

1 ENGROSSED SENATE
2 BILL NO. 1078

By: Thompson and Hall of the
Senate

3 and

4 Wallace, Hilbert and
5 Roberts (Dustin) of the
House

6
7
8 An Act relating to tobacco products tax; amending 68
9 O.S. 2011, Section 401, as amended by Section 9 of
10 Enrolled House Bill No. 2292 of the 1st Session of
11 the 58th Oklahoma Legislature, which relates to
12 definitions; modifying and adding definitions;
13 amending 68 O.S. 2011, Section 402, as amended by
14 Section 3, Chapter 8, 2nd Extraordinary Session,
15 O.S.L. 2018 (68 O.S. Supp. 2020, Section 402), which
16 relates to amount of tax and apportionment;
17 conforming language; amending 68 O.S. 2011, Section
18 402-1, as last amended by Section 10 of Enrolled
19 House Bill No. 2292 of the 1st Session of the 58th
20 Oklahoma Legislature, which relates to rates and
21 apportionment; conforming language; amending 68 O.S.
22 2011, Section 402-3, as amended by Section 5, Chapter
23 8, 2nd Extraordinary Session, O.S.L. 2018 (68 O.S.
24 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
language; amending 68 O.S. 2011, Section 418, as last
amended by Section 20 of Enrolled House Bill No. 2292
of the 1st Session of the 58th Oklahoma Legislature,
which relates to transportation or possession of
untaxed products; conforming language; providing an
effective date; and declaring an emergency.

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

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

8 Section 401. For the purpose of this article:

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

15 2. The term "Tax Commission" shall mean the Oklahoma Tax
16 Commission-i

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

21 4. The word "retailer" shall include every dealer, other than a
22 wholesaler as defined above, whose principal business is that of
23 selling merchandise at retail, who shall sell, or offer for sale,
24 ~~cigars or~~ tobacco products-i

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

3 6. The words "first sale" shall mean and include the first
4 sale, or distribution, of ~~cigars or~~ tobacco products in intrastate
5 commerce, or the first use or consumption of ~~cigars, or~~ tobacco
6 products within this state-;

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

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

19 9. The term "smokeless tobacco" shall mean all smokeless
20 tobacco including snuff and chewing tobacco;

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

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

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

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

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

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

14 SECTION 2. AMENDATORY 68 O.S. 2011, Section 402, as
15 amended by Section 3, Chapter 8, 2nd Extraordinary Session, O.S.L.
16 2018 (68 O.S. Supp. 2020, Section 402), is amended to read as
17 follows:

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

21 1. Little Cigars. Upon cigars of all descriptions made of
22 tobacco, or any substitute therefor, and weighing not more than
23 three (3) pounds per thousand, the tax levied on the products coming
24 under this paragraph shall be equal to the tax on such products that

1 is reported and paid as cigarette tax under Sections 301 through 325
2 of this title. Further, the tax levied herein shall be paid in the
3 same manner as required in Sections 301 through 325 of this title;

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

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

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

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

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

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

9 SECTION 3. AMENDATORY 68 O.S. 2011, Section 402-1, as
10 last amended by Section 10 of Enrolled House Bill No. 2292 of the
11 1st Session of the 58th Oklahoma Legislature, is amended to read as
12 follows:

13 Section 402-1. In addition to the tax levied by Section 402 of
14 this title, there is hereby levied upon the sale, use, exchange or
15 possession of articles containing tobacco as defined in ~~said~~ Section
16 402 of this title, a tax in the following amounts:

17 1. Upon cigars of all descriptions made of tobacco, or any
18 substitute therefor, and weighing more than three (3) pounds per
19 thousand, and having a manufacturer's recommended retail selling
20 price, under the Federal Code, of more than four cents (\$0.04) for
21 each cigar, Ten Dollars (\$10.00) per thousand. For the purpose of
22 computing the tax, cheroots, stogies, etc., are hereby classed as
23 cigars;

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

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

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

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

18 SECTION 4. AMENDATORY 68 O.S. 2011, Section 402-3, as
19 amended by Section 5, Chapter 8, 2nd Extraordinary Session, O.S.L.
20 2018 (68 O.S. Supp. 2020, Section 402-3), is amended to read as
21 follows:

22 Section 402-3. A. In addition to the tax levied in Sections
23 402 and 402-1 of this title, effective January 1, 2005, there shall
24 be levied, assessed, collected, and paid in respect to the articles

1 containing tobacco enumerated in Section 401 et seq. of this title,
2 a tax in the following amounts:

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

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

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

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

22 1. Twenty-two and six-hundredths percent (22.06%) shall be
23 placed to the credit of the Health Employee and Economy Improvement
24

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

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

6 3. Before July 1, 2008, seven and fifty-hundredths percent
7 (7.50%) shall be placed to the credit of the Trauma Care Assistance
8 Revolving Fund created in Section 1-2530.9 of Title 63 of the
9 Oklahoma Statutes. On and after July 1, 2008, seven and fifty-
10 hundredths percent (7.50%) shall be allocated as follows:

11 a. every month, an amount equal to the actual amount
12 placed to the credit of the Trauma Care Assistance
13 Revolving Fund pursuant to this paragraph for the same
14 month of the 2008 fiscal year shall be credited to the
15 Trauma Care Assistance Revolving Fund,

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

1 to this section and Section 302-5 of this title is
2 equal to Two Million Five Hundred Thousand Dollars
3 (\$2,500,000.00) each year, and

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

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

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

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

23 7. Forty-four-hundredths of one percent (0.44%) shall be placed
24 to the credit of the Belle Maxine Hilliard Breast and Cervical

1 Cancer Treatment Revolving Fund created in Section 1-559 of Title 63
2 of the Oklahoma Statutes;

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

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

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

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

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

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

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

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

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

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

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

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

- 11 a. every month, an amount equal to the actual amount
12 placed to the credit of the Trauma Care Assistance
13 Revolving Fund pursuant to this paragraph for the same
14 month of the 2008 fiscal year shall be credited to the
15 Trauma Care Assistance Revolving Fund,
- 16 b. every month, any amount over and above the amount
17 placed to the credit of the Trauma Care Assistance
18 Revolving Fund pursuant to subparagraph a of this
19 paragraph shall be credited to the Oklahoma Emergency
20 Response Systems Stabilization and Improvement
21 Revolving Fund as created in Section 1-2512.1 of Title
22 63 of the Oklahoma Statutes until the combined amount
23 credited to the Oklahoma Emergency Response Systems
24 Stabilization and Improvement Revolving Fund pursuant

1 to this section and Section 302-5 of this title is
2 equal to Two Million Five Hundred Thousand Dollars
3 (\$2,500,000.00) each year, and

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

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

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

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

23 7. Sixty-seven-hundredths percent (0.67%) shall be placed to
24 the credit of the Belle Maxine Hilliard Breast and Cervical Cancer

1 Treatment Revolving Fund created in Section 1-559 of Title 63 of the
2 Oklahoma Statutes; and

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

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

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

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

20 B. Any consumer who purchases or brings into this state untaxed
21 ~~cigars or~~ tobacco products whereon the tax would be more than
22 twenty-five cents (\$0.25) is subject to the tax thereon. Upon
23 failure to pay the tax levied in this article, the consumer shall be
24 subject to a fine of not more than Five Hundred Dollars (\$500.00) or

1 not less than Twenty-five Dollars (\$25.00) to be deposited in the
2 Tobacco Products Tax Enforcement Unit Revolving Fund created in
3 Section 7 of ~~this act~~ Enrolled House Bill No. 2292 of the 1st
4 Session of the 58th Oklahoma Legislature. Provided, any person in
5 possession of more than one thousand small or large cigars or two
6 hundred sixteen (216) ounces of ~~chewing or smoking tobacco products~~
7 smokeless or smoking tobacco in packages or containers for which the
8 tax required by law has not been paid shall be punished by
9 administrative fines in the manner and amounts provided in
10 subsection D of Section 418 of this title.

11 SECTION 6. AMENDATORY 68 O.S. 2011, Section 413, as last
12 amended by Section 16 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 413. The right of a carrier in this state to carry
16 untaxed ~~cigars and~~ tobacco products shall not be affected hereby;
17 provided, that carriers delivering untaxed tobacco products to any
18 person in this state other than an Oklahoma-licensed wholesaler for
19 the purpose of selling or consuming untaxed tobacco products in this
20 state in violation of this article shall be subject to seizure of
21 the shipments and forfeiture of the inventory pursuant to the
22 provisions of Section 417 of this title. Provided further, that
23 should any such carrier sell any ~~cigars and~~ tobacco products in this
24 state, such sale shall be subject to the tax and other provisions of

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

20 SECTION 7. AMENDATORY 68 O.S. 2011, Section 414, as
21 amended by Section 17 of Enrolled House Bill No. 2292 of the 1st
22 Session of the 58th Oklahoma Legislature, is amended to read as
23 follows:
24

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

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

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

23 SECTION 8. AMENDATORY 68 O.S. 2011, Section 418, as last
24 amended by Section 20 of Enrolled House Bill No. 2292 of the 1st

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

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

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

19 C. Any retailer violating the provisions of Section 403.2 of
20 this title shall:

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

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

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

4 D. Any wholesaler violating the provisions of Section 403.2 of
5 this title shall:

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

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

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

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

22 F. Fines collected pursuant to the provisions of subsections B,
23 C and D of this section shall be deposited in the Tobacco Products
24 Tax Enforcement Unit Revolving Fund created in Section 7 of ~~this act~~

1 Enrolled House Bill No. 2292 of the 1st Session of the 58th Oklahoma
2 Legislature.

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

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

8 Passed the Senate the 18th day of May, 2021.

9
10 _____
11 Presiding Officer of the Senate

12 Passed the House of Representatives the ____ day of _____,
13 2021.

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15 _____
16 Presiding Officer of the House
17 of Representatives
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