

**COMMITTEE AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2382 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Leslie Osborn

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

PROPOSED COMMITTEE  
SUBSTITUTE  
FOR  
HOUSE BILL NO. 2382

By: Osborn (Leslie) and Wallace  
of the House

and

David and Fields of the  
Senate

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 302-5, which relates to taxes on cigarettes; modifying apportionment of certain cigarette tax revenues; amending 68 O.S. 2011, Section 402-3, which relates to taxes on tobacco products; modifying apportionment of certain tobacco products tax revenues; amending 68 O.S. 2011, Section 113, as amended by Section 530, Chapter 304, O.S.L. 2012 (68 O.S. Supp. 2016, Section 113), which relates to the Tax Commission Reimbursement Fund; eliminating certain apportionments; amending 68 O.S. 2011, Section 304, which relates to licenses associated with the sale of cigarettes; providing for apportionment of fees and penalties; amending 68 O.S. 2011, Section 316, which relates to penalties and offenses associated with the sale of cigarettes; providing for apportionment of fines and penalties; amending 68 O.S. 2011, Section 415, which relates to licenses associated with the sale of tobacco products; providing for apportionment of fees and penalties; amending 68 O.S. 2011, Section 418, as amended by Section 2, Chapter 334, O.S.L. 2013 (68 O.S. Supp. 2016, Section 418), which relates to penalties and offenses associated with the sale of tobacco products; providing for apportionment of

1 fines and penalties; providing an effective date; and  
2 declaring an emergency.

3  
4  
5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. AMENDATORY 68 O.S. 2011, Section 302-5, is  
7 amended to read as follows:

8 Section 302-5. A. Effective January 1, 2005, in addition to  
9 the tax levied in Sections 302, 302-1, 302-2, 302-3 and 302-4 of  
10 this title, there is hereby levied upon the sale, use, gift,  
11 possession, or consumption of cigarettes, as defined in Sections 301  
12 through 325 of this title, within this state, a tax at the rate of  
13 forty (40) mills per cigarette.

14 B. Except as provided in subsection D of this section, the  
15 revenue resulting from the additional tax levied in subsection A of  
16 this section shall be apportioned by the Oklahoma Tax Commission and  
17 transmitted to the State Treasurer as follows:

18 1. ~~Twenty-two and six-hundredths percent (22.06%)~~ Six and  
19 sixty-two-hundredths percent (6.62%) shall be placed to the credit  
20 of the Health Employee and Economy Improvement Act Revolving Fund  
21 created in Section 1010.1 of Title 56 of the Oklahoma Statutes;

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

1        3. Before July 1, 2008, seven and fifty-hundredths percent  
2 (7.50%) shall be placed to the credit of the Trauma Care Assistance  
3 Revolving Fund created in Section 1-2530.9 of Title 63 of the  
4 Oklahoma Statutes. On and after July 1, 2008, ~~seven and fifty-~~  
5 ~~hundredths percent (7.50%)~~ two and twenty-five-hundredths percent  
6 (2.25%) shall be allocated as follows:

7            a. every month, an amount equal to the actual amount  
8 placed to the credit of the Trauma Care Assistance  
9 Revolving Fund pursuant to this paragraph for the same  
10 month of the 2008 fiscal year, provided such amount  
11 shall not exceed the amount allocated pursuant to this  
12 paragraph, shall be credited to the Trauma Care  
13 Assistance Revolving Fund,

14            b. every month, any amount over and above the amount  
15 placed to the credit of the Trauma Care Assistance  
16 Revolving Fund pursuant to subparagraph a of this  
17 paragraph shall be credited to the Oklahoma Emergency  
18 Response Systems Stabilization and Improvement  
19 Revolving Fund as created in Section ~~8~~ 1-2512.1 of  
20 ~~this act~~ Title 63 of the Oklahoma Statutes until the  
21 combined amount credited to the Oklahoma Emergency  
22 Response Systems Stabilization and Improvement  
23 Revolving Fund pursuant to this section and Section  
24 402-3 of this title is equal to a total of Two Million

Five Hundred Thousand Dollars (\$2,500,000.00) each year, and

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

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

5. ~~Twenty-six and thirty-eight-hundredths percent (26.38%)~~ Seven and ninety-one-hundredths percent (7.91%) shall be placed to the credit of the Oklahoma Health Care Authority Medicaid Program Fund created in Section 5020 of Title 63 of the Oklahoma Statutes for the purposes of maintaining programs and services funded under the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003", reimbursing city/county-owned hospitals, increasing emergency room physician rates, and providing TEFRA 134, also known as "Katie Beckett" services;

6. ~~Two and sixty-five hundredths percent (2.65%)~~ Eight-tenths of one percent (0.8%) shall be placed to the credit of the Department of Mental Health and Substance Abuse Services Revolving Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

7. ~~Forty-four hundredths of one percent (0.44%)~~ Thirteen-hundredths of one percent (0.13%) shall be placed to the credit of

1 the Belle Maxine Hilliard Breast and Cervical Cancer Treatment  
2 Revolving Fund created in Section 1-559 of Title 63 of the Oklahoma  
3 Statutes;

4 8. ~~One percent (1%)~~ Three-tenths of one percent (0.3%) shall be  
5 placed to the credit of the Teachers' Retirement System Revolving  
6 Fund created in Section 158 of Title 62 of the Oklahoma Statutes;

7 9. ~~Two and seven hundredths percent (2.07%)~~ Sixty-two-  
8 hundredths of one percent (0.62%) shall be placed to the credit of  
9 the Education Reform Revolving Fund created in Section 41.29b of  
10 Title 62 of the Oklahoma Statutes;

11 10. ~~Sixty-six hundredths percent (0.66%)~~ Two-tenths of one  
12 percent (0.2%) shall be placed to the credit of the Tobacco  
13 Prevention and Cessation Revolving Fund created in Section 1-105d of  
14 Title 63 of the Oklahoma Statutes;

15 11. ~~Sixteen and eighty-three hundredths percent (16.83%)~~  
16 Seventy and sixty-nine hundredths percent (70.69%) shall be placed  
17 to the credit of the General Revenue Fund; and

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

1 For fiscal years beginning July 1, 2006, and thereafter, the  
2 apportionment percentage specified in paragraph 12 of this  
3 subsection will be adjusted by dividing the total municipal and  
4 county sales tax revenue collected in the calendar year immediately  
5 preceding the commencement of the fiscal year by the sum of the  
6 state sales tax revenue and total municipal and county sales tax  
7 revenue collected in the same year. This ratio shall be divided by  
8 the ratio of the total municipal and county sales tax revenue  
9 collected in the calendar year beginning January 1, 2004, and ending  
10 December 31, 2004, divided by the sum of the state sales tax revenue  
11 and total municipal and county sales tax revenue collected in the  
12 same year. The resulting quotient shall be multiplied by ~~fourteen~~  
13 ~~and twenty-three hundredths percent (14.23%)~~ four and three-tenths  
14 percent (4.3%) to determine the apportionment percentage for the  
15 fiscal year.

16 For fiscal years beginning July 1, 2006, and thereafter, any  
17 adjustment to the percentage of revenues apportioned to  
18 municipalities and counties shall be reflected in the percent of  
19 revenues apportioned to the General Revenue Fund.

20 C. The tax shall be evidenced by tax stamps as now provided  
21 for; however, as to cigarette packages of less than ten cigarettes  
22 for free distribution as samples, the tax herein levied shall be  
23 computed and paid as provided for other cigarette taxes without  
24 affixing stamps on each such package.

1 D. The net amount of any revenue resulting from a payment in  
2 lieu of excise taxes on cigarettes levied by this section, pursuant  
3 to a compact with a federally recognized Indian tribe or nation  
4 after deductions for deposits into trust accounts pursuant to such  
5 compacts, shall be apportioned by the Tax Commission and transmitted  
6 to the State Treasurer as follows:

7 1. ~~Thirty-three and forty-nine hundredths percent (33.49%)~~ Ten  
8 and five-hundredths percent (10.05%) shall be placed to the credit  
9 of the Health Employee and Economy Improvement Act Revolving Fund  
10 created in Section 1010.1 of Title 56 of the Oklahoma Statutes;

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

15 3. Before July 1, 2008, eleven and thirty-nine-hundredths  
16 percent (11.39%) shall be placed to the credit of the Trauma Care  
17 Assistance Revolving Fund created in Section 1-2522 of Title 63 of  
18 the Oklahoma Statutes. On and after July 1, 2008, ~~eleven and~~  
19 ~~thirty nine hundredths percent (11.39%)~~ three and forty-two  
20 hundredths percent (3.42%) shall be allocated as follows:

21 a. every month, an amount equal to the actual amount  
22 placed to the credit of the Trauma Care Assistance  
23 Revolving Fund pursuant to this paragraph for the same  
24 month of the 2008 fiscal year, provided such amount



1           shall not exceed the amount allocated pursuant to this  
2           paragraph, shall be credited to the Trauma Care  
3           Assistance Revolving Fund,

4           b.   every month, any amount over and above the amount  
5               placed to the credit of the Trauma Care Assistance  
6               Revolving Fund pursuant to subparagraph a of this  
7               paragraph shall be credited to the Oklahoma Emergency  
8               Response Systems Stabilization and Improvement  
9               Revolving Fund as created in Section ~~8~~ 1-2512.1 of  
10              ~~this act~~ Title 63 of the Oklahoma Statutes until the  
11              combined amount credited to the Oklahoma Emergency  
12              Response Systems Stabilization and Improvement  
13              Revolving Fund pursuant to this section and Section  
14              402-3 of this title is equal to a total of Two Million  
15              Five Hundred Thousand Dollars (\$2,500,000.00) each  
16              year, and

17           c.   any additional revenue allocated pursuant to this  
18               paragraph shall be placed to the credit of the Trauma  
19               Care Assistance Revolving Fund;

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

1       5. ~~Forty and six hundredths percent (40.06%)~~ Twelve and two-  
2 hundredths percent (12.02%) shall be placed to the credit of the  
3 Oklahoma Health Care Authority Medicaid Program Fund created in  
4 Section 5020 of Title 63 of the Oklahoma Statutes for the purposes  
5 of maintaining programs and services funded under the federal "Jobs  
6 and Growth Tax Relief Reconciliation Act of 2003", reimbursing  
7 city/county-owned hospitals, increasing emergency room physician  
8 rates, and providing TEFRA 134, also known as "Katie Beckett"  
9 services;

10       6. ~~Four and one hundredths percent (4.01%)~~ One and two-tenths  
11 percent (1.2%) shall be placed to the credit of the Department of  
12 Mental Health and Substance Abuse Services Revolving Fund created in  
13 Section 2-303 of Title 43A of the Oklahoma Statutes;

14       7. ~~Sixty-seven hundredths percent (0.67%)~~ Two-tenths of one  
15 percent (0.2%) shall be placed to the credit of the Belle Maxine  
16 Hilliard Breast and Cervical Cancer Treatment Revolving Fund created  
17 in Section 1-559 of Title 63 of the Oklahoma Statutes; ~~and~~

18       8. ~~One percent (1%)~~ Three-tenths of one percent (0.3%) shall be  
19 placed to the credit of the Tobacco Prevention and Cessation  
20 Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma  
21 Statutes; and

22       9. Sixty-three and forty-three hundredths percent (63.43%)  
23 shall be placed to the credit of the General Revenue Fund.  
24

1 E. No part of the revenues resulting from the additional taxes  
2 levied in this section shall be used in determining the amount of  
3 cigarette tax collections to be paid into:

4 1. The State of Oklahoma Building Bonds of 1961 Sinking Fund  
5 pursuant to the provisions of Sections 57.31 through 57.43 of Title  
6 62 of the Oklahoma Statutes;

7 2. The State of Oklahoma Institutional Building Bonds of 1965  
8 Sinking Fund pursuant to the provisions of Sections 57.61 through  
9 57.73 of Title 62 of the Oklahoma Statutes;

10 3. The State of Oklahoma Institutional Building Bonds of 1965  
11 Sinking Fund Series C and Series D pursuant to Sections 57.81  
12 through 57.112 of Title 62 of the Oklahoma Statutes;

13 4. The State of Oklahoma Building Bonds of 1968 Sinking Fund  
14 pursuant to the provisions of Sections 57.121 through 57.193 of  
15 Title 62 of the Oklahoma Statutes; or

16 5. The Oklahoma Building Bonds of 1992 Sinking Fund pursuant to  
17 the provisions of Sections 57.300 through 57.313 of Title 62 of the  
18 Oklahoma Statutes.

19 F. The cigarette taxes levied in this section shall be  
20 collected and administered in all respects not inconsistent with as  
21 now or hereafter provided for by law for other cigarette taxes now  
22 levied, collected, and administered pursuant to the provisions of  
23 Sections 301 through 325 of this title.  
24

1       SECTION 2.       AMENDATORY       68 O.S. 2011, Section 402-3, is  
2 amended to read as follows:

3       Section 402-3. A. In addition to the tax levied in Sections  
4 402, 402-1 and 402-2 of this title, effective January 1, 2005, there  
5 shall be levied, assessed, collected, and paid in respect to the  
6 articles containing tobacco enumerated in Section 401 et seq. of  
7 this title, a tax in the following amounts:

8       1. Little Cigars. Upon cigars of all descriptions made of  
9 tobacco, or any substitute therefor, and weighing not more than  
10 three (3) pounds per thousand, twenty-seven (27) mills for each  
11 cigar. Provided, that the tax levied on the products coming under  
12 this paragraph shall not apply if the tax on such products is  
13 reported and paid as cigarette tax under Sections 301 through 325 of  
14 this title;

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

20       3. Smoking Tobacco. Upon all smoking tobacco including  
21 granulated, plug cut, crimp cut, ready rubbed and other kinds and  
22 forms of tobacco prepared in such manner as to be suitable for  
23 smoking in a pipe or cigarette, the tax shall be forty percent (40%)  
24

1 of the factory list price exclusive of any trade discount, special  
2 discount or deals; and

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

6 B. Except as provided in subsection C of this section, the  
7 revenue resulting from the additional tax levied in subsection A of  
8 this section shall be apportioned by the Oklahoma Tax Commission and  
9 transmitted to the State Treasurer as follows:

10 1. ~~Twenty-two and six-hundredths percent (22.06%)~~ Six and  
11 sixty-two-hundredths percent (6.62%) shall be placed to the credit  
12 of the Health Employee and Economy Improvement Act Revolving Fund  
13 created in Section 1010.1 of Title 56 of the Oklahoma Statutes;

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

17 3. Before July 1, 2008, seven and fifty-hundredths percent  
18 (7.50%) shall be placed to the credit of the Trauma Care Assistance  
19 Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma  
20 Statutes. On and after July 1, 2008, ~~seven and fifty-hundredths~~  
21 ~~percent (7.50%)~~ two and twenty-five-hundredths percent (2.25%) shall  
22 be allocated as follows:

23 a. every month, an amount equal to the actual amount  
24 placed to the credit of the Trauma Care Assistance

1           Revolving Fund pursuant to this paragraph for the same  
2           month of the 2008 fiscal year, provided such amount  
3           shall not exceed the amount allocated pursuant to this  
4           paragraph, shall be credited to the Trauma Care  
5           Assistance Revolving Fund,

6           b.    every month, any amount over and above the amount  
7           placed to the credit of the Trauma Care Assistance  
8           Revolving Fund pursuant to subparagraph a of this  
9           paragraph shall be credited to the Oklahoma Emergency  
10          Response Systems Stabilization and Improvement  
11          Revolving Fund as created in Section ~~§~~ 1-2512.1 of  
12          ~~this act~~ Title 63 of the Oklahoma Statutes until the  
13          combined amount credited to the Oklahoma Emergency  
14          Response Systems Stabilization and Improvement  
15          Revolving Fund pursuant to this section and Section  
16          302-5 of this title is equal to Two Million Five  
17          Hundred Thousand Dollars (\$2,500,000.00) each year,  
18          and

19          c.    any additional revenue allocated pursuant to this  
20          paragraph shall be placed to the credit of the Trauma  
21          Care Assistance Revolving Fund;

22          4.    Three and nine-hundredths percent (3.09%) shall be placed to  
23          the credit of the Oklahoma State University College of Osteopathic  
24

1 Medicine Revolving Fund created in Section 160.2 of Title 62 of the  
2 Oklahoma Statutes;

3 5. ~~Twenty-six and thirty-eight hundredths percent (26.38%)~~  
4 Seven and ninety-one-hundredths percent (7.91%) shall be placed to  
5 the credit of the Oklahoma Health Care Authority Medicaid Program  
6 Fund created in Section 5020 of Title 63 of the Oklahoma Statutes  
7 for the purposes of maintaining programs and services funded under  
8 the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003",  
9 reimbursing city/county-owned hospitals, increasing emergency room  
10 physician rates, and providing TEFRA 134, also known as "Katie  
11 Beckett" services;

12 6. ~~Two and sixty-five hundredths percent (2.65%)~~ Eight-tenths  
13 of one percent (0.8%) shall be placed to the credit of the  
14 Department of Mental Health and Substance Abuse Services Revolving  
15 Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

16 7. ~~Forty-four hundredths of one percent (0.44%)~~ Thirteen-  
17 hundredths of one percent (0.13%) shall be placed to the credit of  
18 the Belle Maxine Hilliard Breast and Cervical Cancer Treatment  
19 Revolving Fund created in Section 1-559 of Title 63 of the Oklahoma  
20 Statutes;

21 8. ~~One percent (1%)~~ Three-tenths of one percent (0.3%) shall be  
22 placed to the credit of the Teachers' Retirement System Revolving  
23 Fund created in Section 158 of Title 62 of the Oklahoma Statutes;

1        9. ~~Two and seven hundredths percent (2.07%)~~ Sixty-two-  
2 hundredths of one percent (0.62%) shall be placed to the credit of  
3 the Education Reform Revolving Fund created in Section 41.29b of  
4 Title 62 of the Oklahoma Statutes;

5        10. ~~Sixty-six hundredths percent (.66%)~~ Two-tenths of one  
6 percent (0.2%) shall be placed to the credit of the Tobacco  
7 Prevention and Cessation Revolving Fund created in Section 1-105d of  
8 Title 63 of the Oklahoma Statutes;

9        11. ~~Sixteen and eighty-three hundredths percent (16.83%)~~  
10 Seventy and sixty-nine-hundredths percent (70.69%) shall be placed  
11 to the credit of the General Revenue Fund; and

12        12. For fiscal years beginning July 1, 2004, and ending June  
13 30, 2006, fourteen and twenty-three-hundredths percent (14.23%)  
14 shall be apportioned to municipalities and counties that levy a  
15 sales tax, in the proportions which total municipal and county sales  
16 tax revenue was apportioned by the Tax Commission in the preceding  
17 month.

18        For fiscal years beginning July 1, 2006, and thereafter, the  
19 apportionment percentage specified in paragraph 12 of this  
20 subsection will be adjusted by dividing the total municipal and  
21 county sales tax revenue collected in the calendar year immediately  
22 preceding the commencement of the fiscal year by the sum of the  
23 state sales tax revenue and total municipal and county sales tax  
24 revenue collected in the same year. This ratio shall be divided by



1 the ratio of the total municipal and county sales tax revenue  
2 collected in the calendar year beginning January 1, 2004, and ending  
3 December 31, 2004, divided by the sum of the state sales tax revenue  
4 and total municipal and county sales tax revenue collected in the  
5 same year. The resulting quotient shall be multiplied by ~~fourteen~~  
6 ~~and twenty-three-hundredths percent (14.23%)~~ four and three-tenths  
7 percent (4.3%) to determine the apportionment percentage for the  
8 fiscal year.

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

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

20 1. ~~Thirty-three and forty-nine-hundredths percent (33.49%)~~ Ten  
21 and five-hundredths percent (10.05%) shall be placed to the credit  
22 of the Health Employee and Economy Improvement Act Revolving Fund  
23 created in Section 1010.1 of Title 56 of the Oklahoma Statutes;  
24

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

5        3. Before July 1, 2008, eleven and thirty-nine-hundredths  
6 percent (11.39%) shall be placed to the credit of the Trauma Care  
7 Assistance Revolving Fund created in Section 1-2522 of Title 63 of  
8 the Oklahoma Statutes. On and after July 1, 2008, ~~eleven and~~  
9 ~~thirty-nine-hundredths percent (11.39%)~~ three and forty-two-  
10 hundredths percent (3.42%) 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, provided such amount  
15 shall not exceed the amount allocated pursuant to this  
16 paragraph, shall be credited to the Trauma Care  
17 Assistance Revolving Fund,

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

1 combined amount credited to the Oklahoma Emergency  
2 Response Systems Stabilization and Improvement  
3 Revolving Fund pursuant to this section and Section  
4 302-5 of this title is equal to Two Million Five  
5 Hundred Thousand Dollars (\$2,500,000.00) each year,  
6 and

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

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

14 5. ~~Forty and six-hundredths percent (40.06%)~~ Twelve and two-  
15 hundredths percent (12.02%) shall be placed to the credit of the  
16 Oklahoma Health Care Authority Medicaid Program Fund created in  
17 Section 5020 of Title 63 of the Oklahoma Statutes for the purposes  
18 of maintaining programs and services funded under the federal "Jobs  
19 and Growth Tax Relief Reconciliation Act of 2003", reimbursing  
20 city/county-owned hospitals, increasing emergency room physician  
21 rates, and providing TEFRA 134, also known as "Katie Beckett"  
22 services;

23 6. ~~Four and one-hundredths percent (4.01%)~~ One and two-tenths  
24 percent (1.2%) shall be placed to the credit of the Department of

1 Mental Health and Substance Abuse Services Revolving Fund created in  
2 Section 2-303 of Title 43A of the Oklahoma Statutes;

3 7. ~~Sixty-seven hundredths percent (0.67%)~~ Two-tenths of one  
4 percent (0.2%) shall be placed to the credit of the Belle Maxine  
5 Hilliard Breast and Cervical Cancer Treatment Revolving Fund created  
6 in Section 1-559 of Title 63 of the Oklahoma Statutes; ~~and~~

7 8. ~~One percent (1%)~~ Three-tenths of one percent (0.3%) shall be  
8 placed to the credit of the Tobacco Prevention and Cessation  
9 Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma  
10 Statutes; and

11 9. Sixty-three and forty-three-hundredths percent (63.43%)  
12 shall be placed to the credit of the General Revenue Fund.

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

16 SECTION 3. AMENDATORY 68 O.S. 2011, Section 113, as  
17 amended by Section 530, Chapter 304, O.S.L. 2012 (68 O.S. Supp.  
18 2016, Section 113), is amended to read as follows:

19 Section 113. ~~A.~~ There is hereby created in the State Treasury  
20 a revolving fund for the Oklahoma Tax Commission to be known as the  
21 "Tax Commission Reimbursement Fund". Said revolving fund shall  
22 consist of any funds received by the Tax Commission for data  
23 processing services or equipment rental and any funds received by  
24 the Tax Commission from any incorporated city, town, or county

1 pursuant to a contractual agreement for the augmentation of the  
2 enforcement and collection of municipal or county taxes entered into  
3 pursuant to the provisions of Sections 1371 or 2702 of this title.  
4 The Tax Commission is authorized to hire full-time-equivalent  
5 employees as necessary to perform such duties as to fulfill  
6 contractual agreements authorized pursuant to Sections 1371 and 2702  
7 of this title, however, such employees hired to perform such  
8 contractual duties shall be supported solely by funds in the Tax  
9 Commission Reimbursement Fund which are collected by the Tax  
10 Commission from incorporated cities, towns, and counties pursuant to  
11 such contractual agreements and such employees shall be terminated  
12 upon the discontinuation of such funds or inadequate funds to  
13 support such positions. Such full-time-equivalent employees shall  
14 be in the unclassified service and shall not be subject to any  
15 provisions of the Oklahoma Personnel Act or to the Merit Rules for  
16 Employment except leave regulations. All fees collected and  
17 apportioned to this fund under the Oklahoma Vehicle License and  
18 Registration Act, Section 1101 et seq. of Title 47 of the Oklahoma  
19 Statutes, may be used by the Motor Vehicle Division of the Oklahoma  
20 Tax Commission to pay all costs incurred in the issuance of  
21 certificates of title and inspection of vehicles, including, but not  
22 limited to, additional computer costs for the Tax Commission and  
23 motor license agents and the check verification system authorized  
24 pursuant to the provisions of paragraph 1 of subsection A of Section

1 1144 of Title 47 of the Oklahoma Statutes or be used for capital  
2 expenditures as authorized by the Oklahoma State Legislature. For  
3 the fiscal year beginning July 1, 2004, disbursements from the fund  
4 shall be exempt from all agency budget limits.

5 ~~B. Notwithstanding any other provision in the Oklahoma Statutes~~  
6 ~~except subsection F of Section 316 and subsection D of Section 418~~  
7 ~~of this title, beginning July 1, 2009, all revenue from fees and~~  
8 ~~penalties collected pursuant to Sections 304, 316, 415 and 418 of~~  
9 ~~this title shall be apportioned to the Tax Commission Reimbursement~~  
10 ~~Fund for administrative expenses incurred in connection with~~  
11 ~~enforcement of the provisions of Section 301 et seq., Section 346 et~~  
12 ~~seq., Section 401 et seq. and Section 424 et seq. of this title.~~

13 SECTION 4. AMENDATORY 68 O.S. 2011, Section 304, is  
14 amended to read as follows:

15 Section 304. A. Every manufacturer and wholesaler of  
16 cigarettes in this state, as a condition of carrying on such  
17 business, shall annually secure from the Oklahoma Tax Commission a  
18 written license, and shall pay therefor an annual fee of Two Hundred  
19 Fifty Dollars (\$250.00). Application for such license, which shall  
20 be made upon such forms as prescribed by the Oklahoma Tax  
21 Commission, shall include the following:

22 1. The applicant's agreement to the jurisdiction of the Tax  
23 Commission and the courts of this state for the purpose of  
24 enforcement of the provisions of Section 301 et seq. of this title;

1        2. The applicant's agreement to abide by the provisions of  
2 Section 301 et seq. of this title and the rules promulgated by the  
3 Tax Commission with reference thereto;

4        3. The wholesaler applicant's agreement to sell cigarettes only  
5 to licensed retailers or Indian tribal entities or licensees of  
6 Indian tribal entities; and

7        4. The manufacturer applicant's agreement to sell cigarettes  
8 only to a licensed wholesaler.

9        This license, which will be for the ensuing year, must at all  
10 times be displayed in a conspicuous place so that it can be seen.  
11 Persons operating more than one place of business must secure a  
12 license for each place of business. "Place of business" shall be  
13 construed to include the place where orders are received, or where  
14 cigarettes are sold. If cigarettes are sold on or from any vehicle,  
15 the vehicle shall constitute a place of business and the regular  
16 license fee shall be paid with respect thereto. However, if the  
17 vehicle is owned or operated by a place of business for which the  
18 regular fee is paid, the annual fee for the license with respect to  
19 such vehicle shall be only Ten Dollars (\$10.00). The expiration for  
20 such vehicle license shall expire on the same date as the current  
21 license of the place of business.

22        Provided, that the Tax Commission shall not authorize the use of  
23 a stamp-metering device by any manufacturer or wholesaler who does  
24 not maintain a warehouse or wholesale establishment or place of

1 business within the State of Oklahoma from which cigarettes are  
2 received, stocked and sold and where such metering device is kept  
3 and used; but the Tax Commission may, in its discretion, permit the  
4 use of such metering device by manufacturers and wholesalers of  
5 cigarettes residing wholly within another state where such state  
6 permits a licensed Oklahoma resident, manufacturer or wholesaler of  
7 cigarettes the use of the metering device of such state without  
8 first requiring that such manufacturer or wholesaler establish a  
9 place of business in such other state. The provisions of this  
10 subsection relating to metering devices shall not apply to states  
11 which do not require the affixing of tax stamps to packages of  
12 cigarettes before same are offered for sale in such states.

13 B. Every retailer in this state, except Indian tribal entities  
14 or licenses of Indian tribal entities, as a condition of carrying on  
15 such business, shall secure from the Tax Commission a license and  
16 shall pay therefor a fee of Thirty Dollars (\$30.00). Application  
17 for such license, which shall be made upon such forms as prescribed  
18 by the Tax Commission, shall include the following:

19 1. The applicant's agreement to the jurisdiction of the Tax  
20 Commission and the courts of this state for the purpose of  
21 enforcement of the provisions of Section 301 et seq. of this title;

22 2. The applicant's agreement to abide by the provisions of  
23 Section 301 et seq. of this title and the rules promulgated by the  
24 Tax Commission with reference thereto;



1        3. The applicant's agreement that it shall not purchase any  
2 cigarettes for resale from a supplier that does not hold a current  
3 wholesaler's license issued pursuant to this section; and

4        4. The applicant's agreement to sell cigarettes only to  
5 consumers.

6        Such license, which will be for the ensuing three (3) years,  
7 must at all times be displayed in a conspicuous place so that it can  
8 be seen. Upon expiration of such license, the retailer to whom such  
9 license was issued may obtain a renewal license which shall be valid  
10 for three (3) years. The manner and prorated fee for renewals shall  
11 be prescribed by the Tax Commission. Every person operating under  
12 such license as a retailer and who owns or operates more than one  
13 place of business must secure a license for each place of business.  
14 "Place of business" shall be construed to include places where  
15 orders are received or where cigarettes are sold.

16        C. Every distributing agent shall, as a condition of carrying  
17 on such business, pursuant to written application on a form  
18 prescribed by and in such detailed form as the Tax Commission may  
19 require, annually secure from the Tax Commission a license, and  
20 shall pay therefor an annual fee of One Hundred Dollars (\$100.00).  
21 An application shall be filed and a license obtained for each place  
22 of business owned or operated by a distributing agent. The license,  
23 which will be for the ensuing year, shall be consecutively numbered,  
24 nonassignable and nontransferable, and shall authorize the storing

1 and distribution of unstamped cigarettes within this state when such  
2 distribution is made upon interstate orders only.

3 D. 1. All wholesale, retail, and distributing agent's licenses  
4 shall be nonassignable and nontransferable from one person to  
5 another person. Such licenses may be transferred from one location  
6 to another location after an application has been filed with the Tax  
7 Commission requesting such transfer and after the approval of the  
8 Tax Commission.

9 2. Wholesale, retail, and distributing agent's licenses shall  
10 be applied for on a form prescribed by the Tax Commission. Any  
11 person operating as a wholesaler, retailer, or distributing agent  
12 must at all times have a valid license which has been issued by the  
13 Tax Commission. If any such person or licensee continues to operate  
14 as such on a license issued by the Tax Commission which has expired,  
15 or operates without ever having obtained from the Tax Commission  
16 such license, such person or licensee shall, after becoming  
17 delinquent for a period in excess of fifteen (15) days, pay to the  
18 Tax Commission, in addition to the annual license fee, a penalty of  
19 twenty-five cents (\$0.25) per day on each delinquent license for  
20 each day so operated in excess of fifteen (15) days. The penalty  
21 provided for herein shall not exceed the annual license fee for such  
22 license.

23 E. No license may be granted, maintained or renewed if any of  
24 the following conditions applies to the applicant. For purposes of

1 this section, "applicant" includes any combination of persons owning  
2 directly or indirectly, in the aggregate, more than ten percent  
3 (10%) of the ownership interests in the applicant:

4 1. The applicant owes Five Hundred Dollars (\$500.00) or more in  
5 delinquent cigarette taxes;

6 2. The applicant had a cigarette manufacturer, wholesaler,  
7 retailer or distributor license revoked by the Tax Commission within  
8 the past two (2) years;

9 3. The applicant has been convicted of a crime relating to  
10 stolen or counterfeit cigarettes, or receiving stolen or counterfeit  
11 cigarettes or has been convicted of or has entered a plea of guilty  
12 or nolo contendere to any felony;

13 4. If the applicant is a cigarette manufacturer, the applicant  
14 is neither:

15 a. a participating manufacturer as defined in Section II  
16 (jj) of the Master Settlement Agreement as defined in  
17 Section 600.22 of Title 37 of the Oklahoma Statutes,  
18 nor

19 b. in full compliance with the provisions of paragraph 2  
20 of subsection A of Section 600.23 of Title 37 of the  
21 Oklahoma Statutes;

22 5. If the applicant is a cigarette manufacturer, if any  
23 cigarette imported by such applicant is imported into the United  
24 States in violation of 19 U.S.C., Section 1681a; or

1       6. If the applicant is a cigarette manufacturer, if any  
2 cigarette imported or manufactured by the applicant does not fully  
3 comply with the Federal Cigarette Labeling and Advertising Act, 15  
4 U.S.C., Section 1331 et seq.

5       F. No person or entity licensed pursuant to the provisions of  
6 this section shall purchase cigarettes from or sell cigarettes to a  
7 person or entity required to obtain a license unless such person or  
8 entity has obtained such license.

9       G. No person licensed as a retailer in this state shall:

10      1. Sell any cigarettes to any other person licensed as a  
11 retailer in this state unless such sale is for the purpose of moving  
12 inventory between stores which are part of the same company; or

13      2. Purchase any cigarettes from any person or entity other than  
14 a wholesaler licensed pursuant to Section 301 et seq. of this title.

15       H. In addition to any civil or criminal penalty provided by  
16 law, upon a finding that a licensee has violated any provision of  
17 Section 301 et seq. of this title, the Tax Commission may revoke or  
18 suspend the license or licenses of the licensee pursuant to the  
19 procedures applicable to revocation of a license set forth in  
20 Section 316 of this title.

21       I. The Tax Commission shall create and maintain a web site  
22 setting forth all current valid licenses and the identity of  
23 licensees holding such licenses, and shall update the site no less  
24 frequently than once per month.

1        J. All revenues from fees and penalties collected pursuant to  
2 this section shall be apportioned as follows:

3        1. Thirty percent (30%) to the Tax Commission Reimbursement  
4 Fund created in Section 113 of this title; and

5        2. Seventy percent (70%) to the General Revenue Fund of the  
6 State Treasury.

7        SECTION 5.        AMENDATORY        68 O.S. 2011, Section 316, is  
8 amended to read as follows:

9        Section 316. A. Any person, other than a consumer, who shall:

10        1. Sell, offer for sale or present as a prize or gift  
11 cigarettes without a stamp being then and there affixed to each  
12 individual package;

13        2. Sell cigarettes in quantities less than an individual  
14 package;

15        3. Knowingly cancel or mutilate any stamp affixed to any  
16 individual package of cigarettes for the purpose of concealing any  
17 violation of Section 301 et seq. of this title or with any other  
18 fraudulent intent;

19        4. Use any artful device or deceptive practice to conceal any  
20 violation of Section 301 et seq. of this title;

21        5. Refuse to surrender to the Oklahoma Tax Commission upon  
22 demand any cigarettes possessed in violation of any provision of  
23 Section 301 et seq. of this title; or  
24

1        6. Knowingly or intentionally make a first sale of cigarettes  
2 without a stamp being then and there affixed to each individual  
3 package; shall be fined not more than Two Hundred Dollars (\$200.00),  
4 where specific penalties are not otherwise provided.

5        B. Any consumer, who shall:

6        1. Sell, offer for sale or present as a prize or gift  
7 cigarettes without a stamp being then and there affixed to each  
8 individual package;

9        2. Knowingly consume, use or smoke any cigarettes upon which a  
10 tax is required to be paid without a stamp being affixed upon each  
11 individual package;

12       3. Knowingly cancel or mutilate any stamp affixed to any  
13 individual package of cigarettes for the purpose of concealing any  
14 violation of the Cigarette and Tobacco Products Tax Codes or with  
15 any other fraudulent intent;

16       4. Use any artful device or deceptive practice to conceal any  
17 violation of the Cigarette and Tobacco Products Tax Codes; or

18       5. Refuse to surrender to the Tax Commission upon demand any  
19 cigarettes possessed in violation of any provision of Section 301 et  
20 seq. of this title,

21 shall be fined not more than Two Hundred Dollars (\$200.00), where  
22 specific penalties are not otherwise provided.

23       C. Any wholesaler, retailer or distributing agent who shall  
24 intentionally:

1        1. Commit any of the acts specifically enumerated in subsection  
2 A of this section, where such acts are applicable to such person;

3        2. Sell any cigarettes upon which tax is required to be paid by  
4 Section 301 et seq. of this title without at the time of making such  
5 sale having a valid license;

6        3. Make a first sale of cigarettes without at the time of first  
7 sale having a license posted so as to be easily seen by the public;  
8 or

9        4. Fail to deliver an invoice required by law to a purchaser of  
10 cigarettes;

11 shall be punished by an administrative fine of not more than Ten  
12 Thousand Dollars (\$10,000.00) for the first offense, and not more  
13 than Twenty-five Thousand Dollars (\$25,000.00) for the second  
14 offense, where specific penalties are not otherwise provided.

15        D. Any distributing agent who shall:

16        1. Commit any of the acts specifically enumerated in  
17 subsections A and B of this section where such provisions are  
18 applicable to such distributing agent; or

19        2. Store any unstamped cigarettes in the state or deliver or  
20 distribute any unstamped cigarettes within this state, without at  
21 the time of storage or delivery having a valid license posted so as  
22 to be easily seen by the public;

23 shall be punished by an administrative fine of not more than Ten  
24 Thousand Dollars (\$10,000.00) for the first offense, and not more

1 than Twenty-five Thousand Dollars (\$25,000.00) for the second  
2 offense.

3 E. Any retailer violating the provisions of Section 301 et seq.  
4 of this title may:

5 1. For a first offense, be punished by an administrative fine  
6 of not more than One Hundred Dollars (\$100.00);

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

9 3. For a third or subsequent offense, be punished by an  
10 administrative fine of not more than Five Thousand Dollars  
11 (\$5,000.00).

12 F. Any wholesaler violating the provisions of Section 305.1 of  
13 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 G. The Tax Commission shall immediately revoke the license of a  
23 person punished for a violation pursuant to the provisions of  
24 paragraph 3 of subsection E of this section or a person punished for



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

5 H. Whoever, with intent to defraud Oklahoma:

6 1. Fails to keep or make any record, return, report, or  
7 inventory, or keeps or makes any false or fraudulent record, return,  
8 report, or inventory, required by Section 301 et seq. of this title  
9 or rules promulgated thereunder;

10 2. Refuses to pay any tax imposed by Section 301 et seq. of  
11 this title, or attempts in any manner to evade or defeat the tax or  
12 the payment thereof; or

13 3. Fails to comply with any requirement of Section 301 et seq.  
14 of this title;

15 shall, for each such offense, be punished with an administrative  
16 fine of not more than Ten Thousand Dollars (\$10,000.00).

17 I. Whoever knowingly omits, neglects, or refuses to comply with  
18 any duty imposed upon the person by Section 301 et seq. of this  
19 title, or to do, or cause to be done, any of the things required by  
20 Section 301 et seq. of this title, or does anything prohibited by  
21 Section 301 et seq. of this title, shall, in addition to any other  
22 penalty provided in Section 301 et seq. of this title, pay an  
23 administrative fine of One Thousand Dollars (\$1,000.00).

1 J. Whoever fails to pay any tax imposed by Section 301 et seq.  
2 of this title at the time prescribed by law or rules, shall, in  
3 addition to any other penalty provided in Section 301 et seq. of  
4 this title, be liable to a penalty of five hundred percent (500%) of  
5 the tax due but unpaid.

6 K. 1. All cigarettes which are held for sale or distribution  
7 within the borders of Oklahoma, in violation of the requirements of  
8 Section 301 et seq. of this title, and the machinery used to  
9 manufacture counterfeit cigarettes shall be forfeited to Oklahoma.  
10 All cigarettes and machinery forfeited to Oklahoma under this  
11 paragraph shall be destroyed.

12 2. All fixtures, equipment, and all other materials and  
13 personal property on the premises of any distributor or retailer  
14 who, with intent to defraud the state, fails to keep or make any  
15 record, return, report, or inventory; keeps or makes any false or  
16 fraudulent record, return, report, or inventory required by Section  
17 301 et seq. of this title; refuses to pay any tax imposed by Section  
18 301 et seq. of this title; or attempts in any manner to evade or  
19 defeat the requirements of Section 301 et seq. of this title shall  
20 be forfeited to Oklahoma.

21 L. Notwithstanding any other provision of law, the sale or  
22 possession for sale of counterfeit cigarettes, or the sale or  
23 possession for sale of counterfeit cigarettes by a manufacturer,  
24 distributor, or retailer shall result in the seizure of the product

1 and related machinery by the Tax Commission or any law enforcement  
2 agency and shall be punishable as follows:

3 1. A first violation with a total quantity of less than two  
4 cartons of cigarettes or the equivalent amount of other cigarettes  
5 shall be punishable by an administrative fine not to exceed Ten  
6 Thousand Dollars (\$10,000.00);

7 2. A subsequent violation with a total quantity of less than  
8 two cartons of cigarettes, or the equivalent amount of other  
9 cigarettes shall be punishable by an administrative fine not to  
10 exceed Twenty-five Thousand Dollars (\$25,000.00), and shall also  
11 result in the revocation by the Tax Commission of the manufacturer,  
12 wholesaler, or retailer license;

13 3. A first violation with a total quantity of more than two  
14 cartons of cigarettes, or the equivalent amount of other cigarettes,  
15 shall be punishable by an administrative fine not to exceed Twenty-  
16 five Thousand Dollars (\$25,000.00); and

17 4. A subsequent violation with a quantity of two cartons of  
18 cigarettes or more, or the equivalent amount of other cigarettes  
19 shall be punishable by an administrative fine not to exceed Fifty  
20 Thousand Dollars (\$50,000.00), and shall also result in the  
21 revocation by the Tax Commission of the manufacturer, wholesaler, or  
22 retailer license.

23 For the purposes of this section, "counterfeit cigarettes"  
24 includes cigarettes that have false manufacturing labels or tobacco

1 product packs without tax stamps or the applicable tax stamp or with  
2 counterfeit tax stamps or a combination thereof. Any counterfeit  
3 cigarette seized by the Tax Commission shall be destroyed.

4 M. The Tax Commission shall immediately revoke the license of a  
5 person punished for a violation pursuant to the provisions of  
6 subsection H of this section. A person whose license is so revoked  
7 shall not be eligible to receive another license for a period of  
8 five (5) years.

9 N. Except as provided otherwise in this section, all revenues  
10 from fines and penalties collected pursuant to this section shall be  
11 apportioned as follows:

12 1. Thirty percent (30%) to the Tax Commission Reimbursement  
13 Fund created in Section 113 of this title; and

14 2. Seventy percent (70%) to the General Revenue Fund of the  
15 State Treasury.

16 SECTION 6. AMENDATORY 68 O.S. 2011, Section 415, is  
17 amended to read as follows:

18 Section 415. A. Every dealer and wholesaler of tobacco  
19 products in this state, as a condition of carrying on such business,  
20 shall annually secure from the Oklahoma Tax Commission a written  
21 license and shall pay an annual fee of Two Hundred Fifty Dollars  
22 (\$250.00); provided, such fee shall not be applicable if paid  
23 pursuant to Section 304 of this title. The Tax Commission shall  
24 promulgate rules which provide a procedure for the issuance of a

1 joint license for any wholesaler making application pursuant to this  
2 section and Section 304 of this title. Application for such  
3 license, which shall be made upon such forms as prescribed by the  
4 Tax Commission, shall include the following:

5 1. The applicant's agreement to the jurisdiction of the Tax  
6 Commission and the courts of this state for purposes of enforcement  
7 of the provisions of Section 301 et seq. of this title; and

8 2. The applicant's agreement to abide by the provisions of  
9 Section 301 et seq. of this title and the rules promulgated by the  
10 Tax Commission with reference thereto. This license, which will be  
11 for the ensuing year, must at all times be displayed in a  
12 conspicuous place so that it can be seen. Persons operating more  
13 than one place of business must secure a license for each place of  
14 business. "Place of business" shall be construed to include the  
15 place where orders are received, or where tobacco products are sold.  
16 If tobacco products are sold on or from any vehicle, the vehicle  
17 shall constitute a place of business, and the license fee of Two  
18 Hundred Fifty Dollars (\$250.00) shall be paid with respect thereto.  
19 However, if the vehicle is owned or operated by a place of business  
20 for which the regular license fee is paid, the annual fee for the  
21 license with respect to such vehicle shall be only Ten Dollars  
22 (\$10.00). The expiration for such vehicle license shall expire on  
23 the same date as the current license of the place of business.

1 B. Every retailer in this state, as a condition of carrying on  
2 such business, shall secure from the Tax Commission a license and  
3 shall pay therefor a fee of Thirty Dollars (\$30.00). Application  
4 for such license, which shall be made upon such forms as prescribed  
5 by the Tax Commission, shall include the following:

6 1. The applicant's agreement to the jurisdiction of the Tax  
7 Commission and the courts of this state for purposes of enforcement  
8 of the provisions of Section 301 et seq. of this title; and

9 2. The applicant's agreement to abide by the provisions of  
10 Section 301 et seq. of this title and the rules promulgated by the  
11 Tax Commission with reference thereto;

12 3. The applicant's agreement that it shall not purchase any  
13 tobacco products for resale from a supplier that does not hold a  
14 current wholesaler's license issued pursuant to this section; and

15 4. The applicant's agreement to sell tobacco products only to  
16 consumers.

17 Such license, which will be for the ensuing three (3) years,  
18 must at all times be displayed in a conspicuous place so that it can  
19 be seen. Upon expiration of such license, the retailer to whom such  
20 license was issued may obtain a renewal license which shall be valid  
21 for three (3) years or until expiration of the retailer's sales tax  
22 permit, whichever is earlier, after which a renewal license shall be  
23 valid for three (3) years. The manner and prorated fee for renewals  
24 shall be prescribed by the Tax Commission. Every person operating

1 under such license as a retailer and who owns or operates more than  
2 one place of business must secure a license for each place of  
3 business. "Place of business" shall be construed to include places  
4 where orders are received or where tobacco products are sold.

5 C. Nothing in this section shall be construed to prohibit any  
6 person holding a retail license from also holding a wholesaler  
7 license.

8 D. Every distributing agent shall, as a condition of carrying  
9 on such business, pursuant to written application on a form  
10 prescribed by and in such detailed form as the Tax Commission may  
11 require, annually secure from the Tax Commission a license, and  
12 shall pay therefor an annual fee of One Hundred Dollars (\$100.00).  
13 An application shall be filed and a license obtained for each place  
14 of business owned or operated by a distributing agent. The license,  
15 which will be for the ensuing year, shall be consecutively numbered,  
16 nonassignable and nontransferable, and shall authorize the storing  
17 and distribution of unstamped tobacco products within this state  
18 when such distribution is made upon interstate orders only.

19 E. 1. All wholesale, retail, and distributing agents' licenses  
20 shall be nonassignable and nontransferable from one person to  
21 another person. Such licenses may be transferred from one location  
22 to another location after an application has been filed with the Tax  
23 Commission requesting such transfer and after the approval of the  
24 Tax Commission.

1        2. Wholesale, retail, and distributing agent's licenses shall  
2 be applied for on a form prescribed by the Tax Commission. Any  
3 person operating as a wholesaler, retailer, or distributing agent  
4 must at all times have an effective unexpired license which has been  
5 issued by the Tax Commission. If any such person or licensee  
6 continues to operate as such on a license issued by the Tax  
7 Commission which has expired, or operates without ever having  
8 obtained from the Tax Commission such license, such person or  
9 licensee shall, after becoming delinquent for a period in excess of  
10 fifteen (15) days, pay to the Tax Commission, in addition to the  
11 annual license fee, a penalty of twenty-five cents (\$0.25) per day  
12 on each delinquent license for each day so operated in excess of  
13 fifteen (15) days. The penalty provided for herein shall not exceed  
14 the annual license fee for such license.

15        F. No license may be granted, maintained or renewed if any of  
16 the following conditions apply to the applicant. For purposes of  
17 this section, "applicant" includes any combination of persons owning  
18 directly or indirectly, in the aggregate, more than ten percent  
19 (10%) of the ownership interests in the applicant:

20        1. The applicant owes Five Hundred Dollars (\$500.00) or more in  
21 delinquent tobacco products taxes;

22        2. The applicant had a dealer, wholesaler, or retailer license  
23 revoked by the Tax Commission within the past two (2) years; or  
24



1        3. The applicant has been convicted of a crime relating to  
2 stolen or counterfeit tobacco products, or receiving stolen or  
3 counterfeit tobacco products.

4        G. No person or entity licensed pursuant to the provisions of  
5 this section shall purchase tobacco products from or sell tobacco  
6 products to a person or entity required to obtain a license unless  
7 such person or entity has obtained such license.

8        H. In addition to any civil or criminal penalty provided by  
9 law, upon a finding that a licensee has violated any provision of  
10 Section 301 et seq. of this title, the Tax Commission may revoke or  
11 suspend the license or licenses of the licensee pursuant to the  
12 procedures applicable to revocation of a license set forth in  
13 Section 418 of this title.

14        I. All revenues from fees and penalties collected pursuant to  
15 this section shall be apportioned as follows:

16        1. Thirty percent (30%) to the Tax Commission Reimbursement  
17 Fund created in Section 113 of this title; and

18        2. Seventy percent (70%) to the General Revenue Fund of the  
19 State Treasury.

20        SECTION 7.        AMENDATORY        68 O.S. 2011, Section 418, as  
21 amended by Section 2, Chapter 334, O.S.L. 2013 (68 O.S. Supp. 2016,  
22 Section 418), is amended to read as follows:

23        Section 418. A. It shall be unlawful for any person to  
24 transport or possess unstamped tobacco products where the tax on

1 such unstamped tobacco products exceeds the sum of One Dollar  
2 (\$1.00) .

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

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

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

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

19 3. For a third or subsequent offense, be punished by an  
20 administrative fine of not more than Ten Thousand Dollars  
21 (\$10,000.00) .

22 D. Any wholesaler, distributing agent or dealer violating the  
23 provisions of Section 403.2 of this title shall:  
24

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

3        2. For a second or subsequent offense, be punished by an  
4 administrative fine of not more than Twenty Thousand Dollars  
5 (\$20,000.00).

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

9        E. The Oklahoma Tax Commission shall immediately revoke the  
10 license of a person punished for a violation pursuant to the  
11 provisions of paragraph 3 of subsection C of this section or a  
12 person punished for a violation pursuant to the provisions of  
13 subsection D of this section. A person whose license is so revoked  
14 shall not be eligible to receive another license pursuant to the  
15 provisions of Section 301 et seq. of this title for a period of ten  
16 (10) years.

17        F. Except as provided otherwise in this section, all revenues  
18 from fines and penalties collected pursuant to this section shall be  
19 apportioned as follows:

20        1. Thirty percent (30%) to the Tax Commission Reimbursement  
21 Fund created in Section 113 of this title; and

22        2. Seventy percent (70%) to the General Revenue Fund of the  
23 State Treasury.

24        SECTION 8. This act shall become effective July 1, 2017.

SECTION 9. It being immediately necessary for the preservation of the public peace, health or 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.

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