

ENROLLED HOUSE
BILL NO. 2359

By: Liebmann, Miller and Martin
(Scott) of the House

and

Johnson (Mike) and Myers of
the Senate

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 1401, as amended by Section 28, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2009, Section 1401), which relates to the Oklahoma Use Tax Code; modifying provisions related to retailers engaged in selling tangible personal property; specifying conditions pursuant to which retailers deemed to be engaged in business; defining terms; providing for presumption; providing for rebuttal of presumption; providing certain activities deemed retail activities; imposing duty on retailers or vendors doing business outside the state; requiring notification to customers; prohibiting certain advertising regarding applicability of taxes to sales transactions; providing for applicability to online auction websites; authorizing Oklahoma Tax Commission rule for purposes of definition; providing for certain exception; providing for contingent effect based on administrative rulemaking; providing for Retailer Compliance Initiative; prescribing procedures; providing for effect upon statute of limitations for purposes of tax assessments; providing registration not to have certain effect; authorizing discount; providing for waiver of certain registration fee; requiring administrative rules; providing for establishment of outreach program to Internet retailers; providing for Consumer Compliance Initiative; authorizing waiver of penalty, interest and certain collection fees; imposing limitation with respect to assessment period; providing relief not available under certain conditions; requiring

administrative rules; requiring fact sheet and prescribing content thereof; authorizing contracts for purposes of Consumer Compliance Initiative; requiring establishment of method for remittance using Internet; amending 68 O.S. 2001, Section 249, as amended by Section 5, Chapter 479, O.S.L. 2005 (68 O.S. Supp. 2009, Section 249), which relates to tax return preparation; imposing duties on return preparers with respect to use tax; amending 68 O.S. 2001, Section 1410.1, which relates to discount for use tax remitters; modifying discount amount; stating legislative intent with respect to certain transactions; making legislative findings; amending 68 O.S. 2001, Section 205.1, which relates to municipal sales tax; modifying procedures related to certain reports; modifying required content of reports; amending 68 O.S. 2001, Section 255, as last amended by Section 5, Chapter 426, O.S.L. 2009 (68 O.S. Supp. 2009, Section 255), which relates to debt collection agencies; authorizing referral of certain delinquent reports to debt collection agencies prior to final determination of liability; amending Section 6, Chapter 278, O.S.L. 2008, as amended by Section 6, Chapter 426, O.S.L. 2009 (68 O.S. Supp. 2009, Section 265), which relates to the Joint Computer Enhancement Fund; modifying certain statutory references; requiring Oklahoma Tax Commission to coordinate with city and county governments related to sales and use tax collections; amending Section 24, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2009, Section 1354.31), which relates to Streamlined Sales and Use Tax Agreement; providing for allowance of certain start-up costs; imposing maximum amount; providing for forfeiture of compensation; providing for compensation methods for remote sellers; prescribing procedures; defining term; amending 68 O.S. 2001, Section 1367.1, as last amended by Section 73, Chapter 5, O.S.L. 2004 (68 O.S. Supp. 2009, Section 1367.1), which relates to deduction for sales tax reporting; modifying deduction amount; modifying maximum deduction amount; providing for authority of Tax Commission to promulgate certain rules based upon federal authority; defining term; amending 68 O.S. 2001, Section 1371, which relates to county sales tax; modifying provision related to contracts between

counties and the Oklahoma Tax Commission; providing for mandatory contracts; amending 68 O.S. 2001, Section 2702, as amended by Section 41, Chapter 460, O.S.L. 2002 (68 O.S. Supp. 2009, Section 2702), which relates to contracts between municipal entities and the Oklahoma Tax Commission; providing for mandatory contracts; providing for additional contracts related to enforcement; authorizing contract for audit services; prescribing procedures for approval by Tax Commission; authorizing exchange of information; requiring preservation of confidential information; providing for exclusion of certain amounts in computation of retention fee; requiring contracts to contain certain provisions related to obligations of Oklahoma Tax Commission; amending 68 O.S. 2001, Section 1503, as amended by Section 16, Chapter 479, O.S.L. 2005 (68 O.S. Supp. 2009, Section 1503), which relates to certain fees in lieu of sales tax; modifying fee amounts; amending 47 O.S. 2001, Sections 1115, as last amended by Section 1, Chapter 443, O.S.L. 2009, 1132, as last amended by Section 2, Chapter 443, O.S.L. 2009, and 1151, as last amended by Section 4, Chapter 443, O.S.L. 2009 (47 O.S. Supp. 2009, Sections 1115, 1132 and 1151), which relate to apportionment of certain fees to the General Revenue Fund of the State Treasury; modifying references to certain fiscal year; amending 68 O.S. 2001, Section 2103, as last amended by Section 6, Chapter 443, O.S.L. 2009 (68 O.S. Supp. 2009, Section 2103), which relates to motor vehicle excise tax; modifying apportionment of certain penalty amount; amending 68 O.S. 2001, Section 415, as amended by Section 17, Chapter 434, O.S.L. 2009 (68 O.S. Supp. 2009, Section 415), which relates to tobacco products; authorizing persons to hold multiple licenses; providing for codification; 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. 2001, Section 1401, as amended by Section 28, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2009, Section 1401), is amended to read as follows:

Section 1401. The following words, terms and phrases when used in this article shall have the meanings respectively given to them in this section:

1. The term "person" shall mean and include any individual, company, partnership, joint venture, joint agreement, association (mutual or otherwise), limited liability company, corporation, estate, trust, business trust, receiver, or trustee appointed by the state or federal court, syndicate, this state, any county, city, municipality, or other political subdivision or agency of the state, or group or combination acting as a unit in the plural or singular number;

2. The term "Tax Commission" means the Oklahoma Tax Commission;

3. The term "purchase price" applies to the measure subject to the tax levied under Section 1402 of this title and has the same meaning as "gross receipts" or "gross proceeds" or "sales price" as defined in Section 1352 of this title;

4. The term "taxpayer" means any person liable to pay a tax hereunder, or charged with the collection and remission thereof, or to make a report for the purpose of claiming any exemptions in payment of any tax levied by this article;

5. The term "purchase at retail" means and includes all purchases except purchases made for the purpose of resale;

6. The term "sale" means and includes the transfer of either the title or possession for a valuable consideration of tangible personal property, regardless of the manner, method, instrumentality or device by which such transfer is accomplished. The term "sale" also includes the exchange, barter, lease, or rental of tangible personal property where such exchange, barter, lease or rental results in either the transfer of the title or the possession;

7. The term "purchase" means and includes any method whereby a transferee receives from a transferor either the title or possession, for a valuable consideration, of tangible personal property, regardless of the manner, method, instrumentality or device by which such transfer is accomplished. The term "purchase"

also includes the exchange, barter, lease or rental of tangible personal property where such exchange, barter, lease or rental results in either the transfer of the title or the possession to the transferee;

8. The term "use" means and includes the exercise of any right or power over tangible personal property incident to the ownership or possession of that property, except that it shall not include the sale of that property in the regular course of business;

9. a. The term "retailer" means every person engaged in the business of selling tangible personal property for use within the meaning of the article; provided, however, that when in the opinion of the Tax Commission it is necessary for the efficient administration of this article to regard any salesmen, representatives, truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors, employers or persons as retailers for purposes of this article.

b. A retailer shall be deemed to be engaged in the business of selling tangible personal property for use in this state if:

(1) both of the following conditions exist:

(a) the retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by, a retailer maintaining a place of business within this state, and

(b) the retailer sells the same or a substantially similar line of products as the related Oklahoma retailer and does so under the same or a substantially similar business name, or the Oklahoma facilities or Oklahoma employees of the related Oklahoma retailer are used to advertise, promote or

facilitate sales by the retailer to consumers, or

(2) the retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by, a business that maintains a distribution house, sales house, warehouse or similar place of business in Oklahoma that delivers property sold by the retailer to consumers.

c. For purposes of subparagraph b of this paragraph:

(1) "substantial ownership interest" means an interest in an entity that is not less than the degree of ownership of equity interest in an entity that is specified by Section 78p of Title 15 of the United States Code, or any successor to that statute, with respect to a person other than a director or officer,

(2) "ownership" means and includes both direct ownership and indirect ownership through a parent, subsidiary or affiliate, and

(3) the processing of orders electronically, including facsimile, telephone, the Internet or other electronic ordering process, does not relieve a retailer of responsibility for collection of the tax from the purchaser if the retailer is doing business in this state pursuant to this paragraph.

d. Any retailer that is part of a controlled group of corporations, and that controlled group of corporations has a component member that is a retailer engaged in business in this state as described in subparagraph b of this paragraph, shall be presumed to be a retailer engaged in business in this state. This presumption may be rebutted by evidence that during the calendar year at issue the component member that is a retailer engaged in business in this state did not engage in any of the activities described in this subparagraph on behalf of the retailer. For purposes of this subparagraph, "controlled group of

corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code, and "component member" means "component member" as defined in Section 1563(b) of the Internal Revenue Code.

- e. Any retailer making sales of tangible personal property to purchasers in this state by mail, telephone, the Internet or other media which has a contractual relationship with an entity to provide and perform installation or maintenance services for the retailer's purchasers within this state shall be included within the definition of "retailer" under the provisions of subparagraph a of this paragraph; and

10. The phrase "maintaining a place of business within the state" includes any person having or maintaining in the state, directly or by subsidiary, an office, distribution house, sales house, warehouse, or other place of business. It also includes any person having agents operating in the state under authority of the retailer or subsidiary, whether the place of business or agent is within the state permanently or temporarily, or whether the person or subsidiary is authorized to do business within the state is immaterial.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1406.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each retailer or vendor making sales of tangible personal property from a place of business outside this state for use in this state that is not required to collect use tax, shall provide notification on its retail Internet website or retail catalog and invoices provided to its customers that use tax is imposed and must be paid by the purchaser, unless otherwise exempt, on the storage, use, or other consumption of the tangible personal property in this state. The notification shall be readily visible. It is further provided that no retailer shall advertise on its retail Internet website or retail catalog that there is no tax due on purchases made from the retailer for use in this state. The provisions of this section, except for notification on invoices, shall apply to online auction websites. The Oklahoma Tax Commission is hereby authorized and directed to define the term "online auction websites" through the promulgation of a rule. The rule shall include an exception for

websites with sales below a threshold to be set by the Tax Commission.

B. The provisions of this section shall not be effective as law until an administrative rule, whether an emergency rule or permanent rule or both, has become effective as law pursuant to the Oklahoma Administrative Procedures Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1407.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of encouraging the voluntary registration, collection, and remittance of use taxes owed to this state, the Oklahoma Tax Commission is hereby authorized and directed to establish a Retailer Compliance Initiative for out-of-state retailers, as provided in this section.

B. 1. The Tax Commission shall not seek payment of uncollected use taxes from an out-of-state retailer who registers to collect and remit applicable use taxes on sales made to purchasers in this state prior to registration under the Retailer Compliance Initiative, provided that the retailer was not registered in this state in the twelve-month period preceding the effective date of this section.

2. The provisions of this subsection will preclude assessment for uncollected use taxes together with penalty or interest for sales made during the period the retailer was not registered in this state, provided registration occurs prior to July 1, 2011.

3. The relief provided herein shall not be available to a retailer with respect to any matter or matters for which the retailer received notice of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes and is not available for use taxes already paid or remitted to the state or taxes collected, but not remitted, by the retailer.

4. The relief provided herein is fully effective, absent the retailer's fraud or intentional misrepresentation of a material fact, as long as the retailer continues registration and continues collection and remittance of applicable use taxes for a period of at least thirty-six (36) months. The statute of limitations applicable to asserting a tax liability during this thirty-six-month period shall be tolled.

5. The relief provided herein is applicable only to use taxes due from a retailer in its capacity as a retailer and not to use taxes due from a retailer in its capacity as a buyer.

C. The registration by an out-of-state retailer for the collection of use taxes under the Retailer Compliance Initiative shall not be used as a factor in determining whether the retailer has nexus with this state for any other taxes, including income taxes, at any time.

D. Out-of-state retailers registering under the Retailer Compliance Initiative shall receive a discount for timely reporting and remitting use taxes as provided in Section 1354.31 of Title 68 of the Oklahoma Statutes.

E. No registration fee shall be charged against any voluntary out-of-state retailer that comes forward to register to collect and remit use taxes under the Retailer Compliance Initiative.

F. The Tax Commission shall promulgate rules detailing the terms and other conditions of this program.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1407.3 of Title 68, unless there is created a duplication in numbering, reads as follows:

In an effort to improve compliance by Internet retailers for the collection of use tax on their sales to Oklahoma residents, the Oklahoma Tax Commission shall implement an outreach program to Internet retailers. The program shall include contacting Internet retailers for a review of their business activities to determine if such activities may require the registration and collection of Oklahoma use taxes and the providing of information to the out-of-state retailers about the Retailer Compliance Initiative to encourage registration in this state.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1407.4 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of encouraging the voluntary disclosure and payment of use taxes owed to this state, the Oklahoma Tax Commission is hereby authorized and directed to establish a Consumer Compliance Initiative for consumers liable for payment of use taxes, as

provided in this section. A taxpayer shall be entitled to a waiver of penalty, interest and other collection fees due if the taxpayer voluntarily files delinquent tax returns and pays the taxes due during the initiative.

B. No assessment of use tax levied under the provisions of Section 1401 et seq. of Title 68 of the Oklahoma Statutes shall be made for more than one (1) year prior to the date the consumer registers to pay applicable use taxes under this initiative.

C. The relief provided herein shall not be available to a consumer with respect to any matter or matters for which the consumer received notice of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes and is not available for use taxes already paid or remitted to the state.

D. The Tax Commission shall promulgate rules detailing the terms and other conditions of this program.

E. The Tax Commission shall develop and distribute a fact sheet explaining responsibilities regarding the reporting and payment of use taxes and how business entities can examine their records to establish the use tax due on purchases from out-of-state sellers. The Tax Commission shall make the fact sheet available on the Oklahoma Tax Commission's website, mail to targeted industries, existing licensees, and all Tax Commission license applicants.

F. The Tax Commission is authorized to expend necessary available funds, including contracting with third parties, to publicly advertise the Consumer Compliance Initiative and shall be exempt from the provisions of Section 85.7 of Title 74 of the Oklahoma Statutes for the purpose of implementing this section.

G. To assist consumers in remitting use taxes due, the Tax Commission shall develop and maintain an option for consumers to remit use taxes through an Internet-based portal.

SECTION 6. AMENDATORY 68 O.S. 2001, Section 249, as amended by Section 5, Chapter 479, O.S.L. 2005 (68 O.S. Supp. 2009, Section 249), is amended to read as follows:

Section 249. A. Any person that prepares any state tax returns or reports for an Oklahoma taxpayer, other than the employer of the preparer, for compensation, shall:

1. Set forth the name, identifying number, and address of the preparer on the face of the prepared return or report; and

2. Manually, or by means of a rubber stamp, mechanical device, or computer software program which includes a facsimile of the individual preparer's signature or printed name, sign and execute the prepared return or report; and

3. Furnish the taxpayer a copy of the prepared return or report and retain a copy of same for a period of three (3) years from the date the prepared return or report was filed or required to be filed, whichever expires the later.

Upon a determination of a violation of this subsection, the preparer shall be subject to a penalty in the amount of Five Hundred Dollars (\$500.00) which shall be apportioned as provided for the apportionment of the tax for which the return or report was prepared.

B. Any person that prepares any state tax returns or reports for an Oklahoma taxpayer for compensation is hereby prohibited from endorsing or negotiating the state income tax refund check of the taxpayer. Upon a determination by the Tax Commission that a preparer violated this subsection, a penalty in the amount of Five Hundred Dollars (\$500.00) shall be assessed. Said penalty shall be apportioned in the same manner as provided for the apportionment of the state income tax revenues.

C. The penalties imposed pursuant to the provisions of this section shall be in addition to any other penalties imposed by any tax laws or civil or criminal laws of this state.

D. When assisting taxpayers in preparing an individual income tax return, tax preparers shall advise their clients of their responsibility to remit use taxes through the use tax remittance line on the individual income tax return or by filing a consumer use tax return.

SECTION 7. AMENDATORY 68 O.S. 2001, Section 1410.1, is amended to read as follows:

Section 1410.1 ~~A.~~ For the purpose of compensating the seller or vendor in keeping use tax records, filing reports and remitting

~~the tax when due, a seller or vendor shall be allowed a deduction not to exceed two and one fourth percent (2 1/4%) of the tax due under the applicable provisions of this title.~~

~~B. No deductions from tax shall be allowed if any such report or payment of tax is delinquent.~~

~~C. Notwithstanding the formula provided by subsection A of this section, the deduction provided by this section shall be limited to a maximum of Three Thousand Three Hundred Dollars (\$3,300.00) per reporting period. Persons remitting use tax pursuant to Section 1406 or 1407 of Title 68 of the Oklahoma Statutes as of April 1, 1993, shall continue to remit use tax in the same manner as they were on April 1, 1993. No such person may change the manner by which the person remits use tax in order to avoid the provisions of this subsection.~~

~~D. Notwithstanding any other provision of law, an amount equal to the excess of the amount calculated by the formula provided by subsection A of this section over the Three Thousand Three Hundred Dollar limit provided by subsection C of this section shall be retained by the state as an administrative expense and deposited to the General Revenue Fund equal to the amount provided for vendors under the Oklahoma Sales Tax Code.~~

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1407.5 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. It is hereby declared to be the intent of the Oklahoma Legislature to specifically include within the use tax levied by this article all storage, use or other consumption of tangible personal property purchased or brought into this state through the continuous, regular or systematic solicitation in the Oklahoma consumer market by out-of-state retailers through the Internet, mail order and catalog publications.

B. The Oklahoma Legislature finds that out-of-state retailers purposefully direct their activities through the Internet and other media at Oklahoma residents, that the magnitude of those contacts are more than sufficient for due process purposes, and that the use tax is related to the benefits the out-of-state retailers receive from access to the state. The consumers of these retail sales are not paying use taxes when the out-of-state retailer does not collect the tax as provided in this article. The failure of these out-of-

state retailers to collect the use tax due and owing to the State of Oklahoma and its jurisdictions is detrimental to the ability of the state and local governments to provide the services and benefits bestowed upon the out-of-state retailer and their Oklahoma consumers.

C. The Oklahoma Legislature finds that the sales and use tax system established under Oklahoma law does not pose an undue burden on out-of-state retailers and provides sufficient simplification to warrant the collection and remittance of use taxes by out-of-state retailers that are due and owing to the State of Oklahoma and its local jurisdictions. In support of this finding:

1. The state is a member of the Streamlined Sales and Use Tax Agreement and has amended its laws to be in full compliance with its terms;

2. The state provides state level administration of sales and use taxes levied by its cities, counties and other local jurisdictions by contracting with these entities. All cities, counties and other local jurisdictions levying sales and use taxes shall continue to contract with the Oklahoma Tax Commission for administration of its sales and use taxes so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from the local taxing jurisdictions;

3. The state provides and maintains a database that describes boundary changes for all taxing jurisdictions within this state for sales and use tax purposes and the sales and use tax rates for all of the jurisdictions levying taxes within the state;

4. The state provides a deduction of the tax due to all retailers, including out-of-state retailers, to compensate them for recordkeeping, filing reports, collecting and remitting the tax in a timely manner;

5. The state provides a mechanism for the electronic submission of sales and use tax reports and payments;

6. The state provides liability relief to sellers for collecting an incorrect amount of tax as a result of relying on erroneous data provided by the Tax Commission on rates, boundaries or taxing jurisdiction assignments;

7. The state participates in a central registration system that allows out-of-state retailers to register one time in one place for multiple states;

8. All local jurisdictions have the same tax base as the state for sales and use taxes, except as permitted under the Streamlined Sales and Use Tax Agreement;

9. The state does not require the payment of a registration fee from an out-of-state retailer which does not have a legal requirement to register;

10. The state requires the Oklahoma Tax Commission to give notice to vendors of local rate changes and boundary changes at least sixty (60) days prior to the effective date of the change;

11. The state has the same tax rate for every taxable item;

12. The state only requires the filing of a single tax return to cover all taxing jurisdictions with the state;

13. The Oklahoma Tax Commission provides, free of charge, business tax workshops for sellers designed to provide information and answer questions regarding the Oklahoma sales and use tax system;

14. The state allows electronic payments to be made by either ACH credit or by ACH debit;

15. The state allows a deduction from taxable sales for bad debts;

16. The state provides a taxability matrix which gives information on the taxability of a wide variety of items including all items defined in the Streamlined Sales and Use Tax Agreement; and

17. The state pays the direct cost of a certified service provider to perform all of an out-of-state seller's sales and use tax functions other than the seller's obligation to remit taxes on its own purchases.

SECTION 9. AMENDATORY 68 O.S. 2001, Section 205.1, is amended to read as follows:

Section 205.1 A. To determine the actual municipal sales tax liability of any person engaged in any business upon which the Oklahoma excise tax is levied, the Oklahoma Tax Commission, notwithstanding the provisions of Section 205 of this title, shall ~~mail not less than quarterly, upon request, make available reports~~ to the governing body of each city or town that levies a municipal sales tax, ~~a notice that the governing body may request the following report from the Commission. Said report which shall contain only~~ include, but not be limited to, the following information:

1. A full and complete list of the names and addresses of persons who report doing business during the preceding calendar year within the boundary of the city or town and who have a sales tax permit; ~~and~~

2. A full and complete list of such persons specified in paragraph 1 of this subsection who are more than sixty (60) days delinquent in remitting sales tax levied pursuant to the provisions of the Oklahoma Sales Tax Code;

3. A full and complete list of sales and use taxes collected by such persons specified in paragraph 1 of this subsection during the preceding calendar month;

4. A full and complete list of taxpayers who were issued a sales tax permit for a location in the city or town the previous calendar month; and

5. A full and complete list of taxpayers who have advised the Oklahoma Tax Commission that business at the location in the city or town was stopped during the previous calendar month.

B. Upon request by the governing body of a city or town that levies a municipal sales tax, the Oklahoma Tax Commission, notwithstanding the provisions of Section 205 of this title, shall release to such governing body such information or evidence necessary to be used by such body to prosecute violations of municipal sales tax ordinances. Such information or evidence shall include, but is not limited to, the following:

1. Certified copies of sales tax permit applications;

2. Certified copies of sales tax permits;

3. Certified copies of sales tax reports; and

4. Names of Tax Commission employees who may be potential witnesses for municipal prosecution purposes.

C. Except in reporting to the members of the governing body of the city or town, no city or town official or employee shall divulge any information gained from the Oklahoma Tax Commission except that the municipal prosecutor and other municipal enforcement personnel may receive all information necessary to enforce municipal sales tax ordinances.

D. Any city or town official or employee found in violation of this section shall be removed or dismissed from office in the manner provided by law. In addition, any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for a term not exceeding one (1) year, or by both said fine and imprisonment.

SECTION 10. AMENDATORY 68 O.S. 2001, Section 255, as last amended by Section 5, Chapter 426, O.S.L. 2009 (68 O.S. Supp. 2009, Section 255), is amended to read as follows:

Section 255. A. In order to facilitate and expedite the collection of taxes more than ninety (90) days overdue from any taxpayer, the Oklahoma Tax Commission may enter into a contract with a debt collection agency doing business in the State of Oklahoma or in any other state for the collection of such delinquent taxes in addition to all other taxes accrued or accruing, including penalties and interest thereon, from the taxpayer. The contract shall only authorize the debt collection agency to collect tax liabilities which are already established and the Tax Commission shall not refer accounts to the debt collection agency unless the Tax Commission has notified the taxpayer, by first class mail, of the liability and has made additional efforts to collect the debt. Provided, if a sales tax permit holder fails to file two or more consecutive sales tax returns, as required under Section 1365 of this title, the Tax Commission may refer the accounts to the debt collection agency prior to the establishment of the tax liability, but only after the Commission has notified the taxpayer as required under this subsection.

B. If an account has been referred to a debt collection agency, the Tax Commission shall review all payments posted by the

collection agency prior to commencing any further collection activity against the taxpayer. Further, the collection agency shall review all payments posted by the Tax Commission prior to commencing any collection activity. The Tax Commission or the collection agency shall, within ten (10) business days, provide the taxpayer with a written confirmation of all payments received and any balance due. In addition, the contract shall not authorize the debt collection agency to conduct audits or examine the books and records of a taxpayer in any manner. The Tax Commission may also enter into a contract with a person doing business in the State of Oklahoma or in any other state for the purpose of identifying and locating the assets of such delinquent taxpayer. Such contracts authorized by this section shall be subject to the provisions of The Oklahoma Central Purchasing Act.

C. In addition to the authority provided in subsection A of this section, the Tax Commission may enter into a contract for the purpose of identifying nonresident businesses and individuals who are required by law to file and pay Oklahoma state taxes and who are presently unknown to the Tax Commission.

D. Prior to entering into such a contract with a debt collection agency, the Tax Commission shall require that the debt collection agency file a bond in the amount of One Hundred Thousand Dollars (\$100,000.00). The bond shall be a bond from a surety company chartered or authorized to do business in this state, cash bond, certificates of deposits, certificates of savings or U.S. Treasury bonds, as the Tax Commission may deem necessary to guarantee compliance with the terms of the contract.

E. Each contract entered into by the Tax Commission with a debt collection agency, pursuant to the provisions of this section, shall specify that fees for services rendered, reimbursements or other remuneration shall be based on the total amount of delinquent taxes, including accrued penalties and interest, which is actually collected. No costs shall be reimbursed unless authorized in the contract. Each contract entered into between the Tax Commission and a debt collection agency shall provide for the payment of fees for such services, reimbursements or other remuneration not in excess of thirty-five percent (35%) of the total amount of delinquent taxes, penalty and interest actually collected. The debt collection agency contract fee shall be added to the amount of the delinquent taxes, accrued penalties and interest collected from the taxpayer. The total amount of the delinquent tax, accrued penalties and interest,

and the debt collection agency contract fee shall be owed and collected from the taxpayer.

F. Each contract entered into by the Tax Commission with a person for the purpose of identifying and locating assets of delinquent taxpayers shall specify the amount of money to be paid for the performance of such services. No costs shall be reimbursed unless authorized in the contract.

G. All such funds collected by a debt collection agency, including the fees for collection services as provided for in such contract, shall be remitted to the Tax Commission within five (5) days from the date of collection from a taxpayer. The Tax Commission shall pay from such remitted fees the amount of fees to which such debt collecting agency is entitled for services performed pursuant to the provisions of such contract. All assets of such delinquent taxpayers which are identified and located shall be reported to the Tax Commission within five (5) days from the date of identification and location. Forms to be used for such remittances and reports shall be prescribed by the Tax Commission.

H. A debt collection agency entering into a contract with the Tax Commission or a person entering into a contract with the Tax Commission for asset location purposes pursuant to this section shall agree that it is receiving income from sources within this state or doing business in this state for purposes of the Oklahoma tax laws. Debt collection agency employees and/or their agents shall not disclose confidential tax information except as authorized by Section 205 of this title, subject to the penalties contained therein.

SECTION 11. AMENDATORY Section 6, Chapter 278, O.S.L. 2008, as amended by Section 6, Chapter 426, O.S.L. 2009 (68 O.S. Supp. 2009, Section 265), is amended to read as follows:

Section 265. A. There is hereby created in the State Treasury a fund for the Oklahoma Tax Commission to be known as the "Oklahoma Tax Commission and Office of State Finance Joint Computer Enhancement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the fund pursuant to law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended for the purposes authorized by subsection B of this section. Expenditures from said fund shall be made upon warrants

issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. Monies in the Oklahoma Tax Commission and Office of State Finance Joint Computer Enhancement Fund shall be expended for the following purposes:

1. To make payments on an agreement authorized by Section 5 ~~of this act~~, Chapter 278, O.S.L. 2008;

2. To make payments authorized by Section ~~41.5x~~ 34.33 of Title 62 of the Oklahoma Statutes; and

3. To the extent not needed for the above-listed purposes to be expended on other computer projects as specifically authorized by the Legislature.

C. Notwithstanding any other provision of law, there shall be apportioned to the Oklahoma Tax Commission and Office of State Finance Joint Computer Enhancement Fund from the monies that would otherwise be apportioned by ~~Sections 1353, 1403 and Section 2352 of Title 68 of the Oklahoma Statutes~~ this title, the revenue received as a result of any contracts entered into by the Oklahoma Tax Commission pursuant to Section 264 of ~~Title 68 of the Oklahoma Statutes~~ this title.

D. The Tax Commission is hereby authorized to deposit to the credit of Oklahoma Tax Commission and Office of State Finance Joint Computer Enhancement Fund any monies in excess of the amounts necessary to pay all claims presented to its cash security reserve fund. When monies are deposited to the credit of the Computer Enhancement Fund, the right of any person to present a claim for refund of a cash security shall be preserved and the value thereof shall be paid from the cash security reserve fund.

E. For the fiscal year beginning July 1, 2010, and notwithstanding the provisions of Section 2352 of this title, the first Five Million Dollars (\$5,000,000.00) of revenue derived pursuant to the provisions of subsections A, B and E of Section 2355 of this title shall be apportioned to the Oklahoma Tax Commission and Office of State Finance Joint Computer Enhancement Fund. For the fiscal year beginning July 1, 2010, the Tax Commission shall apportion the first Five Million Dollars (\$5,000,000.00) that would be apportioned pursuant to subsection C of this section according to the provisions of Section 2352 of this title.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 281 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission shall coordinate with city and county governments to increase state and local sales and use tax collections through joint enforcement efforts. Provided, the Tax Commission shall maintain central administration, and sales and use tax remitters shall not be subjected to duplicate audits, reports, or other collection efforts.

SECTION 13. AMENDATORY Section 24, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2009, Section 1354.31), is amended to read as follows:

Section 1354.31 A. If the Oklahoma Tax Commission enters into the Streamlined Sales and Use Tax Agreement under Section 1354.18 of ~~Title 68 of the Oklahoma Statutes~~ this title, the Tax Commission is authorized to provide a monetary allowance from the taxes collected to each of the following:

1. A certified service provider, in accordance with the agreement and under the terms of the contract signed with the provider;

2. Any vendor registered under the agreement that selects a certified automated system to perform part of its sales or use tax functions; and

3. Any vendor registered under the agreement that uses a proprietary system to calculate taxes due and has entered into a performance agreement with states that are members to the Streamlined Sales and Use Tax Agreement.

B. The monetary allowance provided for in paragraph 2 or 3 of subsection A of this section shall be given to the vendor for the period established by, and at the rate set in, the Streamlined Sales and Use Tax Agreement entered into under Section 1354.18 of Title 68 of the Oklahoma Statutes if the Tax Commission determines that such terms are reasonable and provide adequate incentive for such vendors.

C. Any vendor that is a remote seller that initially contracts with a certified service provider for the collection and remittance

of sales and use taxes to this state on or after October 1, 2010, and before July 1, 2011, shall be allowed compensation for the start-up costs associated with utilizing a certified service provider as provided in this subsection. The seller shall be allowed to retain twenty percent (20%) of the sales and use taxes collected by such seller, for a period of up to six (6) months, beginning with the first month such taxes are remitted by the certified service provider. The total amount retained by the seller as compensation may not exceed the sum of Five Hundred Dollars (\$500.00). A seller which retains such compensation shall be required to continue to collect and remit applicable sales and use taxes for a period of at least thirty-six (36) months. A seller which does not continue to collect and remit applicable sales and use taxes for a period of at least thirty-six (36) months shall be required to forfeit and repay all compensation to this state that it had retained pursuant to this subsection.

D. On or after October 1, 2010, in addition to any compensation provided pursuant to subsection C of this section, and in lieu of the deduction provided by subsections A, B, C and D of Section 1367.1 of this title, a remote seller that collects and remits sales and use taxes to this state shall be eligible, at the option of the seller, for either the compensation in the amounts, and subject to the limitations provided in the Streamlined Sales and Use Tax Agreement, or for the Oklahoma Tax Commission to assume the direct cost of contracting with a certified service provider. In the event the Streamlined Sales and Use Tax Agreement has not adopted provisions for vendor compensation, a remote seller shall be eligible, at the option of the seller, for the deductions provided by Section 1367.1 of this title or for the Oklahoma Tax Commission to assume the direct cost of contracting with a certified service provider.

E. For purposes of this section, the term "remote seller" shall mean a seller that would not register to collect sales and use taxes in this state but for the ability of this state to require such remote seller to collect sales or use tax under federal authority.

SECTION 14. AMENDATORY 68 O.S. 2001, Section 1367.1, as last amended by Section 73, Chapter 5, O.S.L. 2004 (68 O.S. Supp. 2009, Section 1367.1), is amended to read as follows:

Section 1367.1 A. For the purpose of compensating the seller or vendor in keeping sales tax records, filing reports and remitting

the tax when due, a seller or vendor shall be allowed a deduction as follows:

~~1. For sellers or vendors participating in the Oklahoma Tax Commission's electronic funds transfer and electronic data interchange program, two and one fourth percent (2 1/4%) of one percent (1%) of the tax due under the applicable provisions of this title; and~~

~~2. For all other sellers or vendors, one and one fourth percent (1 1/4%) of the tax due under the applicable provisions of this title. The Tax Commission is authorized to allow a vendor to deduct two and one fourth percent (2 1/4%) if the Tax Commission determines that the vendor is unable to participate in the Tax Commission's electronic funds transfer and electronic data interchange program.~~

Such deduction shall not be allowed with respect to a direct payment permit.

B. No deductions from tax shall be allowed if any such report or payment of tax is delinquent; provided, the deduction shall be allowed if the Oklahoma Tax Commission determines that the reason that such report or payment of tax was delinquent was due to the tornadoes occurring May 3, 1999, or May 8 or 9, 2003.

C. Notwithstanding the formula provided by subsection A of this section, the deduction provided by this section shall be limited to a maximum of ~~Three Thousand Three Hundred Dollars (\$3,300.00)~~ Two Thousand Five Hundred Dollars (\$2,500.00) per month per sales tax permit. No such sales tax permit holder may change sales tax permit status in order to avoid the provisions of this subsection.

D. Notwithstanding any other provision of law, an amount equal to the excess of the amount calculated by the formula provided by subsection A of this section over the ~~Three Thousand Three Hundred Dollar~~ two-thousand-five-hundred-dollar limit provided by subsection C of this section shall be retained by the state as an administrative expense and deposited to the General Revenue Fund.

E. Notwithstanding the provisions of subsections A, B, C and D of this section, in the event that federal authority authorizes this state to require remote sellers to collect and remit sales and use taxes, the Oklahoma Tax Commission is authorized and directed to promulgate rules which provide for deductions in the amounts and subject to the limitations provided in the Streamlined Sales and Use

Tax Agreement. All sellers or vendors shall be eligible for such deductions beginning on the date this state acquires such collection authority pursuant to federal authorization.

F. For purposes of this section, the term "remote seller" shall mean a seller that would not register to collect sales and use taxes in this state but for the ability of this state to require such remote seller to collect sales or use tax under federal authority.

SECTION 15. AMENDATORY 68 O.S. 2001, Section 1371, is amended to read as follows:

Section 1371. Any sales tax levied by a county pursuant to the provisions of Section 1370 of this title shall be paid by the consumer to the vendor. The board of county commissioners and the Oklahoma Tax Commission ~~are authorized to~~ shall enter into a contract whereby the Tax Commission shall have authority to assess, collect, and enforce the sales tax, and any penalties or interest thereon, levied by such county, and to remit the same to the county. Such assessment, collection, and enforcement authority shall apply to any sales tax, and any penalty or interest liability existing at the time of contracting. Upon contracting, the Tax Commission shall have the power of enforcement of the sales tax, and any penalties or interest that are vested in the county. The contract shall provide for the assessment, collection, and enforcement of the sales tax, and the penalties or interest, in the same manner as the administration, collection, and enforcement of the state sales tax by the Tax Commission. For providing such collection assistance, the Tax Commission shall charge the county a fee of one percent (1%) of the gross collection proceeds.

The Tax Commission shall place all sales taxes, including penalties and interest, collected on behalf of a county pursuant to the provisions of this section in the Sales Tax Remitting Account as provided in Section 1373 of this title. As used in this section and Sections 1372, 1373 and 1374 of this title, "sales tax" includes any tax imposed pursuant to the provisions of Section 1 of this act.

SECTION 16. AMENDATORY 68 O.S. 2001, Section 2702, as amended by Section 41, Chapter 460, O.S.L. 2002 (68 O.S. Supp. 2009, Section 2702), is amended to read as follows:

Section 2702. A. The governing body of any incorporated city or town and the Oklahoma Tax Commission ~~are authorized and empowered to~~ shall enter into contractual agreements whereby the Oklahoma Tax

Commission shall have authority to assess, to collect and to enforce any taxes or, penalties or interest thereon, levied by such incorporated city or town, and remit the same to such municipality. Said assessment, collection, and enforcement authority shall apply to any taxes, penalty or interest liability existing at the time of contracting. Upon contracting, the Oklahoma Tax Commission shall have all the powers of enforcement in regard to such taxes, penalties and interest as are granted to or vested in the contracting municipality. Such agreement shall provide for the assessment, collection, enforcement, and prosecution of such municipal tax, penalties and interest, in the same manner as and in accordance with the administration, collection, enforcement, and prosecution by the Oklahoma Tax Commission of any similar state tax except as provided by agreement. The municipality shall agree to refrain from any assessment, collection, or enforcement of the municipal tax except as specified in the agreement. Such agreement shall authorize the Oklahoma Tax Commission to retain an amount not to exceed one and three-fourths percent (1 3/4%) as a retention fee of municipal tax collected for services rendered in connection with such collections; provided, if a municipality files an action resulting in collection of delinquent state and municipal taxes, the Tax Commission shall remit one-half (1/2) of the retention fee applied to the amount of such taxes to the municipality to be apportioned as are other sales tax revenue. All funds retained by the Oklahoma Tax Commission for the collection services to municipalities shall be deposited in the Oklahoma Tax Commission Revolving Fund in the State Treasury.

B. The Oklahoma Tax Commission shall place all sales taxes, including penalties and interest, collected on behalf of a municipality pursuant to the provisions of this section and all use taxes, including penalties and interest, collected on behalf of a municipality pursuant to the provisions of Section 1411 of this title in the Sales Tax Remitting Account as provided in Section 1373 of this title.

C. Provided that the Oklahoma Tax Commission and the governing body of any incorporated city or town may enter into contractual agreements whereby the municipality would be authorized to implement or augment the enforcement, collection and prosecution of the municipal tax in those contracting municipalities and to provide for the satisfaction of refunds or credits to taxpayers. Such agreements shall and are hereby authorized to provide that the municipality and the Oklahoma Tax Commission may exchange necessary information to effectively carry out the terms of such agreements.

The municipality, its officers and employees shall preserve the confidentiality of such information in the same manner and be subject to the same penalties as provided by Section 205 of this title, provided that the municipal prosecutor and other municipal enforcement personnel may receive all information necessary to implement or augment the enforcement and prosecution of municipal sales tax ordinances.

D. Provided further that, upon the request of any incorporated city or town, the Oklahoma Tax Commission shall enter into contractual agreements with such municipality whereby the municipality would be authorized to implement or augment the enforcement, either directly or through contract with private auditors or audit firms, of the municipal tax. Any person performing an audit shall first be approved by the Oklahoma Tax Commission and, once approved, shall be appointed as an agent of the Oklahoma Tax Commission for purposes of the audit. Contracts with a private auditor or audit firm shall not be subject to the limitations of Section 262 of this title and shall and are hereby authorized to provide that the municipality, private auditors or audit firms and the Oklahoma Tax Commission may exchange necessary information to effectively carry out the terms of such agreements. The municipality, its officers and employees and private auditors or audit firms may receive all information necessary to perform audits and shall preserve the confidentiality of such information in the same manner and be subject to the same penalties as provided by Section 205 of this title. Municipalities conducting audits directly or by contracting for private auditors or audit firms pursuant to this subsection shall furnish to the Oklahoma Tax Commission the audit results and all relevant supporting documentation. Further, such municipalities shall provide for the payment of private auditors or audit firms by deduction from the tax assessment resulting from the audit conducted by said private auditors or audit firms unless a municipality contracts with the auditor or audit firm for another method of payment. Any municipal sales tax funds recovered as a result of the services provided under this subsection will not be included in calculating the retention fee retained by the Oklahoma Tax Commission pursuant to subsection A of this section. The contracts authorized by subsection A of this section shall provide that the Oklahoma Tax Commission shall not have any obligations thereunder to any municipality that does not participate in an audit conducted under this subsection.

E. Any sum or sums collected or required to be collected pursuant to a municipal sales tax levy shall be deemed to be held in

trust for the municipality, and, as trustee, the collecting vendor shall have a fiduciary duty to the municipality in regards to such sums and shall be subject to the trust laws of this state.

SECTION 17. AMENDATORY 68 O.S. 2001, Section 1503, as amended by Section 16, Chapter 479, O.S.L. 2005 (68 O.S. Supp. 2009, Section 1503), is amended to read as follows:

Section 1503. A. Every person who owns and has available to any of the public for operation, or who permits to be operated in or on his place of business, coin-operated devices shall pay for such privilege an annual fee. A fee shall be required for each machine, regardless of the number of coin slots, if the machine, upon insertion of a coin, token or similar object, provides music, amusement or entertainment or dispenses one or more products separate and apart from any other provider of music, amusement or entertainment or dispenser of one or more products. The test to determine whether the machine can operate separate and apart from any other shall be whether the provider or dispenser can still function if separated from the others to which it is attached. When multiple machines are placed on a single stand, a decal shall be required for each machine as provided in Section 1501 et seq. of this title. The annual fee required shall be as follows:

1. For each coin-operated music device or coin-operated amusement device, ~~Fifty Dollars (\$50.00)~~ One Hundred Fifty Dollars (\$150.00);

2. For each coin-operated vending device requiring a coin or thing of value of twenty-five cents (\$0.25) or more, ~~Fifty Dollars (\$50.00)~~ One Hundred Fifty Dollars (\$150.00);

3. For each coin-operated vending device requiring a coin or thing of value of less than twenty-five cents (\$0.25), Ten Dollars (\$10.00);

4. For each coin-operated bulk vending device which vends one or more products through a single distribution mechanism requiring a coin or thing of value of twenty-five cents (\$0.25) or more, Five Dollars (\$5.00);

5. For each coin-operated bulk vending device which vends one or more products through more than one but not more than five distribution mechanisms, requiring a coin or thing of value of twenty-five cents (\$0.25) or more, Fifteen Dollars (\$15.00). For

each coin-operated bulk vending device which vends one or more products through six or more distribution mechanisms, the appropriate number of fifteen-dollar decals will be required. The number of decals required shall be determined by dividing the number of distribution mechanisms by five and rounding to the next highest whole number; and

6. For each coin-operated bulk vending device requiring a coin or thing of value less than twenty-five cents (\$0.25), Two Dollars (\$2.00).

B. The annual fee required by this section shall be in lieu of sales tax levied pursuant to Sections 1350 through 1372 of this title.

C. In those instances where it is shown to the satisfaction of the Tax Commission that a coin-operated device, upon which an annual fee is imposed, will be placed available for use by the public for a definite but limited period of time less than one (1) year, such as where displayed in connection with fairs, carnivals, and places of amusement that operate only during certain seasons of the year, the Commission may issue a special decal therefor. Such special decal may be issued for any number of calendar months less than a full year, and shall indicate that it is a special decal; and shall be for one or more calendar months and shall state the precise months for which issued and shall not be transferred from one machine to another. The fee shall be computed and paid on the basis of one-tenth (1/10) of the annual rate for the type of device operated, for each calendar month for which such special decal is issued. In the event the mechanical device is made available to the public for a period beyond that for which the special decal is issued, then a full year's fee and penalty, as set out in Section 1506 of this title, shall be due.

SECTION 18. AMENDATORY 47 O.S. 2001, Section 1115, as last amended by Section 1, Chapter 443, O.S.L. 2009 (47 O.S. Supp. 2009, Section 1115), is amended to read as follows:

Section 1115. A. Unless provided otherwise by statute, the following vehicles shall be registered annually: manufactured homes, vehicles registered with a permanent nonexpiring license plate pursuant to Section 1113 of this title, and commercial vehicles registered pursuant to the installment plan provided in subsection H of Section 1133 of this title. The following schedule

shall apply for such vehicle purchased in this state or brought into this state by residents of this state:

1. Between January 1 and March 31, the payment of the full annual fee shall be required;
2. Between April 1 and June 30, the payment of three-fourths (3/4) the annual fee shall be required;
3. Between July 1 and September 30, the payment of one-half (1/2) the annual fee shall be required; and
4. Between October 1 and November 30, one-fourth (1/4) the annual fee shall be required.

License plates or decals for each year shall be made available on December 1 of each preceding year for such vehicles. Any person who purchases such vehicle or manufactured home between December 1 and December 31 of any year shall register it within thirty (30) days from date of purchase and obtain a license plate or Manufactured Home License Registration Decal, as appropriate, for the following calendar year upon payment of the full annual fee. Unless provided otherwise by statute, all annual license, registration and other fees for such vehicles shall be due and payable on January 1 of each year and if not paid by February 1 shall be deemed delinquent.

B. 1. All vehicles, other than those required to be registered pursuant to the provisions of subsection A of this section, shall be registered on a staggered system of registration and licensing on a monthly series basis to distribute the work of registering such vehicles as uniformly and expeditiously as practicable throughout the calendar year. After the end of the month following the expiration date, the license and registration fees for the new registration period shall become delinquent.

2. All fleet vehicles registered pursuant to new applications approved pursuant to the provisions of Section 1120 of this title shall be registered on a staggered system monthly basis.

3. Applicants seeking to establish Oklahoma as the base jurisdiction for registering apportioned fleet vehicles shall have a one-time option of registering for a period of not less than six (6) months nor greater than eighteen (18) months. Subsequent renewals for these registrants will be for twelve (12) months, expiring on

the last day of the month chosen by the registrant under the one-time option as provided herein. In addition, registrants with multiple fleets may designate a different registration month of expiration for each fleet.

As used in this section, "fleet" shall have the same meaning as set forth in the International Registration Plan.

4. Effective January 1, 2004, all motorcycles and mopeds shall be registered on a staggered system of registration. The Oklahoma Tax Commission shall notify in writing, prior to December 1, 2003, all owners of motorcycles or mopeds registered as of such date, who shall have a one-time option of registering for a period of not less than three (3) months nor greater than fifteen (15) months. Subsequent renewals for these registrants will be for twelve (12) months, expiring on the last day of the month chosen by the registrant under the one-time option as provided herein. All motorcycles and mopeds registered pursuant to new applications received on or after December 1, 2003, shall also be registered pursuant to the provisions of this paragraph.

C. The following penalties shall apply for delinquent registration fees:

1. For fleet vehicles required to be registered pursuant to the provisions of Section 1120 of this title for which a properly completed application for registration has not been received by the Corporation Commission by the last day of the month following the registration expiration date, a penalty of thirty percent (30%) of the Oklahoma portion of the annual registration fee, or Two Hundred Dollars (\$200.00), whichever is greater, shall be assessed. The license and registration cards issued by the Corporation Commission for each fleet vehicle shall be valid until two (2) months after the registration expiration date;

2. For commercial vehicles registered under the provisions of subsection B of this section, except those vehicles registered pursuant to Section 1133.1 of this title, a penalty shall be assessed after the last day of the month following the registration expiration date. A penalty of twenty-five cents (\$0.25) per day shall be added to the license fee of such vehicle and shall accrue for one (1) month. Thereafter, the penalty shall be thirty percent (30%) of the annual registration fee, or Two Hundred Dollars (\$200.00), whichever is greater;

3. For new or used manufactured homes, not registered within thirty (30) days from date of purchase or date such manufactured home was brought into this state, a penalty equal to the registration fee shall be assessed; or

4. Except as provided in subsection H of Section 1133 of this title, for all other vehicles a penalty shall be assessed after the last day of the month following the expiration date. A penalty of One Dollar (\$1.00) per day shall be added to the license fee of such vehicle, provided that the penalty shall not exceed One Hundred Dollars (\$100.00). Of each dollar penalty collected pursuant to this subsection:

~~1. Twenty five~~

a. twenty-five cents (\$0.25) shall be apportioned as provided in Section 1104 of this title~~7,~~

~~2. Twenty five~~

b. twenty-five cents (\$0.25) shall be retained by the motor license agent~~7,~~ and

~~3. Fifty~~

c. fifty cents (\$0.50) shall be deposited in the General Revenue Fund for the fiscal year beginning on July 1, ~~2009~~ 2010, and for all subsequent fiscal years, shall be deposited in the State Highway Construction and Maintenance Fund.

D. In addition to all other penalties provided in the Oklahoma Vehicle License and Registration Act, the following penalties shall be imposed and collected by any Enforcement Officer of the Corporation Commission upon finding any commercial vehicle being operated in violation of the provisions of the Oklahoma Vehicle License and Registration Act.

The penalties shall apply to any commercial vehicle found to be operating in violation of the following provisions:

1. A penalty of not less than Fifty Dollars (\$50.00) shall be imposed upon any person found to be operating a commercial vehicle sixty (60) days after the end of the month in which the license plate or registration credentials expire without the current year

license plate or registration credential displayed. Such penalty shall not exceed the amount established by the Corporation Commission pursuant to the provisions of subsection A of Section 1167 of this title. Revenue from such penalties shall be apportioned as provided in Section 1167 of this title;

2. A penalty of not less than Fifty Dollars (\$50.00) shall be imposed for any person operating a commercial vehicle subject to the provisions of Section 1120 or Section 1133 of this title without the proper display of, or, carrying in such commercial vehicle, the identification credentials issued by the Corporation Commission as evidence of payment of the fee or tax as provided in Section 1120 or Section 1133 of this title. Such penalty shall not exceed the amount established by the Corporation Commission pursuant to the provisions of subsection A of Section 1167 of this title. Revenue from such penalties shall be apportioned as provided in Section 1167 of this title; and

3. A penalty of not less than One Hundred Dollars (\$100.00) shall be imposed for any person that fails to register any commercial vehicle subject to the Oklahoma Vehicle License and Registration Act. Such penalty shall not exceed the amount established by the Corporation Commission pursuant to the provisions of subsection A of Section 1167 of this title. Revenue from such penalties shall be apportioned as provided in Section 1167 of this title.

E. The Tax Commission, or Corporation Commission with respect to vehicles registered under Section 1120 or Section 1133 of this title, shall assess the registration fees and penalties for the year or years a vehicle was not registered. For vehicles not registered for two (2) or more years, the registration fees and penalties shall be due only for the current year and one (1) previous year.

F. In addition to any other penalty prescribed by law, there shall be a penalty of not less than Twenty Dollars (\$20.00) upon a finding by an enforcement officer that:

1. The registration of a vehicle registered pursuant to Section 1132 of this title is expired and it is sixty (60) or more days after the end of the month of expiration; or

2. The registration fees for a vehicle that is subject to the registration fees pursuant to Section 1132 of this title have not been paid.

Such penalty shall not exceed the amount established by the Corporation Commission pursuant to the provisions of subsection A of Section 1167 of this title. Revenue from such penalties shall be apportioned as provided in Section 1167 of this title.

G. If a vehicle is donated to a nonprofit charitable organization, the nonprofit charitable organization shall be exempt from paying any current or past due registration fees, excise tax, transfer fees, and penalties and interest. However, after the donation, if the person donating the vehicle, or someone on behalf of such person, purchases the same vehicle back from the nonprofit charitable organization to which the vehicle was donated, such person shall be liable for all current and past-due registration fees, excise tax, title or transfer fees, and penalties and interest on such vehicle.

SECTION 19. AMENDATORY 47 O.S. 2001, Section 1132, as last amended by Section 2, Chapter 443, O.S.L. 2009 (47 O.S. Supp. 2009, Section 1132), is amended to read as follows:

Section 1132. A. For all vehicles, unless otherwise specifically provided by the Oklahoma Vehicle License and Registration Act, a registration fee shall be assessed at the time of initial registration by the owner and annually thereafter, for the use of the avenues of public access within this state in the following amounts:

1. For the first through the fourth year of registration in this state or any other state, Eighty-five Dollars (\$85.00);

2. For the fifth through the eighth year of registration in this state or any other state, Seventy-five Dollars (\$75.00);

3. For the ninth through the twelfth year of registration in this state or any other state, Fifty-five Dollars (\$55.00);

4. For the thirteenth through the sixteenth year of registration in this state or any other state, Thirty-five Dollars (\$35.00); and

5. For the seventeenth and any following year of registration in this state or any other state, Fifteen Dollars (\$15.00).

The registration fee provided for in this subsection shall be in lieu of all other taxes, general or local, unless otherwise specifically provided.

B. For all-terrain vehicles and motorcycles used exclusively for use off roads or highways purchased on or after July 1, 2005, and for all-terrain vehicles and motorcycles used exclusively for use off roads or highways purchased prior to July 1, 2005, which the owner chooses to register pursuant to the provisions of Section 1115.3 of this title, an initial and nonrecurring registration fee of Eleven Dollars (\$11.00) shall be assessed at the time of initial registration by the owner. Nine Dollars (\$9.00) of the registration fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund. Two Dollars (\$2.00) of the registration fee shall be retained by the motor license agent. The fees required by subsection A of this section shall not be required for all-terrain vehicles or motorcycles used exclusively off roads and highways.

C. For utility vehicles used exclusively for use off roads or highways purchased on or after July 1, 2008, and for utility vehicles used exclusively for use off roads or highways purchased prior to July 1, 2008, which the owner chooses to register pursuant to the provisions of Section 1115.3 of this title, an initial and nonrecurring registration fee of Eleven Dollars (\$11.00) shall be assessed at the time of initial registration by the owner. Nine Dollars (\$9.00) of the registration fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund. Two Dollars (\$2.00) of the registration fee shall be retained by the motor license agent. The fees required by subsection A of this section shall not be required for utility vehicles used exclusively off roads and highways.

D. There shall be a credit allowed with respect to the fee for registration of a new vehicle which is a replacement for:

1. A new original vehicle which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vehicle as certified by a police report or other documentation as required by the Oklahoma Tax Commission; or

2. A defective new original vehicle returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original vehicle as certified by the manufacturer.

The credit shall be in the amount of the fee for registration which was paid for the new original vehicle and shall be applied to the registration fee for the replacement vehicle. In no event will the credit be refunded.

E. Upon every transfer or change of ownership of a vehicle, the new owner shall obtain title for and, except in the case of salvage vehicles and manufactured homes, register the vehicle within thirty (30) days of change of ownership and pay a transfer fee of Fifteen Dollars (\$15.00) in addition to any other fees provided for in this act. No new decal shall be issued to the registrant. Thereafter, the owner shall register the vehicle annually on the anniversary date of its initial registration in this state and shall pay the fees provided in subsection A of this section and receive a decal evidencing such payment. Provided, used motor vehicle dealers shall be exempt from the provisions of this section.

F. In the event a new or used vehicle is not registered, titled and tagged within thirty (30) days from the date of transfer of ownership, the penalty for the failure of the owner of the vehicle to register the vehicle within thirty (30) days shall be One Dollar (\$1.00) per day, provided that in no event shall the penalty exceed One Hundred Dollars (\$100.00). Of each dollar penalty collected pursuant to this subsection:

1. Twenty-five cents (\$0.25) shall be apportioned as provided in Section 1104 of this title;

2. Twenty-five cents (\$0.25) shall be retained by the motor license agent; and

3. Fifty cents (\$.50) shall be deposited in the General Revenue Fund for the fiscal year beginning on July 1, ~~2009~~ 2010, and for all subsequent fiscal years, shall be deposited in the State Highway Construction and Maintenance Fund.

SECTION 20. AMENDATORY 47 O.S. 2001, Section 1151, as last amended by Section 4, Chapter 443, O.S.L. 2009 (47 O.S. Supp. 2009, Section 1151), is amended to read as follows:

Section 1151. A. It shall be unlawful for any person to commit any of the following acts:

1. To lend or to sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title, license plate or

decal issued to or in the custody of the person so lending or permitting the use thereof;

2. To alter or in any manner change a certificate of title, registration certificate, license plate or decal issued under the laws of this or any other state;

3. To procure from another state or country, or display upon any vehicle owned by such person within this state, except as otherwise provided in the Oklahoma Vehicle License and Registration Act, any license plate issued by any state or country other than this state, unless there shall be displayed upon such vehicle at all times the current license plate and decal assigned to it by the Oklahoma Tax Commission or the Corporation Commission or the vehicle shall display evidence that the vehicle is registered as a nonresident vehicle pursuant to rules promulgated by the Tax Commission, with the concurrence of the Department of Public Safety. A violation of the provisions of this paragraph shall be presumed to have occurred if a person who is the holder of an Oklahoma driver license operates a vehicle owned by such person on the public roads or highways of this state and there is not displayed on the vehicle a current Oklahoma license plate and decal, unless the vehicle is owned by a member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders or the spouse of such a member of the Armed Forces;

4. To drive, operate or move, or for the owner to cause or permit to be driven or moved, upon the roads, streets or highways of this state, any vehicle loaded in excess of its registered laden weight, or which is licensed for a capacity less than the manufacturer's rated capacity as provided for in the Oklahoma Vehicle License and Registration Act;

5. To operate a vehicle without proper license plate or decal or on which all taxes due the state have not been paid;

6. To buy, sell or dispose of, or possess for sale, use or storage, any secondhand or used vehicle on which the registration or license fee has not been paid, as required by law, and on which vehicle the person neglects, fails or refuses to display at all times the license plate or decal assigned to it;

7. To give a fictitious name or fictitious address or make any misstatement of facts in application for certificate of title and registration of a vehicle;

8. To purchase a license plate on an assigned certificate of title. This particular paragraph shall be applicable to all persons except a bona fide registered dealer in used cars who are holders of a current and valid used car dealer license;

9. To operate a vehicle upon the highways of this state after the registration deadline for that vehicle without a proper license plate, as prescribed by the Oklahoma Vehicle License and Registration Act, for the current year;

10. For any owner of a vehicle registered on the basis of laden weight to fail or refuse to weigh or reweigh it when requested to do so by any enforcement officer charged with the duty of enforcing this law;

11. To operate or possess any vehicle which bears a motor number or serial number other than the original number placed thereon by the factory except a number duly assigned and authorized by the state;

12. For any motor license agent to release a license plate, a manufactured home registration receipt, decal or excise tax receipt to any unauthorized person or source, including any dealer in new or used motor vehicles. Violation of this paragraph shall constitute sufficient grounds for discharge of a motor license agent by the Tax Commission;

13. To operate any vehicle registered as a commercial vehicle without the lettering requirements of Section 1102 of this title; or

14. To operate any vehicle in violation of the provisions of Sections 7-600 through 7-606 of this title while displaying a yearly decal issued to the owner who has filed an affidavit with the appropriate motor license agent in accordance with Section 7-607 of this title.

Any person convicted of violating any provision of this subsection, other than paragraph 3 of this subsection, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00). Any person convicted of violating the provisions of paragraph 3 of this subsection shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00)

and shall be required to obtain an Oklahoma license plate. Employees of the Corporation Commission may be authorized by the Corporation Commission to issue citations to motor carriers or operators of commercial motor vehicles, pursuant to the jurisdiction of the Corporation Commission, for a violation of this subsection. If a person convicted of violating the provisions of this subsection was issued a citation by a duly authorized employee of the Corporation Commission, the fine herein levied shall be apportioned as provided in Section 1167 of this title.

B. Except as otherwise authorized by law, it shall be unlawful to:

1. Lend or sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title issued for a manufactured home, manufactured home registration receipt, manufactured home registration decal or excise tax receipt;

2. Alter or in any manner change a certificate of title issued for a manufactured home under the laws of this state or any other state;

3. Remove or alter a manufactured home registration receipt, manufactured home registration decal or excise tax receipt attached to a certificate of title or attach such receipts to a certificate of title with the intent to misrepresent the payment of the required excise tax and registration fees;

4. Buy, sell, or dispose of, or possess for sale, use or storage any used manufactured home on which the registration fees or excise taxes have not been paid as required by law; or

5. Purchase identification, manufactured home registration receipt, manufactured home registration decal or excise tax receipt on an assigned certificate of title.

Anyone violating the provisions of this subsection, upon conviction, shall be guilty of a felony.

C. In the event a new vehicle is not registered within thirty (30) days from date of purchase, the penalty for the failure of the owner of the vehicle to register the vehicle within thirty (30) days shall be One Dollar (\$1.00) per day; provided, that in no event shall the penalty exceed One Hundred Dollars (\$100.00). Of each dollar penalty collected pursuant to this subsection:

1. Twenty-five cents (\$0.25) shall be apportioned as provided in Section 1104 of this title;

2. Twenty-five cents (\$0.25) shall be retained by the motor license agent; and

3. Fifty cents (\$0.50) shall be deposited in the General Revenue Fund for the fiscal year beginning on July 1, ~~2009~~ 2010, and for all subsequent fiscal years, shall be deposited in the State Highway Construction and Maintenance Fund. The penalty for new commercial vehicles shall be equal to the license fee for such vehicles.

If a used vehicle is brought into Oklahoma by a resident of this state and is not registered within thirty (30) days, a penalty of One Dollar (\$1.00) per day shall be charged from the date of entry to the date of registration; provided, that in no event shall the penalty exceed One Hundred Dollars (\$100.00). Of each dollar penalty collected pursuant to this subsection:

1. Twenty-five cents (\$0.25) shall be apportioned as provided in Section 1104 of this title;

2. Twenty-five cents (\$0.25) shall be retained by the motor license agent; and

3. Fifty cents (\$0.50) shall be deposited in the General Revenue Fund for the fiscal year beginning on July 1, ~~2009~~ 2010, and for all subsequent fiscal years, shall be deposited in the State Highway Construction and Maintenance Fund. The penalty for used commercial vehicles shall be equal to the license fee for such vehicles.

D. Any owner who knowingly makes or causes to be made any false statement of a fact required in this section to be shown in an application for the registration of one or more vehicles shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand Dollars (\$1,000.00), or shall be imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment.

E. The following self-propelled or motor-driven and operated vehicles shall not be registered under the provisions of the Oklahoma Vehicle License and Registration Act or, except as provided

for in Section 11-1116 of this title, be permitted to be operated on the streets or highways of this state:

1. Vehicles known and commonly referred to as "minibikes" and other similar trade names; provided, minibikes may be registered and operated in this state by food vendor services upon streets having a speed limit of thirty (30) miles per hour or less;

2. Golf carts;

3. Go-carts; and

4. Other motor vehicles, except motorcycles, which are manufactured principally for use off the streets and highways.

Transfers and sales of such vehicles shall be subject to sales tax and not motor vehicle excise taxes.

F. Any person violating paragraph 3 or 6 of subsection A of this section, in addition to the penal provisions provided in this section, shall pay as additional penalty a sum equal to the amount of license fees due on such vehicle or registration fees due on a manufactured home known to be in violation and such amount is hereby declared to be a lien upon the vehicle as provided in the Oklahoma Vehicle License and Registration Act. In addition to the penalty provisions provided in this section, any person violating paragraph 3 of subsection A of this section shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished by a fine of One Hundred Dollars (\$100.00).

G. Each violation of any provision of the Oklahoma Vehicle License and Registration Act for each and every day such violation has occurred shall constitute a separate offense.

H. Anyone violating any of the provisions heretofore enumerated in this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10.00) and not to exceed Three Hundred Dollars (\$300.00).

I. Any violation of any portion of the Oklahoma Vehicle License and Registration Act where a specific penalty has not been imposed shall constitute a misdemeanor and upon conviction thereof the person having violated it shall be fined not less than Ten Dollars (\$10.00) and not to exceed Three Hundred Dollars (\$300.00).

J. Any provision of Section 1101 et seq. of this title providing for proportional registration under reciprocal agreements and the International Registration Plan that relates to the promulgation of rules and regulations shall not be subject to the provisions of this section.

SECTION 21. AMENDATORY 68 O.S. 2001, Section 2103, as last amended by Section 6, Chapter 443, O.S.L. 2009 (68 O.S. Supp. 2009, Section 2103), is amended to read as follows:

Section 2103. A. 1. Except as otherwise provided in Sections 2101 through 2108 of this title, there shall be levied an excise tax upon the transfer of legal ownership of any vehicle registered in this state and upon the use of any vehicle registered in this state and upon the use of any vehicle registered for the first time in this state. Except for persons that possess an agricultural exemption pursuant to Section 1358.1 of this title, the excise tax shall be levied upon transfers of legal ownership of all-terrain vehicles and motorcycles used exclusively off roads and highways which occur on or after July 1, 2005, and upon transfers of legal ownership of utility vehicles used exclusively off roads and highways which occur on or after July 1, 2008. The excise tax for new and used all-terrain vehicles, utility vehicles and motorcycles used exclusively off roads and highways shall be levied at four and one-half percent (4 1/2%) of the actual sales price of each new and used all-terrain vehicle and motorcycle used exclusively off roads and highways before any discounts or credits are given for a trade-in. Provided, the minimum excise tax assessment for such all-terrain vehicles, utility vehicles and motorcycles used exclusively off roads and highways shall be Five Dollars (\$5.00). The excise tax for new vehicles shall be levied at three and one-fourth percent (3 1/4%) of the value of each new vehicle. The excise tax for used vehicles shall be as follows:

- a. from October 1, 2000, until June 30, 2001, Twenty Dollars (\$20.00) on the first One Thousand Dollars (\$1,000.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle,
- b. for the year beginning July 1, 2001, and ending June 30, 2002, Twenty Dollars (\$20.00) on the first One Thousand Two Hundred Fifty Dollars (\$1,250.00) or less of value of such vehicle, and three and one-fourth

percent (3 1/4%) of the remaining value of such vehicle, and

- c. for the year beginning July 1, 2002, and all subsequent years, Twenty Dollars (\$20.00) on the first One Thousand Five Hundred Dollars (\$1,500.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle.

2. There shall be levied an excise tax of Ten Dollars (\$10.00) for any:

- a. truck or truck-tractor registered under the provisions of subsection A of Section 1133 of Title 47 of the Oklahoma Statutes, for a laden weight or combined laden weight of fifty-five thousand (55,000) pounds or more,
- b. trailer or semitrailer registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes, which is primarily designed to transport cargo over the highways of this state and generally recognized as such, and
- c. frac tank, as defined by Section 54 of Title 17 of the Oklahoma Statutes, and registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes.

Except for frac tanks, the excise tax levied pursuant to this paragraph shall not apply to special mobilized machinery, trailers, or semitrailers manufactured, modified or remanufactured for the purpose of providing services other than transporting cargo over the highways of this state. The excise tax levied pursuant to this paragraph shall also not apply to pickup trucks, vans, or sport utility vehicles.

3. The tax levied pursuant to this section shall be due at the time of the transfer of legal ownership or first registration in this state of such vehicle; provided, the tax shall not be due at the time of the issuance of a certificate of title for an all-terrain vehicle, utility vehicle or motorcycle used exclusively off roads and highways which is not required to be registered but which the owner chooses to register pursuant to the provisions of subsection B of Section 1115.3 of Title 47 of the Oklahoma Statutes,

and shall be collected by the Oklahoma Tax Commission or Corporation Commission, as applicable, or an appointed motor license agent, at the time of the issuance of a certificate of title for any such vehicle. In the event an excise tax is collected on the transfer of legal ownership or use of the vehicle during any calendar year, then an additional excise tax must be collected upon all subsequent transfers of legal ownership. In computing the motor vehicle excise tax, the amount collected shall be rounded to the nearest dollar. The excise tax levied by this section shall be delinquent from and after the thirtieth day after the legal ownership or possession of any vehicle is obtained. Any person failing or refusing to pay the tax as herein provided on or before date of delinquency shall pay in addition to the tax a penalty of One Dollar (\$1.00) per day for each day of delinquency, but such penalty shall in no event exceed the amount of the tax. Of each dollar penalty collected pursuant to this subsection:

~~1. Twenty five~~

- a. twenty-five cents (\$0.25) shall be apportioned as provided in Section 1104 of this title;

~~2. Twenty five~~

- b. twenty-five cents (\$0.25) shall be retained by the motor license agent; and

~~3. Fifty~~

- c. fifty cents (\$0.50) shall be deposited in the General Revenue Fund for the fiscal year beginning on July 1, ~~2009~~ 2010, and for all subsequent fiscal years, shall be deposited in the State Highway Construction and Maintenance Fund.

B. The excise tax levied in subsection A of this section assessed on all commercial vehicles registered pursuant to Section 1120 of Title 47 of the Oklahoma Statutes shall be in lieu of all sales and use taxes levied pursuant to the Sales Tax Code or the Use Tax Code. The transfer of legal ownership of any motor vehicle as used in this section and the Sales Tax Code and the Use Tax Code shall include the lease, lease purchase or lease finance agreement involving any truck in excess of eight thousand (8,000) pounds combined laden weight or any truck-tractor provided the vehicle is registered in Oklahoma pursuant to Section 1120 of Title 47 of the

Oklahoma Statutes or any frac tank, trailer, semitrailer or open commercial vehicle registered pursuant to Section 1133 of Title 47 of the Oklahoma Statutes. The excise tax levied pursuant to this section shall not be subsequently collected at the end of the lease period if the lessee acquires complete legal title of the vehicle.

C. The provisions of this section shall not apply to transfers made without consideration between:

1. Husband and wife;
2. Parent and child; or

3. An individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

D. 1. There shall be a credit allowed with respect to the excise tax paid for a new vehicle which is a replacement for:

- a. a new original vehicle which is stolen from the purchaser/registant within ninety (90) days of the date of purchase of the original vehicle as certified by a police report or other documentation as required by the Tax Commission, or
- b. a defective new original vehicle returned by the purchaser/registant to the seller within six (6) months of the date of purchase of the defective new original vehicle as certified by the manufacturer.

2. The credit allowed pursuant to paragraph 1 of this subsection shall be in the amount of the excise tax which was paid for the new original vehicle and shall be applied to the excise tax due on the replacement vehicle. In no event shall the credit be refunded.

E. Despite any other definitions of the terms "new vehicle" and "used vehicle", to the contrary, contained in any other law, the term "new vehicle" as used in this section shall also include any vehicle of the latest manufactured model which is owned or acquired by a licensed used motor vehicle dealer which has not previously been registered in this state and upon which the motor vehicle excise tax as set forth in this section has not been paid. However, upon the sale or transfer by a licensed used motor vehicle dealer

located in this state of any such vehicle which is the latest manufactured model, the vehicle shall be considered a used vehicle for purposes of determining excise tax.

SECTION 22. AMENDATORY 68 O.S. 2001, Section 415, as amended by Section 17, Chapter 434, O.S.L. 2009 (68 O.S. Supp. 2009, Section 415), is amended to read as follows:

Section 415. A. Every dealer and wholesaler of tobacco products in this state, as a condition of carrying on such business, shall annually secure from the Oklahoma Tax Commission a written license and shall pay an annual fee of Two Hundred Fifty Dollars (\$250.00); provided, such fee shall not be applicable if paid pursuant to Section 304 of this title. The Tax Commission shall promulgate rules which provide a procedure for the issuance of a joint license for any wholesaler making application pursuant to this section and Section 304 of this title. Application for such license, which shall be made upon such forms as prescribed by the Tax Commission, shall include the following:

1. The applicant's agreement to the jurisdiction of the Tax Commission and the courts of this state for purposes of enforcement of the provisions of Section 301 et seq. of this title; and

2. The applicant's agreement to abide by the provisions of Section 301 et seq. of this title and the rules promulgated by the Tax Commission with reference thereto. This license, which will be for the ensuing year, must at all times be displayed in a conspicuous place so that it can be seen. Persons operating more than one place of business must secure a license for each place of business. "Place of business" shall be construed to include the place where orders are received, or where tobacco products are sold. If tobacco products are sold on or from any vehicle, the vehicle shall constitute a place of business, and the license fee of Two Hundred Fifty Dollars (\$250.00) shall be paid with respect thereto. However, if the vehicle is owned or operated by a place of business for which the regular license fee is paid, the annual fee for the license with respect to such vehicle shall be only Ten Dollars (\$10.00). The expiration for such vehicle license shall expire on the same date as the current license of the place of business.

B. Every retailer in this state, as a condition of carrying on such business, shall secure from the Tax Commission a license and shall pay therefor a fee of Thirty Dollars (\$30.00). Application

for such license, which shall be made upon such forms as prescribed by the Tax Commission, shall include the following:

1. The applicant's agreement to the jurisdiction of the Tax Commission and the courts of this state for purposes of enforcement of the provisions of Section 301 et seq. of this title; and

2. The applicant's agreement to abide by the provisions of Section 301 et seq. of this title and the rules promulgated by the Tax Commission with reference thereto;

3. The applicant's agreement that it shall not purchase any tobacco products for resale from a supplier that does not hold a current wholesaler's license issued pursuant to this section; and

4. The applicant's agreement to sell tobacco products only to consumers.

Such license, which will be for the ensuing three (3) years, must at all times be displayed in a conspicuous place so that it can be seen. Upon expiration of such license, the retailer to whom such license was issued may obtain a renewal license which shall be valid for three (3) years or until expiration of the retailer's sales tax permit, whichever is earlier, after which a renewal license shall be valid for three (3) years. The manner and prorated fee for renewals shall be prescribed by the Tax Commission. Every person operating under such license as a retailer and who owns or operates more than one place of business must secure a license for each place of business. "Place of business" shall be construed to include places where orders are received or where tobacco products are sold.

C. Nothing in this section shall be construed to prohibit any person holding a retail license from also holding a wholesaler license.

D. Every distributing agent shall, as a condition of carrying on such business, pursuant to written application on a form prescribed by and in such detailed form as the Tax Commission may require, annually secure from the Tax Commission a license, and shall pay therefor an annual fee of One Hundred Dollars (\$100.00). An application shall be filed and a license obtained for each place of business owned or operated by a distributing agent. The license, which will be for the ensuing year, shall be consecutively numbered, nonassignable and nontransferable, and shall authorize the storing

and distribution of unstamped tobacco products within this state when such distribution is made upon interstate orders only.

~~D.~~ E. 1. All wholesale, retail, and distributing agents' licenses shall be nonassignable and nontransferable from one person to another person. Such licenses may be transferred from one location to another location after an application has been filed with the Tax Commission requesting such transfer and after the approval of the Tax Commission.

2. Wholesale, retail, and distributing agent's licenses shall be applied for on a form prescribed by the Tax Commission. Any person operating as a wholesaler, retailer, or distributing agent must at all times have an effective unexpired license which has been issued by the Tax Commission. If any such person or licensee continues to operate as such on a license issued by the Tax Commission which has expired, or operates without ever having obtained from the Tax Commission such license, such person or licensee shall, after becoming delinquent for a period in excess of fifteen (15) days, pay to the Tax Commission, in addition to the annual license fee, a penalty of twenty-five cents (\$.25) per day on each delinquent license for each day so operated in excess of fifteen (15) days. The penalty provided for herein shall not exceed the annual license fee for such license.

~~E.~~ F. No license may be granted, maintained or renewed if any of the following conditions apply to the applicant. For purposes of this section, "applicant" includes any combination of persons owning directly or indirectly, in the aggregate, more than ten percent (10%) of the ownership interests in the applicant:

1. The applicant owes Five Hundred Dollars (\$500.00) or more in delinquent tobacco products taxes;

2. The applicant had a dealer, wholesaler, or retailer license revoked by the Tax Commission within the past two (2) years; or

3. The applicant has been convicted of a crime relating to stolen or counterfeit tobacco products, or receiving stolen or counterfeit tobacco products.

~~F.~~ G. No person or entity licensed pursuant to the provisions of this section shall purchase tobacco products from or sell tobacco products to a person or entity required to obtain a license unless such person or entity has obtained such license.

~~G.~~ H. In addition to any civil or criminal penalty provided by law, upon a finding that a licensee has violated any provision of Section 301 et seq. of this title, the Tax Commission may revoke or suspend the license or licenses of the licensee pursuant to the procedures applicable to revocation of a license set forth in Section 418 of this title.

SECTION 23. This act shall become effective July 1, 2010.

SECTION 24. 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 28th day of May, 2010.

Presiding Officer of the House of
Representatives

Passed the Senate the 28th day of May, 2010.

Presiding Officer of the Senate