

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%)~~ Eleven and
19 three-hundredths percent (11.03%) shall be placed to the credit of
20 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%)~~ three and seventy-five-hundredths percent
6 (3.75%) 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%)~~
Thirteen and nineteen-hundredths percent (13.19%) 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%)~~ One and three-hundred-twenty-five-thousandths percent (1.325%) 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;

1 7. ~~Forty-four hundredths of one percent (0.44%)~~ Twenty-two-
2 hundredths of one percent (0.22%) shall be placed to the credit of
3 the Belle Maxine Hilliard Breast and Cervical Cancer Treatment
4 Revolving Fund created in Section 1-559 of Title 63 of the Oklahoma
5 Statutes;

6 8. ~~One percent (1%)~~ Five-tenths of one percent (0.5%) shall be
7 placed to the credit of the Teachers' Retirement System Revolving
8 Fund created in Section 158 of Title 62 of the Oklahoma Statutes;

9 9. ~~Two and seven hundredths percent (2.07%)~~ One and thirty-
10 five-thousandths percent (1.035%) shall be placed to the credit of
11 the Education Reform Revolving Fund created in Section 41.29b of
12 Title 62 of the Oklahoma Statutes;

13 10. ~~Sixty-six hundredths percent (0.66%)~~ Thirty-three-
14 hundredths of one percent (0.33%) shall be placed to the credit of
15 the Tobacco Prevention and Cessation Revolving Fund created in
16 Section 1-105d of Title 63 of the Oklahoma Statutes;

17 11. ~~Sixteen and eighty-three hundredths percent (16.83%)~~ Fifty-
18 five and three-hundred-twenty-five-thousandths percent (55.325%)
19 shall be placed to the credit of the General Revenue Fund; and

20 12. For fiscal years beginning July 1, 2004, and ending June
21 30, 2006, fourteen and twenty-three-hundredths percent (14.23%)
22 shall be apportioned to municipalities and counties that levy a
23 sales tax, in the proportions which total municipal and county sales
24

1 tax revenue was apportioned by the Tax Commission in the preceding
2 month.

3 For fiscal years beginning July 1, 2006, and thereafter, the
4 apportionment percentage specified in paragraph 12 of this
5 subsection will be adjusted by dividing the total municipal and
6 county sales tax revenue collected in the calendar year immediately
7 preceding the commencement of the fiscal year by the sum of the
8 state sales tax revenue and total municipal and county sales tax
9 revenue collected in the same year. This ratio shall be divided by
10 the ratio of the total municipal and county sales tax revenue
11 collected in the calendar year beginning January 1, 2004, and ending
12 December 31, 2004, divided by the sum of the state sales tax revenue
13 and total municipal and county sales tax revenue collected in the
14 same year. The resulting quotient shall be multiplied by ~~fourteen~~
15 ~~and twenty-three hundredths percent (14.23%)~~ seven and one-hundred-
16 fifteen-thousandths percent (7.115%) to determine the apportionment
17 percentage for the fiscal year.

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

22 C. The tax shall be evidenced by tax stamps as now provided
23 for; however, as to cigarette packages of less than ten cigarettes
24 for free distribution as samples, the tax herein levied shall be

1 computed and paid as provided for other cigarette taxes without
2 affixing stamps on each such package.

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

9 1. ~~Thirty-three and forty-nine hundredths percent (33.49%)~~
10 Sixteen and seven-hundred-forty-five-thousandths percent (16.745%)

11 shall be placed to the credit of the Health Employee and Economy
12 Improvement Act Revolving Fund created in Section 1010.1 of Title 56
13 of the Oklahoma Statutes;

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

18 3. Before July 1, 2008, eleven and thirty-nine-hundredths
19 percent (11.39%) shall be placed to the credit of the Trauma Care
20 Assistance Revolving Fund created in Section 1-2522 of Title 63 of
21 the Oklahoma Statutes. On and after July 1, 2008, ~~eleven and~~
22 ~~thirty-nine hundredths percent (11.39%)~~ five and six-hundred-ninety-
23 five-thousandths percent (5.695%) shall be allocated as follows:

- 1 a. every month, an amount equal to the actual amount
2 placed to the credit of the Trauma Care Assistance
3 Revolving Fund pursuant to this paragraph for the same
4 month of the 2008 fiscal year, provided such amount
5 shall not exceed the amount allocated pursuant to this
6 paragraph, shall be credited to the Trauma Care
7 Assistance Revolving Fund,
- 8 b. every month, any amount over and above the amount
9 placed to the credit of the Trauma Care Assistance
10 Revolving Fund pursuant to subparagraph a of this
11 paragraph shall be credited to the Oklahoma Emergency
12 Response Systems Stabilization and Improvement
13 Revolving Fund as created in Section ~~8~~ 1-2512.1 of
14 ~~this act~~ Title 63 of the Oklahoma Statutes until the
15 combined amount credited to the Oklahoma Emergency
16 Response Systems Stabilization and Improvement
17 Revolving Fund pursuant to this section and Section
18 402-3 of this title is equal to a total of Two Million
19 Five Hundred Thousand Dollars (\$2,500,000.00) each
20 year, and
- 21 c. any additional revenue allocated pursuant to this
22 paragraph shall be placed to the credit of the Trauma
23 Care Assistance Revolving Fund;
24

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

5 5. ~~Forty and six-hundredths percent (40.06%)~~ Twenty and three-
6 hundredths percent (20.03%) shall be placed to the credit of the
7 Oklahoma Health Care Authority Medicaid Program Fund created in
8 Section 5020 of Title 63 of the Oklahoma Statutes for the purposes
9 of maintaining programs and services funded under the federal "Jobs
10 and Growth Tax Relief Reconciliation Act of 2003", reimbursing
11 city/county-owned hospitals, increasing emergency room physician
12 rates, and providing TEFRA 134, also known as "Katie Beckett"
13 services;

14 6. ~~Four and one-hundredths percent (4.01%)~~ Two and five-
15 thousandths percent (2.005%) shall be placed to the credit of the
16 Department of Mental Health and Substance Abuse Services Revolving
17 Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

18 7. ~~Sixty-seven-hundredths percent (0.67%)~~ Three-hundred-thirty-
19 five-thousandths of one percent (0.335%) shall be placed to the
20 credit of the Belle Maxine Hilliard Breast and Cervical Cancer
21 Treatment Revolving Fund created in Section 1-559 of Title 63 of the
22 Oklahoma Statutes; and

23 8. ~~One percent (1%)~~ Five-tenths of one percent (0.5%) shall be
24 placed to the credit of the Tobacco Prevention and Cessation

1 Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma
2 Statutes; and

3 9. Forty-five and thirty-one-hundredths percent (45.31%) shall
4 be placed to the credit of the General Revenue Fund.

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

8 1. The State of Oklahoma Building Bonds of 1961 Sinking Fund
9 pursuant to the provisions of Sections 57.31 through 57.43 of Title
10 62 of the Oklahoma Statutes;

11 2. The State of Oklahoma Institutional Building Bonds of 1965
12 Sinking Fund pursuant to the provisions of Sections 57.61 through
13 57.73 of Title 62 of the Oklahoma Statutes;

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

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

20 5. The Oklahoma Building Bonds of 1992 Sinking Fund pursuant to
21 the provisions of Sections 57.300 through 57.313 of Title 62 of the
22 Oklahoma Statutes.

23 F. The cigarette taxes levied in this section shall be
24 collected and administered in all respects not inconsistent with as

1 now or hereafter provided for by law for other cigarette taxes now
2 levied, collected, and administered pursuant to the provisions of
3 Sections 301 through 325 of this title.

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

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

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

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

23 3. Smoking Tobacco. Upon all smoking tobacco including
24 granulated, plug cut, crimp cut, ready rubbed and other kinds and

1 forms of tobacco prepared in such manner as to be suitable for
2 smoking in a pipe or cigarette, the tax shall be forty percent (40%)
3 of the factory list price exclusive of any trade discount, special
4 discount or deals; and

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

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

12 1. ~~Twenty-two and six-hundredths percent (22.06%)~~ Eleven and
13 three-hundredths percent (11.03%) shall be placed to the credit of
14 the Health Employee and Economy Improvement Act Revolving Fund
15 created in Section 1010.1 of Title 56 of the Oklahoma Statutes;

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

19 3. Before July 1, 2008, seven and fifty-hundredths percent
20 (7.50%) shall be placed to the credit of the Trauma Care Assistance
21 Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma
22 Statutes. On and after July 1, 2008, ~~seven and fifty-hundredths~~
23 ~~percent (7.50%)~~ three and seventy-five-hundredths percent (3.75%)
24 shall be allocated as follows:

- 1 a. every month, an amount equal to the actual amount
2 placed to the credit of the Trauma Care Assistance
3 Revolving Fund pursuant to this paragraph for the same
4 month of the 2008 fiscal year, provided such amount
5 shall not exceed the amount allocated pursuant to this
6 paragraph, shall be credited to the Trauma Care
7 Assistance Revolving Fund,
- 8 b. every month, any amount over and above the amount
9 placed to the credit of the Trauma Care Assistance
10 Revolving Fund pursuant to subparagraph a of this
11 paragraph shall be credited to the Oklahoma Emergency
12 Response Systems Stabilization and Improvement
13 Revolving Fund as created in Section ~~8~~ 1-2512.1 of
14 ~~this act~~ Title 63 of the Oklahoma Statutes until the
15 combined amount credited to the Oklahoma Emergency
16 Response Systems Stabilization and Improvement
17 Revolving Fund pursuant to this section and Section
18 302-5 of this title is equal to Two Million Five
19 Hundred Thousand Dollars (\$2,500,000.00) each year,
20 and
- 21 c. any additional revenue allocated pursuant to this
22 paragraph shall be placed to the credit of the Trauma
23 Care Assistance Revolving Fund;
- 24

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

5 5. ~~Twenty-six and thirty-eight-hundredths percent (26.38%)~~
6 Thirteen and nineteen-hundredths percent (13.19%) shall be placed to
7 the credit of the Oklahoma Health Care Authority Medicaid Program
8 Fund created in Section 5020 of Title 63 of the Oklahoma Statutes
9 for the purposes of maintaining programs and services funded under
10 the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003",
11 reimbursing city/county-owned hospitals, increasing emergency room
12 physician rates, and providing TEFRA 134, also known as "Katie
13 Beckett" services;

14 6. ~~Two and sixty-five-hundredths percent (2.65%)~~ One and three-
15 hundred-twenty-five-thousandths percent (1.325%) shall be placed to
16 the credit of the Department of Mental Health and Substance Abuse
17 Services Revolving Fund created in Section 2-303 of Title 43A of the
18 Oklahoma Statutes;

19 7. ~~Forty-four hundredths of one percent (0.44%)~~ Twenty-two-
20 hundredths of one percent (0.22%) shall be placed to the credit of
21 the Belle Maxine Hilliard Breast and Cervical Cancer Treatment
22 Revolving Fund created in Section 1-559 of Title 63 of the Oklahoma
23 Statutes;

1 8. ~~One percent (1%)~~ Five-tenths of one percent (0.5%) shall be
2 placed to the credit of the Teachers' Retirement System Revolving
3 Fund created in Section 158 of Title 62 of the Oklahoma Statutes;

4 9. ~~Two and seven-hundredths percent (2.07%)~~ One and thirty-
5 five-thousandths percent (1.035%) shall be placed to the credit of
6 the Education Reform Revolving Fund created in Section 41.29b of
7 Title 62 of the Oklahoma Statutes;

8 10. ~~Sixty-six-hundredths percent (.66%)~~ Thirty-three-hundredths
9 of one percent (0.33%) shall be placed to the credit of the Tobacco
10 Prevention and Cessation Revolving Fund created in Section 1-105d of
11 Title 63 of the Oklahoma Statutes;

12 11. ~~Sixteen and eighty-three-hundredths percent (16.83%)~~ Fifty-
13 five and three-hundred-twenty-five-thousandths percent (55.325%)
14 shall be placed to the credit of the General Revenue Fund; and

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

21 For fiscal years beginning July 1, 2006, and thereafter, the
22 apportionment percentage specified in paragraph 12 of this
23 subsection will be adjusted by dividing the total municipal and
24 county sales tax revenue collected in the calendar year immediately

preceding the commencement of the fiscal year by the sum of the state sales tax revenue and total municipal and county sales tax revenue collected in the same year. This ratio shall be divided by the ratio of the total municipal and county sales tax revenue collected in the calendar year beginning January 1, 2004, and ending December 31, 2004, divided by the sum of the state sales tax revenue and total municipal and county sales tax revenue collected in the same year. The resulting quotient shall be multiplied by ~~fourteen and twenty-three hundredths percent (14.23%)~~ seven and one-hundred-fifteen-thousandths percent (7.115%) to determine the apportionment percentage for the fiscal year.

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

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

1. ~~Thirty-three and forty-nine hundredths percent (33.49%)~~
Sixteen and seven-hundred-forty-five-thousandths percent (16.745%)

1 shall be placed to the credit of the Health Employee and Economy
2 Improvement Act Revolving Fund created in Section 1010.1 of Title 56
3 of the Oklahoma Statutes;

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

8 3. Before July 1, 2008, eleven and thirty-nine-hundredths
9 percent (11.39%) shall be placed to the credit of the Trauma Care
10 Assistance Revolving Fund created in Section 1-2522 of Title 63 of
11 the Oklahoma Statutes. On and after July 1, 2008, ~~eleven and~~
12 ~~thirty-nine-hundredths percent (11.39%)~~ five and six-hundred-ninety-
13 five-thousandths percent (5.695%) shall be allocated as follows:

14 a. every month, an amount equal to the actual amount
15 placed to the credit of the Trauma Care Assistance
16 Revolving Fund pursuant to this paragraph for the same
17 month of the 2008 fiscal year, provided such amount
18 shall not exceed the amount allocated pursuant to this
19 paragraph, shall be credited to the Trauma Care
20 Assistance Revolving Fund,

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

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

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

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

17 5. ~~Forty and six hundredths percent (40.06%)~~ Twenty and three-
18 hundredths percent (20.03%) shall be placed to the credit of the
19 Oklahoma Health Care Authority Medicaid Program Fund created in
20 Section 5020 of Title 63 of the Oklahoma Statutes for the purposes
21 of maintaining programs and services funded under the federal "Jobs
22 and Growth Tax Relief Reconciliation Act of 2003", reimbursing
23 city/county-owned hospitals, increasing emergency room physician
24

1 rates, and providing TEFRA 134, also known as "Katie Beckett"
2 services;

3 6. ~~Four and one hundredths percent (4.01%)~~ Two and five-
4 thousandths percent (2.005%) shall be placed to the credit of the
5 Department of Mental Health and Substance Abuse Services Revolving
6 Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

7 7. ~~Sixty-seven hundredths percent (0.67%)~~ Three-hundred-thirty-
8 five-thousandths of one percent (0.335%) shall be placed to the
9 credit of the Belle Maxine Hilliard Breast and Cervical Cancer
10 Treatment Revolving Fund created in Section 1-559 of Title 63 of the
11 Oklahoma Statutes; ~~and~~

12 8. ~~One percent (1%)~~ Five-tenths of one percent (0.5%) shall be
13 placed to the credit of the Tobacco Prevention and Cessation
14 Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma
15 Statutes; and

16 9. Forty-five and thirty-one-hundredths percent (45.31%) shall
17 be placed to the credit of the General Revenue Fund.

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

21 SECTION 3. AMENDATORY 68 O.S. 2011, Section 113, as
22 amended by Section 530, Chapter 304, O.S.L. 2012 (68 O.S. Supp.
23 2016, Section 113), is amended to read as follows:
24

1 Section 113. ~~A.~~ There is hereby created in the State Treasury
2 a revolving fund for the Oklahoma Tax Commission to be known as the
3 "Tax Commission Reimbursement Fund". Said revolving fund shall
4 consist of any funds received by the Tax Commission for data
5 processing services or equipment rental and any funds received by
6 the Tax Commission from any incorporated city, town, or county
7 pursuant to a contractual agreement for the augmentation of the
8 enforcement and collection of municipal or county taxes entered into
9 pursuant to the provisions of Sections 1371 or 2702 of this title.
10 The Tax Commission is authorized to hire full-time-equivalent
11 employees as necessary to perform such duties as to fulfill
12 contractual agreements authorized pursuant to Sections 1371 and 2702
13 of this title, however, such employees hired to perform such
14 contractual duties shall be supported solely by funds in the Tax
15 Commission Reimbursement Fund which are collected by the Tax
16 Commission from incorporated cities, towns, and counties pursuant to
17 such contractual agreements and such employees shall be terminated
18 upon the discontinuation of such funds or inadequate funds to
19 support such positions. Such full-time-equivalent employees shall
20 be in the unclassified service and shall not be subject to any
21 provisions of the Oklahoma Personnel Act or to the Merit Rules for
22 Employment except leave regulations. All fees collected and
23 apportioned to this fund under the Oklahoma Vehicle License and
24 Registration Act, Section 1101 et seq. of Title 47 of the Oklahoma

1 Statutes, may be used by the Motor Vehicle Division of the Oklahoma
2 Tax Commission to pay all costs incurred in the issuance of
3 certificates of title and inspection of vehicles, including, but not
4 limited to, additional computer costs for the Tax Commission and
5 motor license agents and the check verification system authorized
6 pursuant to the provisions of paragraph 1 of subsection A of Section
7 1144 of Title 47 of the Oklahoma Statutes or be used for capital
8 expenditures as authorized by the Oklahoma State Legislature. For
9 the fiscal year beginning July 1, 2004, disbursements from the fund
10 shall be exempt from all agency budget limits.

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

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

21 Section 304. A. Every manufacturer and wholesaler of
22 cigarettes in this state, as a condition of carrying on such
23 business, shall annually secure from the Oklahoma Tax Commission a
24 written license, and shall pay therefor an annual fee of Two Hundred

1 Fifty Dollars (\$250.00). Application for such license, which shall
2 be made upon such forms as prescribed by the Oklahoma Tax
3 Commission, shall include the following:

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

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

10 3. The wholesaler applicant's agreement to sell cigarettes only
11 to licensed retailers or Indian tribal entities or licensees of
12 Indian tribal entities; and

13 4. The manufacturer applicant's agreement to sell cigarettes
14 only to a licensed wholesaler.

15 This license, which will be for the ensuing year, must at all
16 times be displayed in a conspicuous place so that it can be seen.
17 Persons operating more than one place of business must secure a
18 license for each place of business. "Place of business" shall be
19 construed to include the place where orders are received, or where
20 cigarettes are sold. If cigarettes are sold on or from any vehicle,
21 the vehicle shall constitute a place of business and the regular
22 license fee shall be paid with respect thereto. However, if the
23 vehicle is owned or operated by a place of business for which the
24 regular fee is paid, the annual fee for the license with respect to

1 such vehicle shall be only Ten Dollars (\$10.00). The expiration for
2 such vehicle license shall expire on the same date as the current
3 license of the place of business.

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

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

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

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

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

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

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

22 C. Every distributing agent shall, as a condition of carrying
23 on such business, pursuant to written application on a form
24 prescribed by and in such detailed form as the Tax Commission may

1 require, annually secure from the Tax Commission a license, and
2 shall pay therefor an annual fee of One Hundred Dollars (\$100.00).
3 An application shall be filed and a license obtained for each place
4 of business owned or operated by a distributing agent. The license,
5 which will be for the ensuing year, shall be consecutively numbered,
6 nonassignable and nontransferable, and shall authorize the storing
7 and distribution of unstamped cigarettes within this state when such
8 distribution is made upon interstate orders only.

9 D. 1. All wholesale, retail, and distributing agent's licenses
10 shall be nonassignable and nontransferable from one person to
11 another person. Such licenses may be transferred from one location
12 to another location after an application has been filed with the Tax
13 Commission requesting such transfer and after the approval of the
14 Tax Commission.

15 2. Wholesale, retail, and distributing agent's licenses shall
16 be applied for on a form prescribed by the Tax Commission. Any
17 person operating as a wholesaler, retailer, or distributing agent
18 must at all times have a valid license which has been issued by the
19 Tax Commission. If any such person or licensee continues to operate
20 as such on a license issued by the Tax Commission which has expired,
21 or operates without ever having obtained from the Tax Commission
22 such license, such person or licensee shall, after becoming
23 delinquent for a period in excess of fifteen (15) days, pay to the
24 Tax Commission, in addition to the annual license fee, a penalty of

1 twenty-five cents (\$0.25) per day on each delinquent license for
2 each day so operated in excess of fifteen (15) days. The penalty
3 provided for herein shall not exceed the annual license fee for such
4 license.

5 E. No license may be granted, maintained or renewed if any of
6 the following conditions applies to the applicant. For purposes of
7 this section, "applicant" includes any combination of persons owning
8 directly or indirectly, in the aggregate, more than ten percent
9 (10%) of the ownership interests in the applicant:

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

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

15 3. The applicant has been convicted of a crime relating to
16 stolen or counterfeit cigarettes, or receiving stolen or counterfeit
17 cigarettes or has been convicted of or has entered a plea of guilty
18 or nolo contendere to any felony;

19 4. If the applicant is a cigarette manufacturer, the applicant
20 is neither:

21 a. a participating manufacturer as defined in Section II
22 (jj) of the Master Settlement Agreement as defined in
23 Section 600.22 of Title 37 of the Oklahoma Statutes,
24 nor

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

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

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

11 F. No person or entity licensed pursuant to the provisions of
12 this section shall purchase cigarettes from or sell cigarettes to a
13 person or entity required to obtain a license unless such person or
14 entity has obtained such license.

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

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

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

21 H. In addition to any civil or criminal penalty provided by
22 law, upon a finding that a licensee has violated any provision of
23 Section 301 et seq. of this title, the Tax Commission may revoke or
24 suspend the license or licenses of the licensee pursuant to the

1 procedures applicable to revocation of a license set forth in
2 Section 316 of this title.

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

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

9 1. Fifty percent (50%) to the Tax Commission Reimbursement Fund
10 created in Section 113 of this title; and

11 2. Fifty percent (50%) to the General Revenue Fund of the State
12 Treasury.

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

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

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

19 2. Sell cigarettes in quantities less than an individual
20 package;

21 3. Knowingly cancel or mutilate any stamp affixed to any
22 individual package of cigarettes for the purpose of concealing any
23 violation of Section 301 et seq. of this title or with any other
24 fraudulent intent;

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

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

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

10 B. Any consumer, who shall:

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

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

17 3. Knowingly cancel or mutilate any stamp affixed to any
18 individual package of cigarettes for the purpose of concealing any
19 violation of the Cigarette and Tobacco Products Tax Codes or with
20 any other fraudulent intent;

21 4. Use any artful device or deceptive practice to conceal any
22 violation of the Cigarette and Tobacco Products Tax Codes; or
23
24

1 5. Refuse to surrender to the Tax Commission upon demand any
2 cigarettes possessed in violation of any provision of Section 301 et
3 seq. of this title,
4 shall be fined not more than Two Hundred Dollars (\$200.00), where
5 specific penalties are not otherwise provided.

6 C. Any wholesaler, retailer or distributing agent who shall
7 intentionally:

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

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

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

16 4. Fail to deliver an invoice required by law to a purchaser of
17 cigarettes;

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

22 D. Any distributing agent who shall:
23
24

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

4 2. Store any unstamped cigarettes in the state or deliver or
5 distribute any unstamped cigarettes within this state, without at
6 the time of storage or delivery having a valid license posted so as
7 to be easily seen by the public;
8 shall be punished by an administrative fine of not more than Ten
9 Thousand Dollars (\$10,000.00) for the first offense, and not more
10 than Twenty-five Thousand Dollars (\$25,000.00) for the second
11 offense.

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

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

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

18 3. For a third or subsequent offense, be punished by an
19 administrative fine of not more than Five Thousand Dollars
20 (\$5,000.00).

21 F. Any wholesaler violating the provisions of Section 305.1 of
22 this title shall:

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

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

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

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

14 H. Whoever, with intent to defraud Oklahoma:

15 1. Fails to keep or make any record, return, report, or
16 inventory, or keeps or makes any false or fraudulent record, return,
17 report, or inventory, required by Section 301 et seq. of this title
18 or rules promulgated thereunder;

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

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

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

3 I. Whoever knowingly omits, neglects, or refuses to comply with
4 any duty imposed upon the person by Section 301 et seq. of this
5 title, or to do, or cause to be done, any of the things required by
6 Section 301 et seq. of this title, or does anything prohibited by
7 Section 301 et seq. of this title, shall, in addition to any other
8 penalty provided in Section 301 et seq. of this title, pay an
9 administrative fine of One Thousand Dollars (\$1,000.00).

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

15 K. 1. All cigarettes which are held for sale or distribution
16 within the borders of Oklahoma, in violation of the requirements of
17 Section 301 et seq. of this title, and the machinery used to
18 manufacture counterfeit cigarettes shall be forfeited to Oklahoma.
19 All cigarettes and machinery forfeited to Oklahoma under this
20 paragraph shall be destroyed.

21 2. All fixtures, equipment, and all other materials and
22 personal property on the premises of any distributor or retailer
23 who, with intent to defraud the state, fails to keep or make any
24 record, return, report, or inventory; keeps or makes any false or

1 fraudulent record, return, report, or inventory required by Section
2 301 et seq. of this title; refuses to pay any tax imposed by Section
3 301 et seq. of this title; or attempts in any manner to evade or
4 defeat the requirements of Section 301 et seq. of this title shall
5 be forfeited to Oklahoma.

6 L. Notwithstanding any other provision of law, the sale or
7 possession for sale of counterfeit cigarettes, or the sale or
8 possession for sale of counterfeit cigarettes by a manufacturer,
9 distributor, or retailer shall result in the seizure of the product
10 and related machinery by the Tax Commission or any law enforcement
11 agency and shall be punishable as follows:

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

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

22 3. A first violation with a total quantity of more than two
23 cartons of cigarettes, or the equivalent amount of other cigarettes,
24

1 shall be punishable by an administrative fine not to exceed Twenty-
2 five Thousand Dollars (\$25,000.00); and

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

9 For the purposes of this section, "counterfeit cigarettes"
10 includes cigarettes that have false manufacturing labels or tobacco
11 product packs without tax stamps or the applicable tax stamp or with
12 counterfeit tax stamps or a combination thereof. Any counterfeit
13 cigarette seized by the Tax Commission shall be destroyed.

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

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

22 1. Fifty percent (50%) to the Tax Commission Reimbursement Fund
23 created in Section 113 of this title; and
24

1 2. Fifty percent (50%) to the General Revenue Fund of the State
2 Treasury.

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

5 Section 415. A. Every dealer and wholesaler of tobacco
6 products in this state, as a condition of carrying on such business,
7 shall annually secure from the Oklahoma Tax Commission a written
8 license and shall pay an annual fee of Two Hundred Fifty Dollars
9 (\$250.00); provided, such fee shall not be applicable if paid
10 pursuant to Section 304 of this title. The Tax Commission shall
11 promulgate rules which provide a procedure for the issuance of a
12 joint license for any wholesaler making application pursuant to this
13 section and Section 304 of this title. Application for such
14 license, which shall be made upon such forms as prescribed by the
15 Tax Commission, shall include the following:

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

19 2. The applicant's agreement to abide by the provisions of
20 Section 301 et seq. of this title and the rules promulgated by the
21 Tax Commission with reference thereto. This license, which will be
22 for the ensuing year, must at all times be displayed in a
23 conspicuous place so that it can be seen. Persons operating more
24 than one place of business must secure a license for each place of

1 business. "Place of business" shall be construed to include the
2 place where orders are received, or where tobacco products are sold.
3 If tobacco products are sold on or from any vehicle, the vehicle
4 shall constitute a place of business, and the license fee of Two
5 Hundred Fifty Dollars (\$250.00) shall be paid with respect thereto.
6 However, if the vehicle is owned or operated by a place of business
7 for which the regular license fee is paid, the annual fee for the
8 license with respect to such vehicle shall be only Ten Dollars
9 (\$10.00). The expiration for such vehicle license shall expire on
10 the same date as the current license of the place of business.

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

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

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

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

1 4. The applicant's agreement to sell tobacco products only to
2 consumers.

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

15 C. Nothing in this section shall be construed to prohibit any
16 person holding a retail license from also holding a wholesaler
17 license.

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

1 which will be for the ensuing year, shall be consecutively numbered,
2 nonassignable and nontransferable, and shall authorize the storing
3 and distribution of unstamped tobacco products within this state
4 when such distribution is made upon interstate orders only.

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

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

1 F. No license may be granted, maintained or renewed if any of
2 the following conditions apply to the applicant. For purposes of
3 this section, "applicant" includes any combination of persons owning
4 directly or indirectly, in the aggregate, more than ten percent
5 (10%) of the ownership interests in the applicant:

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

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

10 3. The applicant has been convicted of a crime relating to
11 stolen or counterfeit tobacco products, or receiving stolen or
12 counterfeit tobacco products.

13 G. No person or entity licensed pursuant to the provisions of
14 this section shall purchase tobacco products from or sell tobacco
15 products to a person or entity required to obtain a license unless
16 such person or entity has obtained such license.

17 H. In addition to any civil or criminal penalty provided by
18 law, upon a finding that a licensee has violated any provision of
19 Section 301 et seq. of this title, the Tax Commission may revoke or
20 suspend the license or licenses of the licensee pursuant to the
21 procedures applicable to revocation of a license set forth in
22 Section 418 of this title.

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

1 1. Fifty percent (50%) to the Tax Commission Reimbursement Fund
2 created in Section 113 of this title; and

3 2. Fifty percent (50%) to the General Revenue Fund of the State
4 Treasury.

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

8 Section 418. A. It shall be unlawful for any person to
9 transport or possess unstamped tobacco products where the tax on
10 such unstamped tobacco products exceeds the sum of One Dollar
11 (\$1.00).

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

22 C. Any retailer violating the provisions of Section 403.2 of
23 this title shall:
24

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

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

5 3. For a third or subsequent offense, be punished by an
6 administrative fine of not more than Ten Thousand Dollars
7 (\$10,000.00).

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

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

12 2. For a second or subsequent offense, be punished by an
13 administrative fine of not more than Twenty Thousand Dollars
14 (\$20,000.00).

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

18 E. The Oklahoma Tax Commission shall immediately revoke the
19 license of a person punished for a violation pursuant to the
20 provisions of paragraph 3 of subsection C of this section or a
21 person punished for a violation pursuant to the provisions of
22 subsection D of this section. A person whose license is so revoked
23 shall not be eligible to receive another license pursuant to the
24

1 provisions of Section 301 et seq. of this title for a period of ten
2 (10) years.

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

6 1. Fifty percent (50%) to the Tax Commission Reimbursement Fund
7 created in Section 113 of this title; and

8 2. Fifty percent (50%) to the General Revenue Fund of the State
9 Treasury.

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

11 SECTION 9. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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