

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1795

By: Representative Brown

By: Senator Irvin

For An Act To Be Entitled

AN ACT TO ALLOW FOR SALES AND USE TAX ON ALL-TERRAIN VEHICLES TO BE PAID AT THE TIME OF THE REGISTRATION OF THE ALL-TERRAIN VEHICLE; TO AMEND THE LAW CONCERNING THE REGISTRATION REQUIREMENTS FOR ALL-TERRAIN VEHICLES; TO INCLUDE ALL-TERRAIN VEHICLES IN THE DEFINITION OF "MOTOR VEHICLE" FOR SALES AND USE TAX PURPOSES; AND FOR OTHER PURPOSES.

Subtitle

TO ALLOW FOR SALES AND USE TAX ON ALL-TERRAIN VEHICLES TO BE PAID AT THE TIME OF THE REGISTRATION OF THE ALL-TERRAIN VEHICLE; AND TO AMEND THE LAW CONCERNING THE REGISTRATION REQUIREMENTS FOR ALL-TERRAIN VEHICLES.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) Approximately twenty percent (20%) of all-terrain vehicles purchased by Arkansans are purchased outside the state to avoid having to pay sales tax on all-terrain vehicles at the time of purchase;

(2) Many of the all-terrain vehicles purchased out-of-state are never registered in Arkansas and the current penalty for late registration does not provide an incentive for the registration of the all-terrain



vehicle;

(3) Many purchasers of all-terrain vehicles improperly claim the sales tax exemption for new and used farm machinery and equipment authorized under § 26-52-403;

(4) All all-terrain vehicles, regardless of their intended use, are required to be registered under § 27-20-202;

(5) The theft of all-terrain vehicles is high in Arkansas and requiring the annual registration of all-terrain vehicles and proper placement of the required numbered license decal will assist in preventing all-terrain vehicle theft and determining ownership if recovered;

(6) The purchaser of an all-terrain vehicle should pay local and county sales and use tax on the first two thousand five hundred dollars (\$2,500) of the full purchase price of the all-terrain vehicle as is done for the purchase of a motor vehicle, aircraft, watercraft, modular home, manufactured home, mobile home, travel trailer, and utility trailer; and

(7) The all-terrain vehicle registration fee and the penalty for failure to register an all-terrain vehicle under § 27-20-202 have remained the same since established by Act 1983, No. 872 and need to be amended.

SECTION 2. Arkansas Code § 26-52-103(20), concerning the definition of "motor vehicle" used under the Arkansas Gross Receipts Act of 1941, is amended to read as follows:

(20) "Motor vehicle" means a vehicle that is self-propelled and is required to be registered ~~for use on the highway~~ with the department;

SECTION 3. Arkansas Code § 26-52-513 is amended to read as follows:

26-52-513. Sales of motor-driven ~~and all-terrain~~ vehicles - All-terrain vehicle report.

(a) When any person engaged in the business of selling motor vehicles, motorcycles, motor-driven cycles, ~~three-wheeled all-terrain vehicles~~ as defined in § 27-20-201, ~~four-wheeled all-terrain vehicles, six-wheeled all-terrain vehicles,~~ or motorized bicycles, sells any motorcycle or motor-driven cycle that is designed or manufactured exclusively for competition or off-road use, or sells any ~~three-wheeled all-terrain vehicle, four-wheeled all-terrain vehicle, six-wheeled all-terrain vehicle,~~ or motorized bicycle, the person shall collect and remit the taxes at the same time and in the same

manner as other gross receipts taxes collected by the person.

(b) However, ~~nothing in this section shall be construed so as to~~ this section does not affect the manner in which state and local taxes are collected on motorcycles and motor-driven cycles registered for use on the streets and highways of this state.

(c)(1) A person engaged in the business of selling all-terrain vehicles, as defined in § 27-20-201, shall submit a monthly report to the Department of Finance and Administration concerning each all-terrain vehicle sold by the person during the previous month.

(2) The report required under subdivision (c)(1) of this section shall:

(A) Include without limitation the following information for each all-terrain vehicle sold:

(i) The name of the purchaser of the all-terrain vehicle;

(ii) The brand, model, year, and vehicle identification number of the all-terrain vehicle; and

(iii) The sales price of the all-terrain vehicle;
and

(B) Be submitted electronically by the twentieth day of each month.

SECTION 4. Arkansas Code § 26-53-102(13), concerning the definition of "motor vehicle" used under the Arkansas Compensating Tax Act of 1949, is amended to read as follows:

(13) "Motor vehicle" means a vehicle that is self-propelled and is required to be registered for use ~~for use on the highway~~ with the department;

SECTION 5. Arkansas Code § 26-74-220(a), concerning the maximum tax limitation for county sales and use taxes for capital improvements, is amended to read as follows:

(a)(1) Any county general sales or use tax levied pursuant to this subchapter shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

102;
 (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-

- (B) Aircraft;
- (C) Watercraft;
- (D) Modular home;
- (E) Manufactured home; or
- (F) Mobile home.

(2) A vendor shall be responsible for collecting and remitting the tax only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

- ~~(A) Motor vehicle;~~
- ~~(B)~~(A) Aircraft;
- ~~(C)~~(B) Watercraft;
- ~~(D)~~(C) Modular home;
- ~~(E)~~(D) Manufactured home; or
- ~~(F)~~(E) Mobile home.

SECTION 6. Arkansas Code § 26-74-320(a), concerning the maximum tax limitation for county sales taxes for capital improvements, is amended to read as follows:

(a)(1) Any county general sales or use tax levied pursuant to this subchapter shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

102;
 (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-

- (B) Aircraft;
- (C) Watercraft;
- (D) Modular home;
- (E) Manufactured home; or
- (F) Mobile home.

(2) A vendor shall be responsible for collecting and remitting the tax only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

- ~~(A) Motor vehicle;~~
- ~~(B)~~(A) Aircraft;

- ~~(C)~~(B) Watercraft;
- ~~(D)~~(C) Modular home;
- ~~(E)~~(D) Manufactured home; or
- ~~(F)~~(E) Mobile home.

SECTION 7. Arkansas Code § 26-74-412(a)(1), concerning the maximum tax limitation for county sales and use taxes for counties without an existing tax, is amended to read as follows:

(a)(1)(A) Any county general sales or use tax levied pursuant to this subchapter shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

- (i) Motor vehicle, as defined in §§ 26-52-103 and 26-53-102;
- (ii) Aircraft;
- (iii) Watercraft;
- (iv) Modular home;
- (v) Manufactured home; or
- (vi) Mobile home.

(B) A vendor shall be responsible for collecting and remitting the tax only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

- ~~(i)~~ ~~Motor vehicle;~~
- ~~(ii)~~(i) Aircraft;
- ~~(iii)~~(ii) Watercraft;
- ~~(iv)~~(iii) Modular home;
- ~~(v)~~(iv) Manufactured home; or
- ~~(vi)~~(v) Mobile home.

SECTION 8. Arkansas Code § 26-74-412(b)(1), concerning the maximum tax limitation for county sales and use taxes for counties without an existing tax, is amended to read as follows:

(b)(1) In the case of any taxpayer not subject to the levy of a use tax on tangible personal property or taxable services brought into the State of Arkansas for storage until such property is subsequently initially used in the State of Arkansas, a county use tax shall be computed on each purchase of

such property and services by the taxpayer as if all the property ~~was~~ were subject upon purchase to the county use tax up to the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

- (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-102;
- (B) Aircraft;
- (C) Watercraft;
- (D) Modular home;
- (E) Manufactured home; or
- (F) Mobile home.

SECTION 9. Arkansas Code § 26-74-612(a), concerning the maximum tax limitation for county sales and use taxes for capital improvements of a community college, is amended to read as follows:

(a)(1) Any county general sales or use tax levied pursuant to this subchapter shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

- (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-102;
- (B) Aircraft;
- (C) Watercraft;
- (D) Modular home;
- (E) Manufactured home; or
- (F) Mobile home.

(2) A vendor shall be responsible for collecting and remitting the tax only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

- ~~(A) Motor vehicle;~~
- ~~(B)~~(A) Aircraft;
- ~~(C)~~(B) Watercraft;
- ~~(D)~~(C) Modular home;
- ~~(E)~~(D) Manufactured home; or
- ~~(F)~~(E) Mobile home.

SECTION 10. Arkansas Code § 26-75-222(a), concerning the maximum tax limitation for municipal sales and use taxes for capital improvements, is amended to read as follows:

(a)(1) Any municipal general sales or use tax levied pursuant to this subchapter shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price from the sale of a:

- (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-102;
- (B) Aircraft;
- (C) Watercraft;
- (D) Modular home;
- (E) Manufactured home; or
- (F) Mobile home.

(2) A vendor shall be responsible for collecting and remitting the tax only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price from the sale of a:

- ~~(A) Motor vehicle;~~
- ~~(B)~~(A) Aircraft;
- ~~(C)~~(B) Watercraft;
- ~~(D)~~(C) Modular home;
- ~~(E)~~(D) Manufactured home; or
- ~~(F)~~(E) Mobile home.

SECTION 11. Arkansas Code § 26-75-319(a), concerning the maximum tax limitation for municipal sales tax for capital improvements, is amended to read as follows:

(a)(1) Any municipal general sales or use tax levied pursuant to this subchapter shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

- (A) Motor vehicle, as defined in §§ 26-52-103 and 26-53-102;
- (B) Aircraft;
- (C) Watercraft;
- (D) Modular home;

- (E) Manufactured home; or
- (F) Mobile home.

(2) A vendor shall be responsible for collecting and remitting the tax only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of a:

- ~~(A) Motor vehicle;~~
- ~~(B)~~(A) Aircraft;
- ~~(C)~~(B) Watercraft;
- ~~(D)~~(C) Modular home;
- ~~(E)~~(D) Manufactured home; or
- ~~(F)~~(E) Mobile home.

SECTION 12. Arkansas Code § 26-82-115(a), concerning the maximum tax limitation under the Local Sales and Use Tax Economic Development Project Funding Act, is amended to read as follows:

(a) A sales and use tax levied under this chapter shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of:

- (1) Motor vehicles, as defined in §§ 26-52-103 and 26-53-102;
- (2) Aircraft;
- (3) Watercraft;
- (4) Modular homes;
- (5) Manufactured homes; or
- (6) Mobile homes.

SECTION 13. Arkansas Code § 26-82-115(b)(1)(B), concerning the maximum tax limitation under the Local Sales and Use Tax Economic Development Project Funding Act, is amended to read as follows:

(B) However, the use tax portion of the local sales and use tax authorized under this chapter shall be computed only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of:

- (i) Motor vehicles, as defined in §§ 26-52-103 and 26-53-102;
- (ii) Aircraft;
- (iii) Watercraft;

- (iv) Modular homes;
- (v) Manufactured homes; or
- (vi) Mobile homes.

SECTION 14. Arkansas Code Title 27, Chapter 20, Subchapter 2, is amended to read as follows:

Subchapter 2

~~Three-Wheeled, Four-Wheeled, and Six-Wheeled All-Terrain Vehicles~~

27-20-201. Penalty Definition.

~~Any owner of a three-wheeled, four-wheeled, or six-wheeled all-terrain vehicle failing to register it within thirty (30) calendar days after the transfer date or the date of release of a lien by a prior lienholder, whichever is greater, shall be assessed an additional penalty of three dollars (\$3.00) for each ten-calendar-day period or fraction thereof for which he or she fails to properly register the vehicle until the penalty reaches the same amount as the registration fee of the cycle to be registered.~~

(a)(1) As used in this subchapter, "all-terrain vehicle" means a vehicle that:

- (A) Has three (3), four (4), or six (6) wheels;
- (B) Is seventy-five inches (75") or less in width;
- (C) Is equipped with nonhighway tires; and
- (D) Is designed primarily for off-road use.

(2) "All-terrain vehicle" includes a:

- (A) Multipurpose off-highway utility vehicle;
- (B) Recreational off-highway vehicle; and
- (C) Utility task vehicle.

(3) "All-terrain vehicle" does not include a golf cart, riding lawnmower, or lawn or garden tractor.

(b) An all-terrain vehicle meets the definition of a motor vehicle for the purpose of the sales tax imposed by 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.

27-20-202. ~~Registration~~ Annual registration required ~~– Penalties.~~

(a) ~~All owners of three wheeled, four wheeled, or six wheeled all-terrain vehicles~~ An owner of an all-terrain vehicle ~~that are not otherwise required to be registered by law~~ shall register ~~them~~ the all-terrain vehicle with the Director of the Department of Finance and Administration within thirty (30) calendar days of acquiring ~~them~~ the all-terrain vehicle.

(b)(1) The ~~owners~~ owner shall offer proof of ownership satisfactory to the Department of Finance and Administration.

(2)(A)~~(i)~~ If the person seeking to register the all-terrain vehicle cannot offer satisfactory proof of ownership, the department may register ~~it~~ the all-terrain vehicle if the person seeking registration posts a bond equal to at least one and one-half (1½) times the market value of the all-terrain vehicle.

~~(i)~~(B) The bond shall be a cash bond, a letter of credit, a surety bond issued by a fidelity or surety company authorized to do business in Arkansas, or a personal bond signed by at least two (2) property owners in this state.

~~(ii)~~(C) The bond shall be for a period of three (3) years and made payable to the department to be used by the department to pay any valid claim arising from the disputed ownership of the all-terrain vehicle.

~~(B)(i)~~ ~~If the three wheeled or four wheeled all-terrain vehicle was manufactured on or before December 31, 1992, then proof of ownership shall not be required to obtain registration, and a statement of ownership shall be accepted as proof of ownership.~~

~~(ii)~~ ~~The statement of ownership may be prepared by the person and shall contain the following information:~~

~~(a)~~ ~~The person's name;~~

~~(b)~~ ~~A description of the vehicle;~~

~~(c)~~ ~~A statement that the vehicle was manufactured on or before December 31, 1992;~~

~~(d)~~ ~~A statement of ownership; and~~

~~(e)~~ ~~The person's signature.~~

~~(iii)~~ ~~The provisions of subdivision (b)(2)(B) of this section shall not apply to six wheeled all-terrain vehicles.~~

(c) The annual cost of registration shall be ~~five dollars (\$5.00)~~ ten

dollars (\$10.00).

(d) An owner of an all-terrain vehicle who fails to register the all-terrain vehicle within thirty (30) calendar days after the transfer date or the date of release of a lien by a prior lienholder, whichever is later, shall be assessed an additional penalty of five dollars (\$5.00) for each ten-calendar-day period or fraction thereof for which he or she fails to properly register the all-terrain vehicle until the penalty reaches seventy-five dollars (\$75.00).

27-20-203. No equipment or inspection requirements.

There shall be no equipment requirement or safety inspection requirement as a precondition to registration of ~~three wheeled, four wheeled, or six wheeled all-terrain vehicles~~ an all-terrain vehicle.

27-20-204. Taxes to be paid.

The tax imposed by 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., on the sale of ~~three wheeled, four wheeled, or six wheeled all-terrain vehicles~~ an all-terrain vehicle shall be ~~collected by the seller of the vehicle as required by § 26-52-513~~ paid to the Director of the Department of Finance and Administration at the time of the registration of the all-terrain vehicle as required under §§ 26-52-510 and 26-53-126.

27-20-205. Certificate of title.

(a) The Director of the Department of Finance and Administration shall issue a certificate of title to the owner of ~~a three wheeled, four wheeled, or six wheeled~~ an all-terrain vehicle that has been registered with the Department of Finance and Administration.

(b) The certificate shall identify the owner's name and address, the vehicle manufacturer, model, year, identification number, seller, date of sale, lienholder, and lienholder's address.

27-20-206. Numbered license decal.

The Director of the Department of Finance and Administration shall furnish the ~~owners of three wheeled, four wheeled, or six wheeled all-terrain vehicles~~ owner of an all-terrain vehicle that ~~have~~ has been registered with

the Department of Finance and Administration a two inches by two inches (2x2") numbered license decal that shall be attached to the left front side of the all-terrain vehicle.

~~27-20-207. No renewal of registration.~~

~~No renewal of registration of three wheeled, four wheeled, or six-wheeled all-terrain vehicles shall be required.~~

27-20-208. ~~Regulations~~ Rules.

The Director of the Department of Finance and Administration may promulgate such rules ~~and regulations~~ as necessary to implement this subchapter.

SECTION 15. Arkansas Code § 27-21-102 is amended to read as follows:

27-21-102. Definitions.

As used in this chapter:

(1)(A) "All-terrain vehicle" means a vehicle that:

(i) Has three (3), four (4), or six (6) wheels;

(ii) Is ~~fifty inches (50")~~ seventy-five inches (75")

or less in width;

(iii) Is equipped with nonhighway tires; and

(iv) Is designed primarily for off-road ~~recreational~~

use; ~~and~~

~~(v) Has an engine displacement of no more than one~~

~~thousand cubic centimeters (1,000 cc).~~

(B) "All-terrain vehicle" includes a:

(i) Multipurpose off-highway utility vehicle;

(ii) ~~recreational~~ Recreational off-highway vehicle;

and

(iii) Utility task vehicle.

(C) "All-terrain vehicle" does not include a golf cart,

riding lawnmower, or lawn or garden tractor;

~~(2) "Nonhighway tire" means a pneumatic tire:~~

~~(A) Six inches (6") or more in width;~~

~~(B) Designed for use on a wheel with a rim diameter of~~

~~fourteen inches (14") or less; and~~

~~(C) That uses an operating pressure of twenty pounds per square inch (20 psi) or less as recommended by the vehicle manufacturer;~~

~~(3)(2) "Public streets and highways" means the part of the street, road, or highway, including the improved road shoulder, that is open to vehicular traffic and that is maintained by the state or by a political subdivision of the State of Arkansas and includes any federal highways; and~~

~~(4)(A) "Recreational off-highway vehicle" means a vehicle that:~~

~~(i) Has four (4) or six (6) wheels;~~

~~(ii) Is seventy five inches (75") or less in width;~~

~~(iii) Is equipped with nonhighway tires;~~

~~(iv) Is designed primarily for off-road recreational~~

~~use; and~~

~~(v) Has an engine displacement of no more than one~~

~~thousand cubic centimeters (1,000 cc).~~

~~(B) "Recreational off-highway vehicle" includes a:~~

~~(i) Multipurpose off-highway utility vehicle; and~~

~~(ii) Utility task vehicle.~~

~~(C) "Recreational off-highway vehicle" does not include a golf cart, riding lawnmower, or lawn or garden tractor.~~

SECTION 16. Arkansas Code § 27-21-103 is repealed.

~~27-21-103. Construction.~~

~~Nothing in this chapter shall be construed to require an all-terrain vehicle to be registered as a motor vehicle, motorcycle, or motor-driven cycle for operation on the public streets and highways.~~

SECTION 17. EFFECTIVE DATE. Sections 1-16 of this act are effective on the first day of the calendar quarter following the effective date of this act.