STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1584 By: Settle and Begley of the House

and

Haney and Hobson of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 50012, as amended by Section 1, Chapter 271, O.S.L. 1995 (68 O.S. Supp. 1998, Section 50012), which relates to the Oklahoma Tourism Promotion Tax; exempting public and private colleges and universities from gross receipts tax; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 1991, Section 50012, as amended by Section 1, Chapter 271, O.S.L. 1995 (68 O.S. Supp. 1998, Section 50012), is amended to read as follows:

Section 50012. A. There is hereby levied a gross receipts tax of one-tenth of one percent (1/10 of 1%) on the gross receipts from the sales of the following:

1. Service for the furnishing of rooms by a hotel, apartment hotel, public rooming house or motel and for the furnishing of any other facility for public lodging, except campsites;

2. Any food, confection, or drink sold or dispensed by hotels, restaurants or bars, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

3. Private tourist attraction admissions and sales of any service or property related to the attraction;

4. Motor vehicle rentals subject to tax pursuant to Section 2110 of this title;

5. Tour bus and sight-seeing passenger carrier tickets, excluding transportation services provided by a tourism service broker which are incidental to the rendition of tourism brokerage services by such broker to a customer regardless of whether or not such transportation services are actually owned and operated by the tourism service broker. For purposes of this paragraph, "tourism service broker" means any person, firm, association or corporation or any employee of such person, firm, association or corporation which, for a fee, commission or other valuable consideration, arranges or offers to arrange trips, tours or other vacation or recreational travel plans for a customer; and

6. Items, services, sales and admissions specified in paragraph 1, 2, 3 or 5 of this subsection shall also apply to facilities and tourist attractions owned or operated by the Oklahoma Tourism and Recreation Department or the Oklahoma Historical Society.

B. For the purposes of the Oklahoma Tourism Promotion Act, the term "restaurant" shall include any store or place of business that:

1. Sells food or beverages, or both food and beverages;

2. Provides a specific area to its customers for the consumption of the food or beverage items sold at the business location or which makes the items available for delivery to a customer for consumption at some other location, commonly known as "carry out", or that routinely delivers the items to the customer at other locations, commonly known as "catering";

3. Is primarily engaged in the sale of goods, other than food or beverages, or services but which also sells food or beverages, or both, to its customers for consumption on the premises in an area which is located separate and apart from the area in which selection of the other goods sold or delivery of the services performed ordinarily takes place; and

4. Prepares food or beverages, or both food and beverages, for sale through preparation performed at the location where the items are sold. "Preparation" requires a sole proprietor or employees of a business entity owning or occupying the store or other place of business to significantly change the form, content, appearance or flavor of the food or beverage prior to delivery to the customer. "Preparation" shall not include the dispensing of beverages from mechanical or other devices or the heating of food or beverage items unless the store or place of business satisfies any of the conditions provided by paragraph 2 of this subsection or other actions performed involve a substantial modification of the form, content, appearance and flavor of the food or beverage items by the person making the preparation.

"Restaurant" shall include commercial cafeterias that primarily serve the general public but shall not include those cafeterias operated within a licensed hospital.

A store or place of business defined as a restaurant pursuant to paragraph 3 of this subsection shall remit the tax only upon the sales of food or beverages sold at the separate location at which those sales are made, but shall not be required to remit the tax on the sales of any other items.

C. The tax levied pursuant to the Oklahoma Tourism Promotion Act shall not apply to gross receipts from:

1. Private tourist attractions operated on an annual or semiannual basis for fund raising purposes by nonprofit charitable organizations;

2. Tourist attractions owned or operated by any government entity, except as otherwise provided by the Oklahoma Tourism Promotion Act;

3. Sales or other ownership transfers of any livestock or other live animals; ~~or~~

4. Sales from any vending facility operated by a blind person and licensed pursuant to Section 73 of Title 7 of the Oklahoma Statutes or licensed pursuant to federal law; or

5. Sales by public or private colleges or universities which are recognized or accredited as defined by the Oklahoma State Regents for Higher Education and which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3).

D. All taxes levied pursuant to the Oklahoma Tourism Promotion Act shall be collected by the Oklahoma Tax Commission and apportioned as follows:

1. Three percent (3%) of such monies collected shall be placed to the credit of the General Revenue Fund; and

2. Ninety-seven percent (97%) of all such monies collected shall be placed to the credit of the Oklahoma Tourism Promotion Revolving Fund.

E. The monies collected from the tax levied pursuant to the provisions of this section shall be in addition to all other revenues and funds received by the Oklahoma Tourism and Recreation Department to provide monies for tourism promotion for Oklahoma.

SECTION 2. This act shall become effective July 1, 1999.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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