

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1442

By: Representative A. Davis

By: Senator J. Dismang

For An Act To Be Entitled

AN ACT TO PROVIDE FUNDING FOR A NATIONAL CANCER INSTITUTE-DESIGNATED CANCER CENTER IN THE STATE THROUGH CHANGES IN THE LAWS RELATING TO THE SALE AND TAXATION OF CERTAIN PRODUCTS; TO REGULATE THE SALE AND TAXATION OF TOBACCO PRODUCTS, CIGARETTE PAPER, E-CIGARETTES, AND MEDICAL MARIJUANA; TO AMEND THE UNFAIR CIGARETTE SALES ACT; TO AMEND THE ARKANSAS TOBACCO PRODUCTS TAX ACT OF 1977; TO CREATE AN ADDITIONAL TAX ON CIGARETTE PAPER; TO CREATE A TAX ON E-CIGARETTES; TO INCREASE THE SPECIAL PRIVILEGE TAX ON MEDICAL MARIJUANA; TO DEDICATE THE ADDITIONAL TAX REVENUE TO THE UNIVERSITY OF ARKANSAS FOR MEDICAL SCIENCES NATIONAL CANCER INSTITUTE DESIGNATION TRUST FUND TO ASSIST THE UNIVERSITY OF ARKANSAS FOR MEDICAL SCIENCES IN OBTAINING STATUS AS A NATIONAL CANCER INSTITUTE-DESIGNATED CANCER CENTER; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE FUNDING FOR A NATIONAL CANCER INSTITUTE-DESIGNATED CANCER CENTER IN THE STATE THROUGH CHANGES IN THE LAWS RELATING TO THE SALE AND TAXATION OF TOBACCO PRODUCTS, CIGARETTE PAPER, E-CIGARETTES, AND MEDICAL MARIJUANA.



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

SECTION 1. Arkansas Code § 4-75-702(4)(B), concerning the definition of "cost to retailer" used under the Unfair Cigarette Sales Act, is amended to read as follows:

(B) In the absence of the filing with the Arkansas Tobacco Control Board of proof satisfactory to the board of a lesser or higher cost of doing business by the retailer making the sale, the cost of doing business by the retailer shall be presumed to be ~~seven and one-half percent (7½%)~~ nine and five-tenths percent (9.5%) of the basic cost of cigarettes to the retailer.

SECTION 2. Arkansas Code § 19-6-301, concerning the enumeration of special revenues, is amended to add additional subdivisions to read as follows:

(263) The e-liquid excise tax collected under § 26-57-1603; and

(264) The additional tax on cigarette paper collected under § 26-57-808.

SECTION 3. Arkansas Code § 26-57-259(a), concerning nonpreemption under the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

(a)(1) This ~~act~~ subchapter and the rules and other actions of the Arkansas Tobacco Control Board shall not be construed or interpreted so as to preempt or in any other manner qualify or limit the enactment and enforcement of any federal, or state, ~~county, municipal, or other local~~ regulation of the manufacture, sale, storage, or distribution of tobacco products that is more restrictive than this ~~act~~ subchapter or the rules and regulations promulgated by the board.

(2)(A) This subchapter and the rules and other actions of the board shall preempt the enactment and enforcement of any county, municipal, or other local regulation of the manufacture, sale, storage, or distribution of tobacco products that is more restrictive than this subchapter or the rules promulgated by the board.

(B) A county, municipal, or other local regulation of the manufacture, sale, storage, or distribution of tobacco products that is more

restrictive than this subchapter or the rules promulgated by the board and that exists as of the effective date of this act is not preempted under this subdivision (a)(2).

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

26-57-268. Modified risk tobacco products – Reduced rate of taxation.

Notwithstanding any other provision of the law to the contrary, a tax imposed under this chapter shall be reduced by the following amounts:

(1) Fifty percent (50%) for a product for which a modified risk tobacco product order has been issued by the United States Secretary of Health and Human Services under 21 U.S.C. § 387k(g)(1), as it existed on January 1, 2019; and

(2) Twenty-five percent (25%) for a product for which a modified risk tobacco product order has been issued by the United States Secretary of Health and Human Services under 21 U.S.C. § 387k(g)(2), as it existed on January 1, 2019.

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

26-57-808. Additional tax on cigarette paper – Distribution of revenues.

(a) In addition to the excise tax levied under § 26-57-801, there is levied an additional tax of fifty cents (50¢) per package of approximately thirty-two (32) sheets of cigarette paper sold in the state.

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

(c) The revenues collected under this section shall be special revenues and shall be credited to the University of Arkansas for Medical Sciences National Cancer Institute Designation Trust Fund.

SECTION 6. Arkansas Code § 26-57-1504 is amended to read as follows:
26-57-1504. Levy of tax.

A cultivation facility, dispensary, or other marijuana business shall

collect and remit a special privilege tax of ~~four percent (4%)~~ six percent (6%) from the gross receipts or gross proceeds derived from each sale of usable marijuana on forms and in a manner specified by the Director of the Department of Finance and Administration.

SECTION 7. Arkansas Code Title 26, Chapter 57, Subchapter 15, is amended to add an additional section to read as follows:

26-57-1508. Distribution of proceeds.

(a) The special privilege tax revenues received by the Department of Finance and Administration from the sale of usable marijuana under Arkansas Constitution, Amendment 98, shall be distributed as provided in Arkansas Constitution, Amendment 98, § 17.

(b)(1) The Director of the Department of Finance and Administration shall certify annually the amount of revenue transferred to the General Revenue Fund Account of the State Apportionment Fund under Arkansas Constitution, Amendment 98, § 17(c).

(2) The Treasurer of State, before making the percentage distributions of general revenues as provided by law, shall deduct from the General Revenue Fund Account of the State Apportionment Fund an amount equal to the amount certified under subdivision (b)(1) of this section for transfer to the University of Arkansas for Medical Sciences National Cancer Institute Designation Trust Fund.

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

Subchapter 16 – E-Liquid Excise Tax Act

26-57-1601. Title.

This subchapter shall be known and may be cited as the "E-Liquid Excise Tax Act".

26-57-1602. Definition.

As used in this subchapter, "e-liquid" means the same as defined in § 26-57-203.

26-57-1603. Excise tax.

There is levied an excise tax on e-liquid sold in this state in the amount of ten cents (10¢) per one milliliter (1 mL) of e-liquid sold.

26-57-1604. Imposition, reporting, remittance, and administration of privilege tax.

Except as otherwise provided in this subchapter, the excise tax levied under § 26-57-1603 shall be imposed, reported, remitted, and administered in the same manner and at the same time as taxes on tobacco products under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq.

26-57-1605. Invoices.

The excise tax levied under § 26-57-1603 shall be separately stated and identified on each invoice or statement as the "E-Liquid Excise Tax".

26-57-1606. Distribution of revenues.

The revenues collected under this subchapter shall be special revenues and shall be credited to the University of Arkansas for Medical Sciences National Cancer Institute Designation Trust Fund.

26-57-1607. Applicability.

The excise tax levied under § 26-57-1603 applies to inventory and stocks of e-liquid held by a wholesaler or retailer on and after the effective date of this subchapter.

26-57-1608. Rules.

The Director of the Department of Finance and Administration, the Director of Arkansas Tobacco Control, and the Arkansas Tobacco Control Board shall adopt rules necessary to implement and allow for the enforcement of this subchapter.

SECTION 9. DO NOT CODIFY. Rules.

(a) When adopting the initial rules required under this act, the Director of the Department of Finance and Administration, the Director of Arkansas Tobacco Control, and the Arkansas Tobacco Control Board shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

(1) On or before September 1, 2019; or

(2) If approval under § 10-3-309 has not occurred by September 1, 2019, as soon as practicable after approval under § 10-3-309.

(b) The Director of the Department of Finance and Administration, the Director of Arkansas Tobacco Control, and the Arkansas Tobacco Control Board shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of September 1, 2019, so that the Legislative Council may consider the rules for approval before September 1, 2019.

SECTION 10. EFFECTIVE DATE. Sections 2-8 of this act are effective on the first day of the second calendar month following the effective date of this act.