

1 **SENATE FLOOR VERSION**

2 March 19, 2013

3 **AS AMENDED**

4 ENGROSSED HOUSE  
5 BILL NO. 2097

6 By: Jackson and Roberts  
7 (Dustin) of the House

8 and

9 Brinkley of the Senate

10 **[ revenue and taxation - tobacco products -  
11 authorizing imposition of certain fines -  
12 emergency ]**

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

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

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

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

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

14 Section 418. A. It shall be unlawful for any person to  
15 transport or possess unstamped tobacco products where the tax on  
16 such unstamped tobacco products exceeds the sum of One Dollar  
17 (\$1.00).

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

1 required by law has not been paid shall be punished by  
2 administrative fines in the manner and amounts provided in  
3 subsection D of this section.

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

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

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

10 3. For a third or subsequent offense, be punished by an  
11 administrative fine of not more than Ten Thousand Dollars  
12 (\$10,000.00).

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

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

17 2. For a second or subsequent offense, be punished by an  
18 administrative fine of not more than Twenty Thousand Dollars  
19 (\$20,000.00).

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

23 E. The Oklahoma Tax Commission shall immediately revoke the  
24 license of a person punished for a violation pursuant to the

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

7 SECTION 3. 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.

11 COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
12 March 19, 2013 - DO PASS AS AMENDED  
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