross receipts and gross proceeds derived from the sale of items that meet the definition of:

(i) A candy under § 26-52-103(3) or § 26-53-102(3) at the taxable rate under § 26-52-301, § 26-52-302, § 26-53-106, or § 26-53-107; or

(ii) A soft drink under § 26-52-103(28) or § 26-53-102(22) at the taxable rate under § 26-52-301, § 26-52-302, § 26-53-106, or § 26-53-107.