

ENGROSSED HOUSE
BILL NO. 1081

By: Phillips of the House
and
Coffee of the Senate

(motor vehicles - regulation of driving -
prohibiting certain conduct - codification -
effective date -
emergency)

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-901a of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The State Legislature hereby occupies and preempts the entire field of legislation in this state touching in any way inattentive driving and cellular phone usage in automobiles to the complete exclusion of any order, ordinance or regulation by any municipality or other political subdivision of this state. Any existing or future orders, ordinances, or regulations in this field, except as provided for in subsection B of this section, are null and void.

B. Nothing contained in this section shall prohibit any order, ordinance or regulation of any municipality from enacting and enforcing laws prohibiting and penalizing conduct under provisions of this act, but the provisions of such order, ordinance or regulation by a municipality shall not be more stringent than those of this act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 55001 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, the term "Act" refers to the federal "Mobile Telecommunications Sourcing Act", P.L. 106-252, codified at 4 U.S.C., Sections 116-126.

B. The Oklahoma Legislature finds that the United States Congress has enacted the Act for the purpose of establishing uniform nationwide sourcing rules for state and local taxation of mobile telecommunications services. In general, the rules provide that taxes on mobile telecommunications services shall be paid to the jurisdiction where the customer resides, irrespective of where the mobile telecommunications services originate, terminate, or pass through. By passing this legislation in Oklahoma, the Oklahoma Legislature desires to implement the Act in the state, and to make state and local government officials aware of its provisions. The Oklahoma Legislature recognizes that the Act is intended to provide a clarification of sourcing rules that is revenue-neutral among the states, and that the clarifications required by the Act are likely in fact to be revenue-neutral at the state level. The Oklahoma Legislature further finds that the federal requirements are within the powers of the federal government.

C. The definitions set forth in the Act shall have application to this section only.

D. If a taxing jurisdiction does not otherwise subject charges for mobile telecommunications services to taxation and if those charges are aggregated with and not separately stated from charges that are subject to taxation, then the charges for nontaxable mobile telecommunications services may be subject to taxation unless the home service provider can reasonably identify charges not subject to that tax, charge, or fee from its books and records that are kept in the regular course of business.

E. The taxes, fees and charges affected in Oklahoma include, but are not limited to, those imposed under Section 1354 of Title 68 of the Oklahoma Statutes (Sales and Use Tax) and Section 139.109 of Title 17 of the Oklahoma Statutes (Universal Service Fund).

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 55002 of Title 68, unless there is created a duplication in numbering, reads as follows:

If a customer believes that an amount of tax, charge or fee, or assignment of place of primary use or taxing jurisdiction included on a billing is erroneous, the customer shall notify the home service provider in writing. The customer shall include in this written notification the street address for the place of primary use, the account name and number for which the customer seeks a correction of the tax assignment, a description of the error asserted by the customer, and any other information that the home service provider reasonably requires to process the request. Within sixty (60) days of receiving a notice under this section, the home service provider shall review its records and the electronic database or enhanced zip code used pursuant to the Mobile Telecommunications Sourcing Act (Public Law 106-252), codified at 4 U.S.C., Sections 116-126, to determine the taxing jurisdiction of the customer. If this review shows that the amount of tax, charge or fee, or assignment of place of primary use or taxing jurisdiction is in error, the home service provider shall correct the error and refund or credit the amount of tax, charge or fee erroneously collected from the customer for a period of up to two (2) years. If this review shows that the amount of tax, charge or fee, or assignment of place of primary use or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer. The procedures in this section shall be the first course of remedy available to customers seeking correction of assignment of place of primary use or taxing

jurisdiction, or a refund of or other compensation for taxes, charges or fees erroneously collected by the home service provider, and no cause of action based upon a dispute arising from this act shall accrue until a customer has reasonably exercised the rights and procedure set forth herein. All provisions of this section shall be defined pursuant to the Mobile Telecommunications Sourcing Act (Public Law 106-252), codified at 4 U.S.C., Sections 116-126.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 55003 of Title 68, unless there is created a duplication in numbering, reads as follows:

The provisions of this act relating to tax liabilities shall apply only to charges on or revenues from customer bills issued on or after August 1, 2002.

SECTION 5. This act shall become effective July 1, 2001.

SECTION 6. 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.

Passed the House of Representatives the 14th day of March, 2001.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2001.

Presiding Officer of the Senate