

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 2097

6 By: Jackson

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to revenue and taxation; amending 68
9 O.S. 2011, Sections 412 and 418, which relate to
10 tobacco products; authorizing imposition of certain
11 fines; and declaring an emergency.

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

13 SECTION 1. AMENDATORY 68 O.S. 2011, Section 412, is
14 amended to read as follows:

15 Section 412. (a) Every wholesaler, jobber, retailer or
16 consumer who purchases or allows to come into his or her possession
17 any unstamped merchandise coming under the scope of this article
18 shall file with the Oklahoma Tax Commission a surety or collateral
19 or cash bond in the amount of Twenty-five Thousand Dollars
20 (\$25,000.00), payable to the State of Oklahoma and conditioned upon
21 compliance with the provisions of this article and the rules of the
22 Tax Commission.

23 (b) Any consumer who purchases or brings into this state
24 unstamped cigars or tobacco products whereon the tax would be more

1 than twenty-five cents (\$0.25) is subject to the tax thereon. Upon
2 failure to pay the tax levied in this article, the consumer shall be
3 subject to a fine of not more than Five Hundred Dollars (\$500.00) or
4 not less than Twenty-five Dollars (\$25.00). Provided, any person in
5 possession of more than one thousand (1,000) small or large cigars
6 or two hundred sixteen (216) ounces of chewing or smoking tobacco
7 products in packages or containers for which the tax required by law
8 has not been paid shall be punished by administrative fines in the
9 manner and amounts provided in subsection D of Section 418 of this
10 title.

11 SECTION 2. AMENDATORY 68 O.S. 2011, Section 418, is
12 amended to read as follows:

13 Section 418. A. It shall be unlawful for any person to
14 transport or possess unstamped tobacco products where the tax on
15 such unstamped tobacco products exceeds the sum of One Dollar
16 (\$1.00).

17 B. Except as otherwise provided in subsections C and D of this
18 section, any person found guilty of violating the provisions of
19 Section 401 et seq. of this title shall be punished by an
20 administrative fine of not more than Five Hundred Dollars (\$500.00).
21 Provided, any person in possession of more than one thousand (1,000)
22 small or large cigars or two hundred sixteen (216) ounces of chewing
23 or smoking tobacco products in packages or containers for which the
24 tax required by law has not been paid shall be punished by

1 administrative fines in the manner and amounts provided in
2 subsection D of this section.

3 C. Any retailer violating the provisions of Section 403.2 of
4 this title shall:

5 1. For a first offense, be punished by an administrative fine
6 of not more than One Thousand Dollars (\$1,000.00);

7 2. For a second offense, punished by an administrative fine of
8 not more than Five Thousand Dollars (\$5,000.00); and

9 3. For a third or subsequent offense, be punished by an
10 administrative fine of not more than Ten Thousand Dollars
11 (\$10,000.00).

12 D. Any wholesaler, distributing agent or dealer violating the
13 provisions of Section 403.2 of this title shall:

14 1. For a first offense, be punished by an administrative fine
15 of not more than Five Thousand Dollars (\$5,000.00); and

16 2. For a second or subsequent offense, be punished by an
17 administrative fine of not more than Twenty Thousand Dollars
18 (\$20,000.00).

19 Administrative fines collected pursuant to the provisions of
20 this subsection shall be deposited to the revolving fund created in
21 Section 305.2 of this title.

22 E. The Oklahoma Tax Commission shall immediately revoke the
23 license of a person punished for a violation pursuant to the
24 provisions of paragraph 3 of subsection C of this section or a

1 person punished for a violation pursuant to the provisions of
2 subsection D of this section. A person whose license is so revoked
3 shall not be eligible to receive another license pursuant to the
4 provisions of Section 301 et seq. of this title for a period of ten
5 (10) years.

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

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11 54-1-6878 MAH 02/08/13

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