

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 1078

By: Thompson and Hall of the  
Senate

and

Wallace and Hilbert of the  
House

COMMITTEE SUBSTITUTE

An Act relating to tobacco products tax; amending 68 O.S. 2011, Section 401, as amended by Section 9 of Enrolled House Bill No. 2292 of the 1st Session of the 58th Oklahoma Legislature, which relates to definitions; modifying and adding definitions; amending 68 O.S. 2011, Section 402, as amended by Section 3, Chapter 8, 2nd Extraordinary Session, O.S.L. 2018 (68 O.S. Supp. 2020, Section 402), which relates to amount of tax and apportionment; conforming language; amending 68 O.S. 2011, Section 402-1, as last amended by Section 10 of Enrolled House Bill No. 2292 of the 1st Session of the 58th Oklahoma Legislature, which relates to rates and apportionment; conforming language; amending 68 O.S. 2011, Section 402-3, as amended by Section 5, Chapter 8, 2nd Extraordinary Session, O.S.L. 2018 (68 O.S. Supp. 2020, Section 402-3), which relates to amount of tax and apportionment; conforming language; amending 68 O.S. 2011, Sections 412 and 413, as last amended by Sections 15 and 16 of Enrolled House Bill No. 2292 of the 1st Session of the 58th Oklahoma Legislature, which relate to penalties and untaxed products; conforming language; amending 68 O.S. 2011, Section 414, as amended by Section 17 of Enrolled House Bill No. 2292 of the 1st Session of the 58th Oklahoma Legislature, which relates to trucks and vehicles carrying untaxed merchandise; conforming

1 language; amending 68 O.S. 2011, Section 418, as last  
2 amended by Section 20 of Enrolled House Bill No. 2292  
3 of the 1st Session of the 58th Oklahoma Legislature,  
4 which relates to transportation or possession of  
5 untaxed products; conforming language; providing an  
6 effective date; and declaring an emergency.

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

8 SECTION 1. AMENDATORY 68 O.S. 2011, Section 401, as  
9 amended by Section 9 of Enrolled House Bill No. 2292 of the 1st  
10 Session of the 58th Oklahoma Legislature, is amended to read as  
11 follows:

12 Section 401. For the purpose of this article:

13 1. The word "person" shall mean any individual, company,  
14 limited liability company, corporation, partnership, association,  
15 joint adventure, estate, trust or any other group, or combination  
16 acting as a unit, and the plural as well as the singular, unless the  
17 intention to give a more limited meaning is disclosed by the  
18 context-;

19 2. The term "Tax Commission" shall mean the Oklahoma Tax  
20 Commission-;

21 3. The word "wholesaler" shall include dealers whose principal  
22 business is that of a wholesale dealer, and who is known to the  
23 trade as such, who shall sell any ~~cigars or~~ tobacco products to  
24 licensed retail dealers only for the purpose of resale-;

1        4. The word "retailer" shall include every dealer, other than a  
2 wholesaler as defined above, whose principal business is that of  
3 selling merchandise at retail, who shall sell, or offer for sale,  
4 ~~cigars or tobacco products.~~;

5        5. The word "consumer" shall mean a person who comes into  
6 possession of tobacco for the purpose of consuming it.;

7        6. The words "first sale" shall mean and include the first  
8 sale, or distribution, of ~~cigars or~~ tobacco products in intrastate  
9 commerce, or the first use or consumption of ~~cigars, or~~ tobacco  
10 products within this state.;

11       7. The words "tobacco products" shall mean any cigars,  
12 ~~cheroots, stogies, smoking tobacco (including granulated, plug cut,~~  
13 ~~crimp cut, ready rubbed and any other kinds and forms of tobacco~~  
14 ~~suitable for smoking in a pipe or cigarette), chewing tobacco~~  
15 ~~(including cavendish, twist, plug, scrap and any other kinds and~~  
16 ~~forms of tobacco suitable for chewing), however prepared; and shall~~  
17 ~~include any other articles or products made of tobacco or any~~  
18 ~~substitute therefor.~~ and smokeless tobacco;

19       8. The term "cigars" shall include any roll of tobacco for  
20 smoking, irrespective of size or shape and irrespective of the  
21 tobacco being flavored, adulterated or mixed with any other  
22 ingredients, where such roll has a wrapper made chiefly of tobacco.;

23       9. The term "smokeless tobacco" shall mean all smokeless  
24 tobacco including snuff and chewing tobacco;

1       10. The term "snuff" shall mean any finely cut, ground or  
2 powdered tobacco that is not intended to be smoked;

3       11. The term "chewing tobacco" means any leaf tobacco that is  
4 not intended to be smoked;

5       12. The term "smoking tobacco" shall mean any pipe tobacco or  
6 roll-your-own tobacco;

7       13. The term "pipe tobacco" means any tobacco which, because of  
8 its appearance, type, packaging or labeling, is suitable for use and  
9 likely to be offered to, or purchased by, consumers as tobacco to be  
10 smoked in a pipe;

11       14. The term "roll-your-own tobacco" means any tobacco which,  
12 because of its appearance, type, packaging or labeling, is suitable  
13 for use and likely to be offered to, or purchased by, consumers as  
14 tobacco for making cigarettes or cigars, or for use as wrappers  
15 therof; and

16       15. The term "untaxed" means that the full amount of tax has  
17 not been paid as required by Section 400 et seq. of this title.

18       SECTION 2.       AMENDATORY       68 O.S. 2011, Section 402, as  
19 amended by Section 3, Chapter 8, 2nd Extraordinary Session, O.S.L.  
20 2018 (68 O.S. Supp. 2020, Section 402), is amended to read as  
21 follows:

22       Section 402. There shall be levied, assessed, collected, and  
23 paid in respect to the articles containing tobacco enumerated in  
24 Section 401 et seq. of this title, a tax in the following amounts:

1        1. Little Cigars. Upon cigars of all descriptions made of  
2 tobacco, or any substitute therefor, and weighing not more than  
3 three (3) pounds per thousand, the tax levied on the products coming  
4 under this paragraph shall be equal to the tax on such products that  
5 is reported and paid as cigarette tax under Sections 301 through 325  
6 of this title. Further, the tax levied herein shall be paid in the  
7 same manner as required in Sections 301 through 325 of this title;

8        2. Cigars. Upon cigars of all descriptions made of tobacco, or  
9 any substitute therefor, weighing more than three (3) pounds per  
10 thousand and having a manufacturer's recommended retail selling  
11 price, under the Federal Code, of not exceeding four cents (\$0.04)  
12 per cigar, one cent (\$0.01) for each cigar;

13       3. Cigars. Upon all other cigars of all descriptions made of  
14 tobacco, or any substitute therefor, and weighing more than three  
15 (3) pounds per thousand, Twenty Dollars (\$20.00) per thousand. For  
16 the purpose of computing the tax, cheroots, stogies, etc., are  
17 hereby classed as cigars;

18       4. Smoking Tobacco. Upon all smoking tobacco ~~including~~  
19 ~~granulated, plug cut, crimp cut, ready rubbed and other kinds and~~  
20 ~~forms of tobacco prepared in such manner as to be suitable for~~  
21 ~~smoking in a pipe or cigarette~~, the tax shall be twenty-five percent  
22 (25%) of the factory list price exclusive of any trade discount,  
23 special discount or deals; and  
24

1        5. ~~Chewing~~ Smokeless Tobacco. Upon ~~chewing tobacco,~~ smokeless  
2 tobacco, ~~and snuff,~~ the tax shall be twenty percent (20%) of the  
3 factory list price exclusive of any trade discount, special discount  
4 or deals.

5        It shall not be permissible for a retailer to advertise that the  
6 retailer will absorb the tax due on the taxable merchandise  
7 described herein. Such tax shall be paid by the consumer.

8        Notwithstanding any other provision of law, the tax levied  
9 pursuant to the provisions of Section 401 et seq. of this title  
10 shall be part of the gross proceeds or gross receipts from the sale  
11 of ~~cigars or~~ tobacco products, or both, as those terms are defined  
12 in paragraph 12 of Section 1352 of this title.

13        SECTION 3.        AMENDATORY        68 O.S. 2011, Section 402-1, as  
14 last amended by Section 10 of Enrolled House Bill No. 2292 of the  
15 1st Session of the 58th Oklahoma Legislature, is amended to read as  
16 follows:

17        Section 402-1. In addition to the tax levied by Section 402 of  
18 this title, there is hereby levied upon the sale, use, exchange or  
19 possession of articles containing tobacco as defined in ~~said~~ Section  
20 402 of this title, a tax in the following amounts:

21        1. Upon cigars of all descriptions made of tobacco, or any  
22 substitute therefor, and weighing more than three (3) pounds per  
23 thousand, and having a manufacturer's recommended retail selling  
24 price, under the Federal Code, of more than four cents (\$0.04) for

1 each cigar, Ten Dollars (\$10.00) per thousand. For the purpose of  
2 computing the tax, cheroots, stogies, etc., are hereby classed as  
3 cigars;

4 2. Upon all smoking tobacco ~~including granulated, plug cut,~~  
5 ~~crimp cut, ready rubbed and other kinds and forms of tobacco~~  
6 ~~prepared in such manner as to be suitable for smoking in a pipe or~~  
7 ~~cigarette~~, the tax shall be fifteen percent (15%) of the factory  
8 list price exclusive of any trade discount, special discount or  
9 deals; and

10 3. Upon ~~chewing tobacco,~~ smokeless tobacco ~~and snuff~~, the tax  
11 shall be ten percent (10%) of the factory list price exclusive of  
12 any trade discount, special discount or deals.

13 This tax shall be paid by the consumer and no retailer may  
14 advertise that he will pay or absorb this tax.

15 The tax herein levied on tobacco products shall be collected on  
16 the same basis and in the same manner and in all respects as the tax  
17 levied by the Tobacco Products Tax Law. The revenue from this  
18 additional tax shall be apportioned by the Oklahoma Tax Commission  
19 in the same manner as provided in Section 404 of this title, for the  
20 apportionment of other tobacco products tax revenue.

21 SECTION 4. AMENDATORY 68 O.S. 2011, Section 402-3, as  
22 amended by Section 5, Chapter 8, 2nd Extraordinary Session, O.S.L.  
23 2018 (68 O.S. Supp. 2020, Section 402-3), is amended to read as  
24 follows:

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

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

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

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

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



1        1. Twenty-two and six-hundredths percent (22.06%) shall be  
2 placed to the credit of the Health Employee and Economy Improvement  
3 Act Revolving Fund created in Section 1010.1 of Title 56 of the  
4 Oklahoma Statutes;

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

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

13            a. every month, an amount equal to the actual amount  
14 placed to the credit of the Trauma Care Assistance  
15 Revolving Fund pursuant to this paragraph for the same  
16 month of the 2008 fiscal year shall be credited to the  
17 Trauma Care 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 1-2512.1 of Title  
24 63 of the Oklahoma Statutes until the combined amount

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 1. Thirty-three and forty-nine-hundredths percent (33.49%)  
24 shall be placed to the credit of the Health Employee and Economy

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

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

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

- 13 a. every month, an amount equal to the actual amount  
14 placed to the credit of the Trauma Care Assistance  
15 Revolving Fund pursuant to this paragraph for the same  
16 month of the 2008 fiscal year shall be credited to the  
17 Trauma Care 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 1-2512.1 of Title  
24 63 of the Oklahoma Statutes until the combined amount

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

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

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

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

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

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

5        8. One percent (1%) shall be placed to the credit of the  
6 Tobacco Prevention and Cessation Revolving Fund created in Section  
7 1-105d of Title 63 of the Oklahoma Statutes.

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

11        SECTION 5.        AMENDATORY        68 O.S. 2011, Section 412, as last  
12 amended by Section 15 of Enrolled House Bill No. 2292 of the 1st  
13 Session of the 58th Oklahoma Legislature, is amended to read as  
14 follows:

15        Section 412. A. Every wholesaler who purchases or allows to  
16 come into his or her possession any untaxed merchandise coming under  
17 the scope of this article shall file with the Oklahoma Tax  
18 Commission a surety or collateral or cash bond in the amount of  
19 Twenty-five Thousand Dollars (\$25,000.00), payable to the State of  
20 Oklahoma and conditioned upon compliance with the provisions of this  
21 article and the rules of the Tax Commission.

22        B. Any consumer who purchases or brings into this state untaxed  
23 ~~cigars or~~ tobacco products whereon the tax would be more than  
24 twenty-five cents (\$0.25) is subject to the tax thereon. Upon

1 failure to pay the tax levied in this article, the consumer shall be  
2 subject to a fine of not more than Five Hundred Dollars (\$500.00) or  
3 not less than Twenty-five Dollars (\$25.00) to be deposited in the  
4 Tobacco Products Tax Enforcement Unit Revolving Fund created in  
5 Section 7 of ~~this act~~ Enrolled House Bill No. 2292 of the 1st  
6 Session of the 58th Oklahoma Legislature. Provided, any person in  
7 possession of more than one thousand small or large cigars or two  
8 hundred sixteen (216) ounces of ~~chewing or smoking tobacco products~~  
9 smokeless or smoking tobacco in packages or containers for which the  
10 tax 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 Section 418 of this title.

13 SECTION 6. AMENDATORY 68 O.S. 2011, Section 413, as last  
14 amended by Section 16 of Enrolled House Bill No. 2292 of the 1st  
15 Session of the 58th Oklahoma Legislature, is amended to read as  
16 follows:

17 Section 413. The right of a carrier in this state to carry  
18 untaxed ~~cigars and~~ tobacco products shall not be affected hereby;  
19 provided, that carriers delivering untaxed tobacco products to any  
20 person in this state other than an Oklahoma-licensed wholesaler for  
21 the purpose of selling or consuming untaxed tobacco products in this  
22 state in violation of this article shall be subject to seizure of  
23 the shipments and forfeiture of the inventory pursuant to the  
24 provisions of Section 417 of this title. Provided further, that



1 should any such carrier sell any ~~cigars and~~ tobacco products in this  
2 state, such sale shall be subject to the tax and other provisions of  
3 this article and to the rules of the Tax Commission. The carrier  
4 transporting tobacco products ~~and cigars~~ to a point within this  
5 state, or a bonded warehouseman or bailee having in its possession  
6 tobacco products ~~and cigars~~, shall transmit to the Tax Commission a  
7 statement of such consignment of tobacco products ~~and cigars~~,  
8 showing the date, point of origin, point of delivery and to whom  
9 delivered. All carriers or bailees or warehousemen shall permit an  
10 examination by the Tax Commission, or its agents or legally  
11 authorized representatives, of their records relating to the  
12 shipment or receipt of tobacco products ~~and cigars~~. Any person who  
13 fails or refuses to transmit to the Tax Commission the aforesaid  
14 statement, or who refuses to permit the examination of his or her  
15 records by the Tax Commission or its legally authorized agents or  
16 representatives, shall be guilty of a misdemeanor and shall be  
17 subject to an administrative fine of not to exceed Two Thousand  
18 Dollars (\$2,000.00) and not less than One Thousand Dollars  
19 (\$1,000.00) to be deposited in the Tobacco Products Tax Enforcement  
20 Unit Revolving Fund created in Section 7 of ~~this act~~ Enrolled House  
21 Bill No. 2292 of the 1st Session of the 58th Oklahoma Legislature.

22 SECTION 7. AMENDATORY 68 O.S. 2011, Section 414, as  
23 amended by Section 17 of Enrolled House Bill No. 2292 of the 1st  
24

1 Session of the 58th Oklahoma Legislature, is amended to read as  
2 follows:

3 Section 414. A. Each truck or vehicle wherefrom ~~cigars or~~  
4 tobacco products are sold shall be considered as a place of business  
5 and required to have a wholesale license and a bond of not less than  
6 Five Hundred Dollars (\$500.00).

7 B. Any person operating a truck or vehicle by selling,  
8 exchanging or giving away untaxed merchandise covered by this  
9 article shall be deemed guilty of violation of same and shall be  
10 penalized as hereinbefore set forth, and untaxed merchandise handled  
11 by this person as well as the vehicle used to transport the untaxed  
12 tobacco products shall be subject to confiscation by authorized  
13 agents of the Tax Commission or duly authorized peace officers.

14 C. After seizure or confiscation by such agent or officer, the  
15 merchandise and property shall be held until all taxes, interest and  
16 penalties due have been paid. If not paid within five (5) days  
17 after date of seizure, it shall be sold at public sale by the  
18 sheriff of the county where confiscated, after being advertised by  
19 posting of notice of such sale in five public places in the county  
20 where the sale is to occur. The proceeds of the sale shall be  
21 applied to taxes, interest and penalties due and to the cost of the  
22 sale, and the remainder, if any, shall be paid to the State  
23 Treasurer, by the sheriff conducting such sale, to be deposited to  
24 the credit of the General Revenue Fund.

1       SECTION 8.       AMENDATORY       68 O.S. 2011, Section 418, as last  
2 amended by Section 20 of Enrolled House Bill No. 2292 of the 1st  
3 Session of the 58th Oklahoma Legislature, is amended to read as  
4 follows:

5       Section 418. A. It shall be unlawful for any person to  
6 transport or possess tobacco products where the tax on such tobacco  
7 products has not been paid and exceeds the sum of One Hundred  
8 Dollars (\$100.00).

9       B. Except as otherwise provided in subsections C and D of this  
10 section, any person found guilty of violating the provisions of  
11 Section 400 et seq. of this title shall be punished by an  
12 administrative fine of not more than One Thousand Dollars  
13 (\$1,000.00) for a first offense or not more than Four Thousand  
14 Dollars (\$4,000.00) for a second or subsequent offense. Provided,  
15 any person in possession of more than one thousand small or large  
16 cigars or two hundred sixteen (216) ounces of ~~chewing or smoking~~  
17 ~~tobacco products~~ smokeless tobacco or smoking tobacco in packages or  
18 containers for which the tax required by law has not been paid shall  
19 be punished by administrative fines in the manner and amounts  
20 provided in subsection D of this section.

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

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

1        2. For a second offense, be punished by an administrative fine  
2 of not more than Ten Thousand Dollars (\$10,000.00); and

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

6        D. Any wholesaler violating the provisions of Section 403.2 of  
7 this title shall:

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

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

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

16       E. The Oklahoma Tax Commission shall immediately revoke the  
17 license of a person punished for a violation pursuant to the  
18 provisions of paragraph 3 of subsection C of this section or a  
19 person punished for a violation pursuant to the provisions of  
20 subsection D of this section. A person whose license is so revoked  
21 shall not be eligible to receive another license pursuant to the  
22 provisions of Section 301 et seq. of this title for a period of ten  
23 (10) years.

1 F. Fines collected pursuant to the provisions of subsections B,  
2 C and D of this section shall be deposited in the Tobacco Products  
3 Tax Enforcement Unit Revolving Fund created in Section 7 of ~~this act~~  
4 Enrolled House Bill No. 2292 of the 1st Session of the 58th Oklahoma  
5 Legislature.

6 SECTION 9. This act shall become effective July 1, 2021.

7 SECTION 10. It being immediately necessary for the preservation  
8 of the public peace, health or safety, an emergency is hereby  
9 declared to exist, by reason whereof this act shall take effect and  
10 be in full force from and after its passage and approval.

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