STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 2097 By: Jackson

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2011, Sections 412 and 418, which relate to tobacco products; authorizing imposition of certain fines; 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. 2011, Section 412, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. This act shall become effective July 1, 2013.

SECTION 4. 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.

54-1-6656 MAH 01/15/13