

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

# A Bill

HOUSE BILL 1787

By: Representative L. Johnson

## For An Act To Be Entitled

AN ACT TO REGULATE THE SALE AND TAXATION OF TOBACCO PRODUCTS, E-LIQUID PRODUCTS, AND VAPOR PRODUCTS; TO AMEND THE ARKANSAS TOBACCO PRODUCTS TAX ACT OF 1977; TO CREATE A TAX ON E-LIQUID PRODUCTS AND VAPOR PRODUCTS; AND FOR OTHER PURPOSES.

## Subtitle

REGULATE THE SALE AND TAXATION OF TOBACCO PRODUCTS, E-LIQUID PRODUCTS, AND VAPOR PRODUCTS; TO AMEND THE ARKANSAS TOBACCO PRODUCTS TAX ACT OF 1977; AND TO CREATE A TAX ON E-LIQUID PRODUCTS AND VAPOR PRODUCTS.

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

SECTION 1. 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 has been enacted as of the effective date of this act is not preempted under this subdivision (a)(2).

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

Subchapter 16 – E-Cigarette Excise Tax Act

26-57-1601. Title.

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

26-57-1602. Definition.

As used in this subchapter, "vapor product" and "e-liquid product" mean the same as those terms are defined in § 26-57-203.

26-57-1603. Excise tax.

There is levied an excise tax of thirty percent (30%) of the invoice price, before discounts, on the following products sold in this state:

(1) An e-liquid product; and

(2)(A) A vapor product when the vapor product is sold as part of a bundled transaction with an e-liquid product.

(B) As used in this section, "bundled transaction" means the sale of two (2) or more products, including at least one (1) e-liquid product and at least one (1) vapor product, in which:

(i) The products are otherwise distinct and identifiable; and

(ii) The products are sold for one (1) nonitemized price.

26-57-1604. Imposition, reporting, remittance, and administration of excise 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-Cigarette Excise Tax".

26-57-1606. Distribution of revenues.

The revenues collected under this subchapter shall be general revenues and shall be credited to the General Revenue Fund Account of the State Apportionment Fund.

26-57-1607. Applicability.

The excise tax levied under § 26-57-1603 applies to inventory and stocks of e-liquid products and vapor products purchased by a wholesaler or retailer on or 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 3. 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 4. EFFECTIVE DATE. Sections 1 and 2 of this act are effective on the first day of the second calendar month following the effective date of this act.