ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 614 By: Jolley of the Senate

and

Martin (Steve) of the House

An Act relating to municipal ordinances; amending 11 O.S. 2001, Section 14-111, as last amended by Section 1, Chapter 413, O.S.L. 2008 (11 O.S. Supp. 2010, Section 14-111), which relates to municipal enforcement of sales and use tax ordinances; broadening application of provision; # # # setting maximum penalty; and providing an effective date.

AMENDMENT NO. 1. Page 1, lines 6 through 12 1/2, strike the title to read

"(municipal ordinances – amending 11 O.S., Section 14-111 – sales and use tax ordinances – maximum penalty –

effective date)"

Passed the House of Representatives the 27th day of April, 2011.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2011.

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Presiding Officer of the Senate

ENGROSSED SENATE
BILL NO. 614 By: Jolley of the Senate

and

Martin (Steve) of the House

An Act relating to municipal ordinances; amending 11 O.S. 2001, Section 14-111, as last amended by Section 1, Chapter 413, O.S.L. 2008 (11 O.S. Supp. 2010, Section 14-111), which relates to municipal enforcement of sales and use tax ordinances; broadening application of provision; authorizing municipalities to impose criminal sanctions for failure to comply with specified ordinances; requiring vendor to take certain action under specified circumstances; setting maximum penalty; authorizing municipality to enact ordinances penalizing vendors for failure to take certain actions; setting maximum penalty; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 14-111, as last amended by Section 1, Chapter 413, O.S.L. 2008 (11 O.S. Supp. 2010, Section 14-111), is amended to read as follows:

Section 14-111. A. The governing body of a municipality may provide for enforcement of its ordinances and establish fines, penalties, or imprisonment, as authorized by ~~subsections B through D of~~ this section, for any offense in violation of its ordinances, which shall be recoverable together with costs of suit. The governing body may provide that any person fined for violation of a

municipal ordinance who is financially able but refuses or neglects to pay the fine or costs may be compelled to satisfy the amount owed by working on the streets, alleys, avenues, areas, and public grounds of the municipality, subject to the direction of the street commissioner or other proper officer, at a rate per day as the governing body may prescribe by ordinance, but not less than Fifty Dollars ($50.00) per day for useful labor, until the fine or costs are satisfied.

B. 1. Except for municipal ordinances related to prostitution and as otherwise provided in this section, cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Two Hundred Dollars ($1,200.00) and costs or imprisonment not exceeding six (6) months or both the fine and imprisonment, but shall not have authority to enact any ordinance making unlawful an act or omission declared by state statute to be punishable as a felony. Cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Dollars ($1,000.00) and costs or imprisonment not exceeding six (6) months or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. Cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Two Hundred Fifty Dollars ($1,250.00) and costs or imprisonment not exceeding six (6) months or both such fine

and imprisonment for alcohol-related or drug-related traffic offenses. The court shall remit Fifty Dollars ($50.00) of each alcohol fine or deferral fee to a fund of the municipality that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances.

2. For violations of municipal ordinances relating to prostitution, including but not limited to engaging in prostitution or soliciting or procuring prostitution, a municipal criminal court of record may enact ordinances prescribing an imprisonment not to exceed six (6) months, and fines as follows: a fine not to exceed Two Thousand Five Hundred Dollars ($2,500.00) upon the first conviction for violation of any such ordinances, a fine of not more than Five Thousand Dollars ($5,000.00) upon the second conviction for violation of any of such ordinances, and a fine of not more than Seven Thousand Five Hundred Dollars ($7,500.00) upon the third or subsequent convictions for violation of any of such ordinances, or both such fine and imprisonment as well as a term of community service of not less than forty (40) nor more than eighty (80) hours.

C. Municipalities having a municipal court not of record may enact ordinances prescribing maximum fines pursuant to the provisions of this subsection. A municipal ordinance may not impose a penalty, including fine or deferral fee in lieu of a fine and

costs, which is greater than that established by statute for the same offense. The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars ($200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars ($800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars ($750.00). The court shall remit Fifty Dollars ($50.00) of each alcohol fine or deferral fee to a fund of the municipality that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances. The ordinances may prescribe costs pursuant to the provisions of Section 27-126 of this title or imprisonment not exceeding sixty (60) days or both the fine and imprisonment; provided, that municipalities having only a municipal court not of record shall not have authority to enact any ordinance making unlawful any act or omission declared by state statute to be punishable as a felony; provided further, that municipalities having a municipal court not of record may enact ordinances prescribing maximum fines of One Thousand Dollars ($1,000.00) and costs or imprisonment not exceeding ninety (90) days or both such fine and imprisonment for violations of municipal ordinances regulating the

pretreatment of wastewater and regulating stormwater discharges. If imprisonment is available for the offense, then that person charged shall have a right to a jury trial.

D. Municipalities having both municipal criminal courts of record and municipal courts not of record may enact ordinances, within the authority of this section, for each court.

E. No municipality may levy a fine or deferral fee in lieu of a fine of over Fifty Dollars ($50.00) until it has compiled and published its penal ordinances as required in Sections 14-109 and 14-110 of this title.

F. No municipality may levy a fine of more than Ten Dollars ($10.00) nor court costs of more than Fifteen Dollars ($15.00) for exceeding the posted speed limit by no more than ten (10) miles per hour upon any portion of the National System of Interstate and Defense Highways, federal-aid primary highways, and the state highway system which are located on the outskirts of any municipality as determined in Section 2-117 of Title 47 of the Oklahoma Statutes.

G. A municipality that has enacted a sales or use tax ordinance or both may impose criminal sanctions in the form of fines and penalties for the willful failure of a vendor to collect or remit the full amount of applicable taxes and penalties due or otherwise comply with the provisions of the ordinance; provided, the municipality shall require the vendor to make all remittances due

the municipality to the Oklahoma Tax Commission if such procedure is required pursuant to the state's participation in the Streamlined Sales and Use Tax Agreement. The municipality may enact ordinances prescribing maximum fines of One Thousand Two Hundred Fifty Dollars ($1,250.00) and costs and may provide for penalties and interest until such amount is remitted.

H. A municipality may enact ordinances providing that any vendor who willfully fails or refuses to remit as provided herein any sales or use tax or other monies collected by the vendor in accordance with the municipal ordinance and who appropriates the tax or monies for the use of that vendor or any other person not entitled to the tax or monies is guilty of an offense. The ordinance may prescribe a maximum fine of One Thousand Two Hundred Fifty Dollars ($1,250.00) and costs for each such violation.

SECTION 2. This act shall become effective November 1, 2011.

Passed the Senate the 7th day of March, 2011.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2011.

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Presiding Officer of the House
of Representatives