

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 2639

By: Roberts (Dustin)

AS INTRODUCED

An Act relating to revenue and taxation; stating purpose; levying tax upon the severance of rock, gravel, granite, sand, gypsum, limestone or any other natural materials mined for purposes of producing aggregate; limiting applicability of tax; providing tax rate; apportioning tax collections; amending 68 O.S. 2011, Section 1010, as amended by Section 1, Chapter 277, O.S.L. 2013 (68 O.S. Supp. 2017, Section 1010), which relates to gross production tax reporting requirements; requiring certain information be reported; requiring certain action prior to engaging in certain activities; and providing for codification.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1001.5 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of providing revenue for the support of the functions of state government, there is hereby levied upon the severance or production of rock, gravel, granite, sand, gypsum, limestone or any other natural materials mined for purposes of producing aggregate within the territorial limits of the state by

1 any lawfully recognized for-profit business entity, a tax equal to  
2 five percent (5%) on the gross value thereof.

3 B. All monies collected pursuant to the tax levied in  
4 subsection A of this section shall be paid to the State Treasurer to  
5 be placed in the General Revenue Fund of the state.

6 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1010, as  
7 amended by Section 1, Chapter 277, O.S.L. 2013 (68 O.S. Supp. 2017,  
8 Section 1010), is amended to read as follows:

9 Section 1010 A. The tax provided for in Section 1001 et seq.  
10 of this title shall be paid to the Oklahoma Tax Commission.

11 B. Except as otherwise provided in subsection G of this  
12 section, every person responsible for paying or remitting the tax  
13 levied by Section 1001 et seq. of this title on the production from  
14 any lease shall file with the Tax Commission a monthly report on  
15 each lease, under oath, on forms prescribed by the Tax Commission,  
16 giving, with other information required, the following:

17 1. The Tax Commission assigned production unit number,  
18 subnumber and merge number, or, with the consent of the Tax  
19 Commission, the full description of the property by lease name,  
20 subdivision of quarter section, section, township, and range, from  
21 which the oil or gas was produced, or both, as may be required by  
22 the Tax Commission;

1        2. The Tax Commission assigned company reporting numbers of the  
2 producer and purchaser, or with the consent of the Tax Commission,  
3 the company name;

4        3. The gross amount of asphalt, ores bearing lead, zinc, jack,  
5 ~~or~~ copper, oil, ~~or~~ gas, rock, gravel, granite, sand, gypsum,  
6 limestone or any other natural materials mined for purposes of  
7 producing aggregate severed, produced or purchased;

8        4. The kind of mineral, oil, gas, or casinghead gas produced or  
9 purchased;

10       5. The total value of the mineral, oil, gas, ~~or~~ casinghead gas,  
11 rock, gravel, granite, sand, gypsum, limestone or any other natural  
12 materials mined for purposes of producing aggregate, at the time and  
13 place of severance or production, including any and all premiums  
14 paid for the sale thereof, at the price paid, if purchased at the  
15 time of production;

16       6. If requested by the Tax Commission, the prevailing market  
17 price of oil not sold at the time of production; and

18       7. The amount of royalty payable on the production from the  
19 lease, if the royalty is claimed to be exempt from taxation by law,  
20 and the facts on which such claim of exemption is based and such  
21 other information pertaining to the claim as the Tax Commission may  
22 require.

23       Each report required by the provisions of this section shall be  
24 filed on separate forms as to product and county.

1 C. No person shall engage in the mining, severance or  
2 production within this state of asphalt, ores bearing lead, zinc,  
3 jack, ~~or~~ copper, oil, ~~or~~ gas, rock, gravel, granite, sand, gypsum,  
4 limestone or any other natural materials mined for purposes of  
5 producing aggregate, prior to obtaining from the Tax Commission a  
6 Tax Commission assigned producer reporting number and a Tax  
7 Commission assigned production unit number, subnumber and merge  
8 number for each producing lease. No person shall engage in the  
9 purchase of asphalt, ores bearing lead, zinc, jack ~~or~~ copper, oil ~~or~~  
10 gas, rock, gravel, granite, sand, gypsum, limestone or any other  
11 natural materials mined for purposes of producing aggregate, from a  
12 producing lease prior to obtaining from the Tax Commission a Tax  
13 Commission assigned purchaser reporting number and the Tax  
14 Commission assigned production unit number, subnumber and merge  
15 number, of the lease from which the production is to be purchased.

16 1. Every producer and purchaser shall make application, upon  
17 forms prescribed by the Tax Commission, for a Tax Commission  
18 assigned producer or purchaser reporting number prior to producing  
19 or purchasing production. Every producer shall obtain, by making  
20 application upon forms prescribed by the Tax Commission, a Tax  
21 Commission assigned production unit number, subnumber and merge  
22 number for each lease from which lease production will be sold or  
23 disposed before disposing of production from any lease in the state.

1        Provided, however, the Tax Commission shall not approve any  
2 application for a Tax Commission assigned producer or purchaser  
3 reporting number without proper confirmation that the applicant has  
4 posted the requisite surety documents with the Corporation  
5 Commission pursuant to Section 318.1 of Title 52 of the Oklahoma  
6 Statutes.

7        2. Every producer or purchaser shall notify the Tax Commission  
8 within thirty (30) days of any changes of any producing lease in the  
9 state as may be required by the Tax Commission. Provided, the Tax  
10 Commission may relieve producers and purchasers of their duty to  
11 file the notification required by this paragraph if the Tax  
12 Commission determines that the notification is not necessary.

13        3. Gross production tax reports from either the purchaser or  
14 producer shall become due on the first day of each calendar month on  
15 all products subject to the tax levied by Section 1001 et seq. of  
16 this title produced in and saved during the preceding monthly  
17 period. If such reports are not received by the Tax Commission on  
18 or before the twenty-fifth day of the second calendar month  
19 following the month of production, the reports shall become  
20 delinquent. Any requested or required amended report or any  
21 requested information submitted in response to written demand for  
22 information which is not received by the Tax Commission on or before  
23 thirty (30) days after the mailing of the request or demand by the  
24 Tax Commission or any of its employees shall be delinquent.

1 D. Every person required to file such forms or reports or who  
2 has been requested to file an amended report to provide information  
3 by written demand, or who has purchased oil or gas from a lease  
4 prior to being authorized by the Tax Commission to purchase  
5 production from such lease, will be subject to and may be assessed  
6 the following penalties for each delinquency:

7 1. Five Dollars (\$5.00) per day for each Tax Commission  
8 assigned production unit number or subnumber or merge number or  
9 product code, upon which a form, report, amended report, or for  
10 which requested information in response to written demand is  
11 delinquent and for each day from the date a purchaser buys  
12 production from a lease from which it is not authorized to purchase  
13 to the date the Tax Commission approves the purchaser to buy from  
14 such lease; provided, such penalty shall not be assessed for an  
15 amount in excess of One Thousand Five Hundred Dollars (\$1,500.00).  
16 The penalties may be waived by the Tax Commission or its designee  
17 for good cause shown; and

18 2. If within twelve (12) months after a previous assessment of  
19 penalties as provided for by this section a subsequent delinquency  
20 occurs, penalties may be assessed at the rate of Ten Dollars  
21 (\$10.00) per day for each Tax Commission assigned production unit  
22 number or subnumber or merge number, or product code; provided such  
23 penalty shall not be assessed for an amount in excess of One  
24 Thousand Five Hundred Dollars (\$1,500.00). The penalty thereon may

1 be waived, in whole or in part, by the Tax Commission, for good  
2 cause shown.

3 The penalties prescribed herein shall be in addition to other  
4 penalties assessable by the Tax Commission pursuant to the laws of  
5 this state. The penalties prescribed by this section may be  
6 collected and shall be apportioned to the General Revenue Fund.

7 E. Gross production tax forms reports, amended reports, or  
8 requested information in response to written demands which are  
9 received by the Tax Commission on or after the time fixed for  
10 delinquency, but which were mailed prior to the time fixed for  
11 delinquency, shall be deemed to have been received by the Tax  
12 Commission before becoming delinquent. Postmark or registry or  
13 certified receipt showing deposit in the U.S. mails shall be  
14 conclusive evidence of the date of mailing. Provided all  
15 remittances due under such reports or amended reports must be  
16 received by the Tax Commission on or before the date specified by  
17 law regardless of when mailed.

18 F. In the event a person required to remit the tax levied by  
19 the provisions of Section 1001 et seq. of this title becomes  
20 delinquent in reporting or remitting the tax, or upon a  
21 determination by the Tax Commission that the state may lose tax  
22 revenues due to the difficulty of collecting same, the Tax  
23 Commission may require any person required to remit the tax to  
24

1 furnish a sufficient cash deposit, bond, or other security in an  
2 amount as will protect the tax revenues of this state.

3 G. In lieu of monthly reporting, a royalty owner taking gas in  
4 kind for the royalty owner's own consumption who is responsible for  
5 remitting the tax levied by Section 1001 et seq. of this title may  
6 file semiannual reports and remit taxes due thereunder to the Tax  
7 Commission on or before the first day of January and July of each  
8 year for the preceding six-month period. If not received on or  
9 before the last day of such month, the report and tax shall be  
10 delinquent.

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