

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1092

By: Thompson

AS INTRODUCED

An Act relating to tobacco products tax; amending 68 O.S. 2011, Section 402-3, which relates to apportionment; providing exception; updating references; limiting specified amounts apportioned on or after certain date; providing for deposit of funds in excess of limit; 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 402-3, is amended to read as follows:

Section 402-3. A. In addition to the tax levied in Sections 402, 402-1 and 402-2 of this title, effective January 1, 2005, there shall be levied, assessed, collected, and paid in respect to the articles containing tobacco enumerated in Section 401 et seq. of this title, a tax in the following amounts:

1. Little Cigars. Upon cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three (3) pounds per thousand, twenty-seven (27) mills for each cigar. Provided, that the tax levied on the products coming under

1 this paragraph shall not apply if the tax on such products is  
2 reported and paid as cigarette tax under Sections 301 through 325 of  
3 this title;

4 2. Cigars. Upon all other cigars of all descriptions made of  
5 tobacco, or any substitute therefor, and weighing more than three  
6 (3) pounds per thousand, Ninety Dollars (\$90.00) per thousand. For  
7 the purpose of computing the tax, cheroots, stogies, etc., are  
8 hereby classed as cigars;

9 3. Smoking Tobacco. Upon all smoking tobacco including  
10 granulated, plug cut, crimp cut, ready rubbed and other kinds and  
11 forms of tobacco prepared in such manner as to be suitable for  
12 smoking in a pipe or cigarette, the tax shall be forty percent (40%)  
13 of the factory list price exclusive of any trade discount, special  
14 discount or deals; and

15 4. Chewing Tobacco. Upon chewing tobacco, smokeless tobacco,  
16 and snuff, the tax shall be thirty percent (30%) of the factory list  
17 price exclusive of any trade discount, special discount or deals.

18 B. Except as provided in ~~subsection C~~ subsections C and E of  
19 this section, the revenue resulting from the additional tax levied  
20 in subsection A of this section shall be apportioned by the Oklahoma  
21 Tax Commission and transmitted to the State Treasurer as follows:

22 1. Twenty-two and six-hundredths percent (22.06%) shall be  
23 placed to the credit of the Health Employee and Economy Improvement  
24

1 Act Revolving Fund created in Section 1010.1 of Title 56 of the  
2 Oklahoma Statutes;

3 2. Three and nine-hundredths percent (3.09%) shall be placed to  
4 the credit of the Comprehensive Cancer Center Debt Service Revolving  
5 Fund created in Section 160.1 of Title 62 of the Oklahoma Statutes;

6 3. Before July 1, 2008, seven and fifty-hundredths percent  
7 (7.50%) shall be placed to the credit of the Trauma Care Assistance  
8 Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of Title 63 of the  
9 Oklahoma Statutes. On and after July 1, 2008, seven and fifty-  
10 hundredths percent (7.50%) shall be allocated as follows:

11 a. every month, an amount equal to the actual amount  
12 placed to the credit of the Trauma Care Assistance  
13 Revolving Fund pursuant to this paragraph for the same  
14 month of the 2008 fiscal year shall be credited to the  
15 Trauma Care Assistance Revolving Fund,

16 b. every month, any amount over and above the amount  
17 placed to the credit of the Trauma Care Assistance  
18 Revolving Fund pursuant to subparagraph a of this  
19 paragraph shall be credited to the Oklahoma Emergency  
20 Response Systems Stabilization and Improvement  
21 Revolving Fund as created in Section ~~8 of this act~~ 1-  
22 2512.1 of Title 63 of the Oklahoma Statutes until the  
23 combined amount credited to the Oklahoma Emergency  
24 Response Systems Stabilization and Improvement

1 Revolving Fund pursuant to this section and Section  
2 302-5 of this title is equal to Two Million Five  
3 Hundred Thousand Dollars (\$2,500,000.00) each year,  
4 and

5 c. any additional revenue allocated pursuant to this  
6 paragraph shall be placed to the credit of the Trauma  
7 Care Assistance Revolving Fund;

8 4. Three and nine-hundredths percent (3.09%) shall be placed to  
9 the credit of the Oklahoma State University College of Osteopathic  
10 Medicine Revolving Fund created in Section 160.2 of Title 62 of the  
11 Oklahoma Statutes;

12 5. Twenty-six and thirty-eight-hundredths percent (26.38%)  
13 shall be placed to the credit of the Oklahoma Health Care Authority  
14 Medicaid Program Fund created in Section 5020 of Title 63 of the  
15 Oklahoma Statutes for the purposes of maintaining programs and  
16 services funded under the federal "Jobs and Growth Tax Relief  
17 Reconciliation Act of 2003", reimbursing city/county-owned  
18 hospitals, increasing emergency room physician rates, and providing  
19 TEFRA 134, also known as "Katie Beckett" services;

20 6. Two and sixty-five-hundredths percent (2.65%) shall be  
21 placed to the credit of the Department of Mental Health and  
22 Substance Abuse Services Revolving Fund created in Section 2-303 of  
23 Title 43A of the Oklahoma Statutes;

1           7. Forty-four-hundredths of one percent (0.44%) shall be placed  
2 to the credit of the Belle Maxine Hilliard Breast and Cervical  
3 Cancer Treatment Revolving Fund created in Section 1-559 of Title 63  
4 of the Oklahoma Statutes;

5           8. One percent (1%) shall be placed to the credit of the  
6 Teachers' Retirement System Revolving Fund created in Section 158 of  
7 Title 62 of the Oklahoma Statutes;

8           9. Two and seven-hundredths percent (2.07%) shall be placed to  
9 the credit of the Education Reform Revolving Fund created in Section  
10 ~~41.29b~~ 34.89 of Title 62 of the Oklahoma Statutes;

11           10. Sixty-six-hundredths percent (.66%) shall be placed to the  
12 credit of the Tobacco Prevention and Cessation Revolving Fund  
13 created in Section 1-105d of Title 63 of the Oklahoma Statutes;

14           11. Sixteen and eighty-three-hundredths percent (16.83%) shall  
15 be placed to the credit of the General Revenue Fund; and

16           12. For fiscal years beginning July 1, 2004, and ending June  
17 30, 2006, fourteen and twenty-three-hundredths percent (14.23%)  
18 shall be apportioned to municipalities and counties that levy a  
19 sales tax, in the proportions which total municipal and county sales  
20 tax revenue was apportioned by the Tax Commission in the preceding  
21 month.

22           For fiscal years beginning July 1, 2006, and thereafter, the  
23 apportionment percentage specified in paragraph 12 of this  
24 subsection will be adjusted by dividing the total municipal and

1 county sales tax revenue collected in the calendar year immediately  
2 preceding the commencement of the fiscal year by the sum of the  
3 state sales tax revenue and total municipal and county sales tax  
4 revenue collected in the same year. This ratio shall be divided by  
5 the ratio of the total municipal and county sales tax revenue  
6 collected in the calendar year beginning January 1, 2004, and ending  
7 December 31, 2004, divided by the sum of the state sales tax revenue  
8 and total municipal and county sales tax revenue collected in the  
9 same year. The resulting quotient shall be multiplied by fourteen  
10 and twenty-three-hundredths percent (14.23%) to determine the  
11 apportionment percentage for the fiscal year.

12 For fiscal years beginning July 1, 2006, and thereafter, any  
13 adjustment to the percentage of revenues apportioned to  
14 municipalities and counties shall be reflected in the percent of  
15 revenues apportioned to the General Revenue Fund.

16 C. The Except as provided in subsection E of this section, the  
17 net amount of any revenue resulting from a payment in lieu of excise  
18 taxes on little cigars, cigars, smoking tobacco and chewing tobacco  
19 levied by this section, pursuant to a compact with a federally  
20 recognized Indian tribe or nation after deductions for deposits into  
21 trust accounts pursuant to such compacts, shall be apportioned by  
22 the Tax Commission and transmitted to the State Treasurer as  
23 follows:  
24

1           1. Thirty-three and forty-nine-hundredths percent (33.49%)  
2 shall be placed to the credit of the Health Employee and Economy  
3 Improvement Act (HEEIA) Revolving Fund created in Section 1010.1 of  
4 Title 56 of the Oklahoma Statutes;

5           2. Four and sixty-nine-hundredths percent (4.69%) shall be  
6 placed to the credit of the Comprehensive Cancer Center Debt Service  
7 Revolving Fund created in Section 160.1 of Title 62 of the Oklahoma  
8 Statutes;

9           3. Before July 1, 2008, eleven and thirty-nine-hundredths  
10 percent (11.39%) shall be placed to the credit of the Trauma Care  
11 Assistance Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of  
12 Title 63 of the Oklahoma Statutes. On and after July 1, 2008,  
13 eleven and thirty-nine-hundredths percent (11.39%) shall be  
14 allocated as follows:

15           a. every month, an amount equal to the actual amount  
16 placed to the credit of the Trauma Care Assistance  
17 Revolving Fund pursuant to this paragraph for the same  
18 month of the 2008 fiscal year shall be credited to the  
19 Trauma Care Assistance Revolving Fund,

20           b. every month, any amount over and above the amount  
21 placed to the credit of the Trauma Care Assistance  
22 Revolving Fund pursuant to subparagraph a of this  
23 paragraph shall be credited to the Oklahoma Emergency  
24 Response Systems Stabilization and Improvement

1 Revolving Fund as created in Section ~~8 of this act~~ 1-  
2 2512.1 of Title 63 of the Oklahoma Statutes until the  
3 combined amount credited to the Oklahoma Emergency  
4 Response Systems Stabilization and Improvement  
5 Revolving Fund pursuant to this section and Section  
6 302-5 of this title is equal to Two Million Five  
7 Hundred Thousand Dollars (\$2,500,000.00) each year,  
8 and

9 c. any additional revenue allocated pursuant to this  
10 paragraph shall be placed to the credit of the Trauma  
11 Care Assistance Revolving Fund;

12 4. Four and sixty-nine-hundredths percent (4.69%) shall be  
13 placed to the credit of the Oklahoma State University College of  
14 Osteopathic Medicine Revolving Fund created in Section 160.2 of  
15 Title 62 of the Oklahoma Statutes;

16 5. Forty and six-hundredths percent (40.06%) shall be placed to  
17 the credit of the Oklahoma Health Care Authority Medicaid Program  
18 Fund created in Section 5020 of Title 63 of the Oklahoma Statutes  
19 for the purposes of maintaining programs and services funded under  
20 the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003",  
21 reimbursing city/county-owned hospitals, increasing emergency room  
22 physician rates, and providing TEFRA 134, also known as "Katie  
23 Beckett" services;  
24

1           6. Four and one-hundredths percent (4.01%) shall be placed to  
2 the credit of the Department of Mental Health and Substance Abuse  
3 Services Revolving Fund created in Section 2-303 of Title 43A of the  
4 Oklahoma Statutes;

5           7. Sixty-seven-hundredths percent (0.67%) shall be placed to  
6 the credit of the Belle Maxine Hilliard Breast and Cervical Cancer  
7 Treatment Revolving Fund created in Section 1-559 of Title 63 of the  
8 Oklahoma Statutes; and

9           8. One percent (1%) shall be placed to the credit of the  
10 Tobacco Prevention and Cessation Revolving Fund created in Section  
11 1-105d of Title 63 of the Oklahoma Statutes.

12           D. It shall not be permissible for a retailer to advertise that  
13 the retailer will absorb the tax due on the taxable merchandise  
14 described herein. Such tax shall be paid by the consumer.

15           E. In no event, for the fiscal year beginning on July 1, 2016,  
16 and all subsequent fiscal years, shall the amounts apportioned  
17 pursuant to each of the paragraphs 1, 5 through 7, 10 and 12 of  
18 subsection B of this section or each of the paragraphs 1 and 5  
19 through 8 of subsection C of this section, exceed the amounts  
20 apportioned to those paragraphs for the fiscal year ending on June  
21 30, 2013. Any amounts which exceed this limitation shall be placed  
22 to the credit of the General Revenue Fund.

23           SECTION 2. This act shall become effective July 1, 2016.  
24

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

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