

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2903

By: Brown

4
5 AS INTRODUCED

6
7 An Act relating to revenue and taxation; enacting the
8 Buy Oklahoma First Act of 2010; amending 68 O.S.
9 2001, Section 1367.1, as last amended by Section 73,
10 Chapter 5, O.S.L. 2004 (68 O.S. Supp. 2009, Section
11 1367.1), which relates to the Oklahoma Sales Tax
12 Code; modifying provisions related to vendor
13 discounts; removing maximum amount retained by
14 vendors; requiring Oklahoma Department of Commerce to
15 develop system for identification of certain
16 inventory; providing certain exception; amending 68
17 O.S. 2001, Section 1353, as last amended by Section
18 8, Chapter 278, O.S.L. 2008 (68 O.S. Supp. 2009,
19 Section 2353), which relates to apportionment of
20 sales tax revenues; providing for apportionment of
21 certain incremental sales tax revenue to the Buy
22 Oklahoma First Revolving Fund; creating Buy Oklahoma
23 First Revolving Fund; providing for apportionment of
24 monies to fund; providing for expenditures by the
Oklahoma Department of Commerce; providing for
development of program to assist certain small
business entities; providing for codification;
providing for noncodification; providing an effective
date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

1 This act shall be known and may be cited as the "Buy Oklahoma
2 First Act of 2010".

3 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1367.1, as
4 last amended by Section 73, Chapter 5, O.S.L. 2004 (68 O.S. Supp.
5 2009, Section 1367.1), is amended to read as follows:

6 Section 1367.1 A. ~~For~~ Except as otherwise provided by
7 subsection B of this section, for the purpose of compensating the
8 seller or vendor in keeping sales tax records, filing reports and
9 remitting the tax when due, a seller or vendor shall be allowed a
10 deduction as follows:

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

15 2. For all other sellers or vendors, one and one-fourth percent
16 (1 1/4%) of the tax due under the applicable provisions of this
17 title. The Tax Commission is authorized to allow a vendor to deduct
18 two and one-fourth percent (2 1/4%) if the Tax Commission determines
19 that the vendor is unable to participate in the Tax Commission's
20 electronic funds transfer and electronic data interchange program.

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

23 B. Effective July 1, 2010, a vendor may retain three percent
24 (3%) of the tax due under the applicable provisions of this title

1 for goods that have been certified as having been made or
2 manufactured in Oklahoma. The Oklahoma Tax Commission shall modify
3 the sales tax report or sales tax reporting system in a manner that
4 allows a vendor to separately identify goods for which the discount
5 prescribed by this subsection is authorized from other goods not
6 made or manufactured in Oklahoma. If a vendor sells goods that are
7 not identified as having been made or manufactured in Oklahoma, a
8 vendor may retain one percent (1%) of the tax due under the
9 applicable provisions of this title. The Oklahoma Department of
10 Commerce shall develop and implement a system for the identification
11 of goods made or manufactured in Oklahoma to allow a vendor to
12 clearly identify such goods in the inventory of the vendor and at
13 the time such goods are sold for purposes of computing the discount
14 amount authorized by this subsection with respect to goods made or
15 manufactured in Oklahoma. The provisions of this subsection shall
16 not be applicable to the sale of food items or agricultural
17 products.

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

23 ~~C. Notwithstanding the formula provided by subsection A of this~~
24 ~~section, the deduction provided by this section shall be limited to~~

1 ~~a maximum of Three Thousand Three Hundred Dollars (\$3,300.00) per~~
2 ~~month per sales tax permit. No such sales tax permit holder may~~
3 ~~change sales tax permit status in order to avoid the provisions of~~
4 ~~this subsection.~~

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

11 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1353, as
12 last amended by Section 8, Chapter 278, O.S.L. 2008 (68 O.S. Supp.
13 2009, Section 1353), is amended to read as follows:

14 Section 1353. A. It is hereby declared to be the purpose of
15 the Oklahoma Sales Tax Code to provide funds for the financing of
16 the program provided for by the Oklahoma Social Security Act and to
17 provide revenues for the support of the functions of the state
18 government of Oklahoma, and for this purpose it is hereby expressly
19 provided that, revenues derived pursuant to the provisions of the
20 Oklahoma Sales Tax Code, subject to the apportionment requirements
21 for the Oklahoma Tax Commission and Office of State Finance Joint
22 Computer Enhancement Fund provided by Section ~~6~~ 265 of this ~~aet~~
23 title, and except as otherwise provided by subsection C of this
24 section, shall be apportioned as follows:

1 1. a. the following amounts shall be paid to the State
2 Treasurer to be placed to the credit of the General
3 Revenue Fund to be paid out pursuant to direct
4 appropriation by the Legislature:

Fiscal Year	Amount
FY 2003 and FY 2004	86.04%
FY 2005	85.83%
FY 2006	85.54%
FY 2007	85.04%
FY 2008 and each fiscal year thereafter	83.61%

12 b. in the event that additional monies are necessary
13 pursuant to paragraph 5 of this section, such
14 additional monies shall be deducted in the proportion
15 determined by the State Board of Equalization pursuant
16 to paragraph 3 of Section 2355.1B of this title from
17 the monies apportioned to the General Revenue Fund;

18 2. For FY 2003, FY 2004 and FY 2005, ten and forty-two one-
19 hundredths percent (10.42%), shall be paid to the State Treasurer to
20 be placed to the credit of the Education Reform Revolving Fund of
21 the State Department of Education and for FY 2006 and each fiscal
22 year thereafter, ten and forty-six one-hundredths percent (10.46%)
23 shall be paid to the State Treasurer to be placed to the credit of
24

1 the Education Reform Revolving Fund of the State Department of
2 Education;

3 3. The following amounts shall be paid to the State Treasurer
4 to be placed to the credit of the Teachers' Retirement System
5 Dedicated Revenue Revolving Fund:

6	Fiscal Year	Amount
7	FY 2003 and FY 2004	3.54%
8	FY 2005	3.75%
9	FY 2006	4.0%
10	FY 2007	4.5%
11	FY 2008 and each fiscal	
12	year thereafter	5.0%

13 4. For the fiscal year beginning July 1, 2007, and for each
14 fiscal year thereafter, ninety-three one-hundredths percent (0.93%)
15 shall be paid to the State Treasurer to be further apportioned as
16 follows:

- 17 a. thirty-six percent (36%) shall be placed to the credit
- 18 of the Oklahoma Tourism Promotion Revolving Fund, and
- 19 b. sixty-four percent (64%) shall be placed to the credit
- 20 of the Oklahoma Tourism Capital Improvement Revolving
- 21 Fund; and

22 5. During the first fiscal year after the State Board of
23 Equalization has made a determination as provided in Section 2355.1B
24 of this title, regarding a baseline amount of revenue apportioned

1 pursuant to paragraph 3 of this section, and for each fiscal year
2 thereafter, in no event shall monies apportioned pursuant to
3 paragraph 3 of this section, paragraph 3 of Section 1403 of this
4 title and subparagraph c of paragraph 1 of Section 2352 of this
5 title be less than such baseline amount.

6 B. Provided, for the fiscal year beginning July 1, 2007, and
7 every fiscal year thereafter, an amount of revenue shall be
8 apportioned to each municipality or county which levies a sales tax
9 subject to the provisions of Section 1357.10 of this title and
10 subsection F of Section 2701 of this title equal to the amount of
11 sales tax revenue of such municipality or county exempted by the
12 provisions of Section 1357.10 of this title and subsection F of
13 Section 2701 of this title. The Oklahoma Tax Commission shall
14 promulgate and adopt rules necessary to implement the provisions of
15 this subsection.

16 C. Effective July 1, 2010, before any other apportionment of
17 revenue is made pursuant to the provisions of this section, the
18 amount of sales tax revenue attributable to the increase in sales
19 tax collections resulting from the discount provisions of subsection
20 B of Section 1367.1 of this title and as amended by Section 2 of
21 this act shall be apportioned to the "Buy Oklahoma First Revolving
22 Fund" created by Section 4 of this act for use by the Oklahoma
23 Department of Commerce.

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1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5501 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 There is hereby created in the State Treasury a revolving fund
5 for the Oklahoma Department of Commerce to be designated the "Buy
6 Oklahoma First Revolving Fund". The fund shall be a continuing
7 fund, not subject to fiscal year limitations, and shall consist of
8 all monies received by the Oklahoma Department of Commerce from
9 increased sales tax revenues attributable to the provisions of
10 Section 1367.1 of Title 68 of the Oklahoma Statutes. All monies
11 accruing to the credit of said fund are hereby appropriated and may
12 be budgeted and expended by the Oklahoma Department of Commerce for
13 the purpose of providing assistance to small business enterprises
14 that produce goods which are eligible to be identified as "Made in
15 Oklahoma". Expenditures from said fund shall be made upon warrants
16 issued by the State Treasurer against claims filed as prescribed by
17 law with the Director of the Office of State Finance for approval
18 and payment.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 5502 of Title 74, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The Oklahoma Department of Commerce shall develop and
23 implement a program to assist small start-up businesses the
24 inventory of which consists either exclusively of goods made or

1 manufactured in Oklahoma or the inventory of which consists of not
2 less than seventy-five percent (75%) of goods made or manufactured
3 in Oklahoma.

4 B. The Department shall use monies available from the Buy
5 Oklahoma First Revolving Fund as provided in Section 4 of this act.

6 SECTION 6. This act shall become effective July 1, 2010.

7 SECTION 7. It being immediately necessary for the preservation
8 of the public peace, health and safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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