

CS for SB 1096

THE STATE SENATE
Tuesday, February 28, 2006

Committee Substitute for
Senate Bill No. 1096

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1096 - By: ADELSON of the Senate and BALKMAN of the House.

[revenue and taxation - tobacco taxes - effective date - emergency]

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 349, is amended to read as follows:

~~Section 349. A. There is hereby levied upon the sale of cigarettes at a tribally owned or licensed store a tax in the amount of seventy-five percent (75%) of the cigarette excise taxes imposed by Section 301 et seq. of Title 68 of the Oklahoma Statutes, which tax shall be in lieu of all sales and excise taxes on such cigarettes.~~ It is the intent of the Legislature to establish a system of state taxation of sales of cigarettes and tobacco products made by federally recognized Indian tribes or nations or their licensees, other than tribes or nations which have entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346 of this title, under which such tribes or nations or their licensees may make sales of cigarettes and tobacco products to enrolled members of such tribe or nation free of

1 state taxation, while collecting all state taxes applicable for
2 purchases of cigarettes and tobacco products from such tribes or
3 nations or their licensees on sales to nontribal members.

4 B. All cigarettes and tobacco products sold by wholesalers
5 doing business in the State of Oklahoma to Indian tribes or nations
6 and their licensees, other than tribes or nations which have entered
7 into a compact with the State of Oklahoma pursuant to the provisions
8 of subsection C of Section 346 of this title, shall bear tax stamps
9 evidencing that all state taxes thereon have been paid to the state,
10 except for a percentage of each such sale equal to the percentage of
11 the population of Oklahoma representing American Indians (one race)
12 as set forth in the most recent federal decennial census as
13 certified by the Oklahoma Tax Commission which shall bear restricted
14 sale stamps evidencing that the sale of such cigarettes and tobacco
15 products may be sold only to enrolled tribal members. A federally
16 recognized Indian tribe or nation may receive a refund for a portion
17 of the tax imposed pursuant to the provisions of this section if it
18 can provide sufficient documentation that sales of cigarettes or
19 tobacco products to its tribal members exceed ~~twenty-five percent~~
20 ~~(25%) of its total sales of cigarettes~~ its allotment of nontaxed
21 cigarettes or tobacco products shipped to it. The amount of the
22 refund shall be the amount of tax paid which is attributable to
23 sales of cigarettes or tobacco products made to tribal members ~~which~~

1 ~~is in excess of twenty five percent (25%) of the tribe's or nation's~~
2 ~~total sales of cigarettes.~~ Refunds shall be paid quarterly. The
3 Tax Commission shall promulgate rules and regulations to administer
4 the provisions of this subsection.

5 C. All Indian tribes or nations and their licensees which have
6 not entered into a compact with the State of Oklahoma pursuant to
7 the provisions of subsection C of Section 346 of this title shall
8 maintain for state inspection records of all nontaxable sales of
9 cigarettes and tobacco products to members of Indian tribes or
10 nations, which record as to each sale to an Indian purchaser shall
11 include number of packages or cartons of cigarettes or tobacco
12 products sold, purchaser's name and address, tribal affiliation,
13 form of tribal membership verification presented by the Indian
14 purchaser and his or her tribal identification number, provided that
15 any sale for which any part of this required information is missing
16 shall be deemed a taxable sale to a nonmember and the tribe or
17 nation or its licensee shall be liable for the collection and
18 remittance to the state of all unpaid taxes due on such sale;

19 All cigarettes which are sold or held for sale at such a
20 tribally owned or licensed store shall have affixed thereto a ~~stamp~~
21 ~~or stamps evidencing payment of the in lieu tax~~ or restricted sale
22 stamp required by subsection A of this section.

1 D. It shall be unlawful for any person knowingly to ship,
2 transport, receive, possess, sell, distribute or purchase contraband
3 cigarettes. Any person who engages in shipping, transporting,
4 receiving, possessing, selling, distributing or purchasing
5 contraband cigarettes shall, upon conviction, be guilty of a
6 misdemeanor punishable by a fine of not more than One Thousand
7 Dollars (\$1,000.00). Any person convicted of a second or subsequent
8 violation hereof shall be guilty of a felony and shall be punishable
9 by a fine of not more than Five Thousand Dollars (\$5,000.00), by a
10 term of imprisonment in the State Penitentiary for not more than two
11 (2) years, or by both such fine and imprisonment.

12 E. Any person who knowingly engages in shipping, transporting,
13 receiving, possessing, selling, distributing or purchasing
14 contraband cigarettes shall be subject to the forfeiture of property
15 as is provided by Section 305 of ~~Title 68 of the Oklahoma Statutes~~
16 this title and assessment of penalty as provided thereby and
17 assessment for any delinquent taxes found to be owing.

18 SECTION 2. This act shall become effective July 1, 2006.

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

23 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-21-06 - DO PASS,
24 As Amended and Coauthored.