

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 499

By: Sykes

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5
6 AS INTRODUCED

7 An Act relating to tax liability; creating
8 Facilitating Business Rapid Response to State
9 Declared Disasters Act of 2015; defining terms;
10 limiting applicability of specified tax and
11 regulatory requirements for out-of-state business
12 under specified circumstances; specifying
13 applicability to certain filing and apportionment
14 procedures; limiting applicability of specified tax
15 and regulatory requirements for out-of-state employee
16 under specified circumstances; establishing liability
17 for certain transaction taxes and fees for out-of-
18 state businesses and employees under specified
19 circumstances; establishing status and requirements
20 for out-of-state businesses and employees remaining
21 in the state after disaster response period;
22 requiring specified businesses to provide certain
23 information to Oklahoma Tax Commission under
24 specified circumstances; providing for codification;
and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 55005 of Title 68, unless there
is created a duplication in numbering, reads as follows:

A. This act may be cited as the "Facilitating Business Rapid
Response to State Declared Disasters Act of 2015".

1 B. As used in this act:

2 1. "Critical Infrastructure" means property and equipment owned
3 or used by communications networks, electric generation,
4 transmission and distribution systems, gas distribution systems,
5 water pipelines and related support facilities that service multiple
6 customers or citizens including, but not limited to, real and
7 personal property such as buildings, offices, lines, poles, pipes,
8 structures, and equipment;

9 2. "Declared state disaster or emergency" means a disaster or
10 emergency event:

- 11 a. for which a Governor's State of Emergency Proclamation
12 has been issued,
- 13 b. for which a Presidential Declaration of a Federal
14 Major Disaster or Emergency has been issued, or
- 15 c. other disaster or emergency event within the state for
16 which a good faith response effort is required, and
17 for which another authorized official of the state is
18 given notification from the registered business and
19 such official designates such event as a disaster or
20 emergency, thereby invoking the provisions of this
21 act;

22 3. "Disaster or emergency related work" means repairing,
23 renovating, installing, building, rendering services or other
24 business activities that relate to critical infrastructure that has

1 been damaged, impaired or destroyed by the declared state disaster
2 or emergency;

3 4. "Disaster response period" means a period that begins ten
4 (10) days prior to the first day of the Governor's Proclamation, the
5 President's Declaration or designation by any other authorized
6 official of the state, whichever occurs first, and which extends
7 sixty (60) calendar days after the declared state disaster or
8 emergency, or any longer period authorized by the applicable state
9 entity or official;

10 5. "Out-of-state business" means a business entity that, except
11 for disaster or emergency related work, has no presence in the state
12 and conducts no business in the state, whose services are requested
13 by a registered business or by a state or local government for
14 purposes of performing disaster or emergency related work in the
15 state. This shall include a business entity affiliated with the
16 registered business in the state solely through common ownership.
17 An out-of-state-business has no registrations, tax filings or nexus
18 in the state other than disaster or emergency related work during
19 the tax year immediately preceding the declared state disaster or
20 emergency;

21 6. "Out-of-state employee" means an employee who does not work
22 in the state, except for disaster or emergency related work during
23 the disaster response period; and
24

1 7. "Registered business" means a business entity that is
2 currently registered to do business in the state prior to the
3 declared state disaster or emergency.

4 C. Except as provided in subsection E of this section, an out-
5 of-state business that conducts operations within the state for
6 purposes of performing work or services related to a declared state
7 disaster or emergency during the disaster response period shall not
8 be considered to have established a level of presence that would
9 require that business to register, file and/or remit state or local
10 taxes or that would require that business or its out-of-state
11 employees to be subject to any state licensing or registration
12 requirements. This includes any and all state or local business
13 licensing, registration or regulatory requirements, state and local
14 taxes or fees including, but not limited to, unemployment insurance,
15 state or local occupational licensing fees, use tax or ad valorem
16 tax on equipment brought into the state temporarily for use during
17 the disaster response period and subsequently removed from the
18 state. For purposes of any state or local tax on, or measured by,
19 in whole or in part, net or gross income or receipts, all activity
20 of the out-of-state business that is conducted in this state
21 pursuant to this act shall be disregarded with respect to any filing
22 requirements for such tax including the filing required for a
23 unitary or combined group of which the out-of-state business may be
24 a part. For the purpose of apportioning income, revenue or

1 receipts, the performance by an out-of-state business of any work in
2 accordance with this title shall not be sourced to or shall not
3 otherwise impact or increase the amount of income, revenue or
4 receipts apportioned to this state.

5 D. No out-of-state employee shall be considered to have
6 established residency or a presence in the state that would require
7 that person or that person's employer to file and pay income taxes
8 or be subjected to tax withholdings or to file and pay any other
9 state or local tax or fee during the disaster response period. This
10 includes any related state employer withholding and remittance
11 obligations, but does not include any transaction taxes or fees as
12 described in subsection E.

13 E. Out-of-state businesses and out-of-state employees shall be
14 required to pay transaction taxes and fees including, but not
15 limited to, fuel taxes or sales taxes on materials or services
16 consumed or used in the state subject to sales taxes, hotel taxes,
17 car rental taxes or fees that the out-of-state affiliated business
18 or out-of-state employee purchases for use or consumption in the
19 state during the disaster response period, unless such taxes are
20 otherwise exempted during a disaster response period.

21 F. Any out-of-state business or out-of-state employee that
22 remains in the state after the disaster response period shall:

23 1. Become subject to the state requirements for establishing
24 presence, residency or doing business in the state and will

1 therefore become responsible for any business or employee tax
2 requirements that ensue; and

3 2. Complete state and local registration, licensing, and filing
4 requirements that ensue as a result of establishing the requisite
5 business presence or residency in the state applicable under the
6 existing rules.

7 G. 1. An out-of-state business that enters the state shall,
8 upon request, provide to the Oklahoma Tax Commission a statement
9 that it is in the state for purposes of responding to the disaster
10 or emergency, which statement shall include the business name, state
11 of domicile, principal business address, federal tax identification
12 number, date of entry, and contact information.

13 2. A registered business in the state shall, upon request,
14 provide the information required in paragraph 1 of this subsection
15 for any affiliate that enters the state that is an out-of-state
16 business. The notification shall also include contact information
17 for the registered business in the state.

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

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