

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 SENATE BILL 1246

By: Bullard

4
5
6 AS INTRODUCED

7 An Act relating to taxation; amending 68 O.S. 2021,
8 Sections 302, 302-1, 302-2, 302-4, 302-5, 402, 402-1,
9 and 402-3, which relate to taxes on tobacco products;
10 modifying certain tax rates; updating statutory
11 language; updating statutory references; making
12 language gender neutral; and providing an effective
13 date.

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

15 SECTION 1. AMENDATORY 68 O.S. 2021, Section 302, is
16 amended to read as follows:

17 Section 302. There is hereby levied upon the sale, use, gift,
18 possession, or consumption of cigarettes within ~~the State of~~
19 ~~Oklahoma~~ this state a tax at the rate of ~~four (4)~~ two (2) mills per
20 cigarette. Beginning November 3, 1992, the revenue resulting from
21 the tax levied pursuant to this section shall be apportioned by the
22 Oklahoma Tax Commission and transmitted to the State Treasurer, who
23 shall deposit the same in the Oklahoma Building Bonds of 1992
24 Sinking Fund. No part of the cigarette tax receipts derived from
the increase in the cigarette tax rate shall be used in determining
the amount of cigarette tax collections to be paid into the State of

1 Oklahoma Building Bonds of 1961 Sinking Fund pursuant to the
2 provisions of Sections 57.31 through 57.43 of Title 62 of the
3 Oklahoma Statutes.

4 The tax hereby levied shall be paid only once on any cigarettes
5 sold, used, received, possessed, or consumed in this state. The tax
6 shall be evidenced by stamps which shall be furnished by and
7 purchased from the Tax Commission or by an impression of such tax by
8 the use of a metering device when authorized by the Tax Commission
9 as provided for in Section 301 et seq. of this title, and the stamps
10 or impression shall be securely affixed to one end of each package
11 in which cigarettes are contained or from which consumed.

12 The impact of the tax levied by the provisions of Section 301 et
13 seq. of this title is hereby declared to be on the vendee, user,
14 consumer, or possessor of cigarettes in this state, and, when the
15 tax is paid by any other person, such payment shall be considered as
16 an advance payment and shall thereafter be added to the price of the
17 cigarettes and recovered from the ultimate consumer or user. In
18 making a sale of cigarettes in this state, a wholesaler or jobber
19 may separately state and show upon the invoice covering the sale the
20 amount of tax paid on the cigarettes sold. The tax shall be
21 evidenced by appropriate stamps attached to each package of
22 cigarettes sold. Every retailer who makes sales of cigarettes
23 within this state to persons for use or consumption shall separately
24 show the amount of tax paid as evidenced by appropriate stamps on

1 each package of cigarettes sold, and the tax shall be collected by
2 the retailer from the user or consumer. The provisions of this
3 section shall in no way affect the method of collection of tax on
4 cigarettes as now provided for by existing law. As to cigarettes
5 packed in quantities of less than ten, for distribution as samples,
6 payment of the tax may be made to the Tax Commission in a lump sum
7 without affixing stamps on such packages.

8 Notwithstanding any other provision of law, the tax levied
9 pursuant to the provisions of Section 301 et seq. of this title
10 shall be part of the gross proceeds or gross receipts from the sale
11 of cigarettes, as those terms are defined in paragraph 7 12 of
12 Section 1352 of this title.

13 SECTION 2. AMENDATORY 68 O.S. 2021, Section 302-1, is
14 amended to read as follows:

15 Section 302-1. A. In addition to the tax levied in Section 302
16 of this title, there is hereby levied upon the sale, use, gift,
17 possession or consumption of cigarettes, as defined in Sections 301
18 through 325 of this title, within ~~the State of Oklahoma~~ this state a
19 tax at the rate of ~~two and one-half (2 1/2)~~ one and three-quarter (1
20 3/4) mills per cigarette. Such tax shall be evidenced by tax stamps
21 as now provided for by law for other cigarette taxes, except that as
22 to cigarette packages of less than ten cigarettes for free
23 distribution as samples, the tax levied in this section shall be
24

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

3 B. No part of the revenues resulting from the additional tax
4 levied in this section shall be used in determining the amount of
5 cigarette tax collections to be paid into the State of Oklahoma
6 Building Bonds of 1961 Sinking Fund pursuant to the provisions of
7 Sections 57.31 through 57.43 of Title 62 of the Oklahoma Statutes,
8 into the State of Oklahoma Building Bonds of 1965 Sinking Fund
9 pursuant to the provisions of Sections 57.51 through 57.60 of Title
10 62 of the Oklahoma Statutes, or into the State of Oklahoma
11 Institutional Building Bonds of 1965 Sinking Fund pursuant to the
12 provisions of Sections 57.61 through 57.73 of Title 62 of the
13 Oklahoma Statutes.

14 C. The revenues resulting from the additional tax levied in
15 this section through June 30, 1968, shall be apportioned by the
16 Oklahoma Tax Commission and transmitted to the State Treasurer, who
17 shall deposit the same in the State Treasury in a fund to be known
18 as the "State of Oklahoma Building Bonds of 1968 Reserve Fund",
19 which fund is hereby created. The Legislature shall appropriate
20 monies from such fund or so much thereof as may be deemed necessary;
21 first, for the payment of interest and principal upon any bonds
22 issued for capital improvements pursuant to the provisions of
23 Section 38 of Article X of the Oklahoma Constitution; second, for
24 other capital improvements at state institutions; third, for

1 operating expenses of such capital improvements; and fourth, for any
2 other purposes of state government. From and after July 1, 1968,
3 all revenues resulting from the additional tax levied in this
4 section, except revenues dedicated to the retirement of the State of
5 Oklahoma Building Bonds of 1968, Series A, B, C, D and E, or any
6 refunding of any or all of such series, and except revenues required
7 to be deposited in the University Hospitals Authority Disbursing
8 Fund, shall be apportioned by the Oklahoma Tax Commission and
9 transmitted to the State Treasurer, who shall deposit the same in
10 the General Revenue Fund.

11 D. The cigarette tax levied in this section shall be collected
12 and administered in all respects not inconsistent with as now or
13 hereafter provided for by law for other cigarette taxes now levied,
14 collected and administered pursuant to the provisions of Sections
15 301 through 325 of this title.

16 SECTION 3. AMENDATORY 68 O.S. 2021, Section 302-2, is
17 amended to read as follows:

18 Section 302-2. ~~(a)~~ A. In addition to the tax levied in
19 Sections 302 and 302-1 of this title, there is hereby levied upon
20 the sale, use, gift, possession, or consumption of cigarettes, as
21 defined in Sections 301 through 325 of this title, within ~~the State~~
22 ~~of Oklahoma~~ this state a tax at the rate of ~~two and one-half (2 1/2)~~
23 one and three-quarter (1 3/4) mills per cigarette. Such tax shall
24 be evidenced by tax stamps as now provided for; however, as to

1 cigarette packages of less than ten cigarettes for free distribution
2 as samples, the tax herein levied shall be computed and paid as
3 provided for other cigarette taxes without affixing stamps on each
4 such package.

5 ~~(b)~~ B. No part of the revenues resulting from the additional
6 tax levied in this section shall be used in determining the amount
7 of cigarette tax collections to be paid into the State of Oklahoma
8 Building Bonds of 1961 Sinking Fund pursuant to the provisions of
9 Sections 57.31 through 57.43 of Title 62 of the Oklahoma Statutes or
10 into the State of Oklahoma Institutional Building Bonds of 1965
11 Sinking Fund pursuant to the provisions of Sections 57.61 through
12 57.73 of Title 62 of the Oklahoma Statutes.

13 ~~(c)~~ C. Except as otherwise provided in this subsection, the
14 revenue resulting from the additional tax levied in this section
15 shall be apportioned by the Oklahoma Tax Commission and transmitted
16 to the State Treasurer, who shall deposit the same in the General
17 Revenue Fund of ~~the State of Oklahoma~~ this state. Beginning on ~~the~~
18 ~~effective date of this section~~ November 3, 1992, the revenue
19 resulting from the additional tax levied in this section shall be
20 apportioned by the Oklahoma Tax Commission and transmitted to the
21 State Treasurer, who shall deposit the same in the Oklahoma Building
22 Bonds of 1992 Sinking Fund.

23 ~~(d)~~ D. The cigarette tax 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 4. AMENDATORY 68 O.S. 2021, Section 302-4, is
5 amended to read as follows:

6 Section 302-4. ~~(a)~~ A. In addition to the tax levied in
7 Sections 302, 302-1, 302-2 and 302-3 of Title 68 of the Oklahoma
8 Statutes, there is hereby levied upon the sale, use, gift,
9 possession, or consumption of cigarettes, as defined in Sections 301
10 through 325 of Title 68 of the Oklahoma Statutes, within ~~the State~~
11 ~~of Oklahoma~~ this state a tax at the rate of ~~two and one-half (2 1/2)~~
12 one and three-quarter (1 3/4) mills per cigarette. Such tax shall
13 be evidenced by tax stamps as now provided for; however, as to
14 cigarette packages of less than ten cigarettes for free distribution
15 as samples, the tax herein levied shall be computed and paid as
16 provided for other cigarette taxes without affixing stamps on each
17 such package.

18 ~~(b)~~ B. No part of the revenues resulting from the additional
19 tax levied in this section shall be used in determining the amount
20 of cigarette tax collections to be paid into the State of Oklahoma
21 Building Bonds of 1961 Sinking Fund pursuant to the provisions of
22 Sections 57.31 through 57.43 of Title 62 of the Oklahoma Statutes or
23 into the State of Oklahoma Institutional Building Bonds of 1965
24

1 Sinking Fund pursuant to the provisions of Sections 57.61 through
2 57.73 of Title 62 of the Oklahoma Statutes.

3 ~~(e)~~ C. Except as provided for in this subsection, the revenue
4 resulting from the additional tax levied in this section shall be
5 apportioned by the Oklahoma Tax Commission and transmitted to the
6 State Treasurer, who shall deposit the same in the General Revenue
7 Fund of ~~the State of Oklahoma~~ this state. Beginning on ~~the~~
8 ~~effective date of this section~~ November 3, 1992, the revenue
9 resulting from the additional tax levied in this section shall be
10 apportioned by the Oklahoma Tax Commission and transmitted to the
11 State Treasurer, who shall deposit the same in the Oklahoma Building
12 Bonds of 1992 Sinking Fund.

13 ~~(d)~~ D. The cigarette tax levied in this section shall be
14 collected and administered in all respects not inconsistent with as
15 now or hereafter provided for by law for other cigarette taxes now
16 levied, collected, and administered pursuant to the provisions of
17 Sections 301 through 325 of Title 68 of the Oklahoma Statutes.

18 SECTION 5. AMENDATORY 68 O.S. 2021, Section 302-5, is
19 amended to read as follows:

20 Section 302-5. A. ~~Effective~~ From January 1, 2005 until the
21 effective date of this act, in addition to the tax levied in
22 Sections 302, 302-1, 302-2, 302-3, ~~and~~ 302-4, and 302-7 of this
23 title, there is hereby levied upon the sale, use, gift, possession,
24 or consumption of cigarettes, as defined in Sections 301 through 325

1 of this title, within this state, a tax at the rate of forty (40)
2 mills per cigarette. Upon the effective date of this act, in
3 addition to the tax levied in Sections 302, 302-1, 302-2, 302-3,
4 302-4, and 302-7 of this title, there is hereby levied upon the
5 sale, use, gift, possession, or consumption of cigarettes, as
6 defined in Sections 301 through 325 of this title, within this
7 state, a tax at the rate of twenty (20) mills per cigarette.

8 B. Except as provided in subsection D 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%) shall be
13 placed to the credit of the Health Employee and Economy Improvement
14 Act Revolving Fund created in Section 1010.1 of Title 56 of the
15 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 1-2530.9 of Title 63 of the
22 Oklahoma Statutes. On and after July 1, 2008, seven and fifty-
23 hundredths percent (7.50%) shall be allocated as follows:

24

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 shall be credited to the
5 Trauma Care Assistance Revolving Fund,

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

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

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

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

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

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

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

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

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1 9. Two and seven-hundredths percent (2.07%) shall be placed to
2 the credit of the Education Reform Revolving Fund created in Section
3 ~~41.29b~~ 34.89 of Title 62 of the Oklahoma Statutes;

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

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

9 12. For fiscal years beginning July 1, 2004, and ending June
10 30, 2006, fourteen and twenty-three-hundredths percent (14.23%)
11 shall be apportioned to municipalities and counties that levy a
12 sales tax, in the proportions which total municipal and county sales
13 tax revenue was apportioned by the Tax Commission in the preceding
14 month.

15 For fiscal years beginning July 1, 2006, and thereafter, the
16 apportionment percentage specified in paragraph 12 of this
17 subsection will be adjusted by dividing the total municipal and
18 county sales tax revenue collected in the calendar year immediately
19 preceding the commencement of the fiscal year by the sum of the
20 state sales tax revenue and total municipal and county sales tax
21 revenue collected in the same year. This ratio shall be divided by
22 the ratio of the total municipal and county sales tax revenue
23 collected in the calendar year beginning January 1, 2004, and ending
24 December 31, 2004, divided by the sum of the state sales tax revenue

1 and total municipal and county sales tax revenue collected in the
2 same year. The resulting quotient shall be multiplied by fourteen
3 and twenty-three-hundredths percent (14.23%) to determine the
4 apportionment percentage for the fiscal year.

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

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

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

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

24

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

5 3. Before July 1, 2008, eleven and thirty-nine-hundredths
6 percent (11.39%) shall be placed to the credit of the Trauma Care
7 Assistance Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of
8 Title 63 of the Oklahoma Statutes. On and after July 1, 2008,
9 eleven and thirty-nine-hundredths percent (11.39%) shall be
10 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
22 ~~this act~~ Title 63 of the Oklahoma Statutes until the
23 combined amount credited to the Oklahoma Emergency
24 Response Systems Stabilization and Improvement

1 Revolving Fund pursuant to this section and Section
2 402-3 of this title is equal to a total of Two Million
3 Five Hundred Thousand Dollars (\$2,500,000.00) each
4 year, and

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

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

12 5. Forty and six-hundredths percent (40.06%) shall be placed to
13 the credit of the Oklahoma Health Care Authority Medicaid Program
14 Fund created in Section 5020 of Title 63 of the Oklahoma Statutes
15 for the purposes of maintaining programs and services funded under
16 the federal ~~"Jobs and Growth Tax Relief Reconciliation Act of 2003"~~
17 Jobs and Growth Tax Relief Reconciliation Act of 2003, reimbursing
18 city/county-owned hospitals, increasing emergency room physician
19 rates, and providing TEFRA 134, also known as "Katie Beckett"
20 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 E. No part of the revenues resulting from the additional taxes
9 levied in this section shall be used in determining the amount of
10 cigarette tax collections to be paid into:

11 1. The State of Oklahoma Building Bonds of 1961 Sinking Fund
12 pursuant to the provisions of Sections 57.31 through 57.43 of Title
13 62 of the Oklahoma Statutes;

14 2. The State of Oklahoma Institutional Building Bonds of 1965
15 Sinking Fund pursuant to the provisions of Sections 57.61 through
16 57.73 of Title 62 of the Oklahoma Statutes;

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

20 4. The State of Oklahoma Building Bonds of 1968 Sinking Fund
21 pursuant to the provisions of Sections 57.121 through 57.193 of
22 Title 62 of the Oklahoma Statutes; or
23
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1 5. The Oklahoma Building Bonds of 1992 Sinking Fund pursuant to
2 the provisions of Sections 57.300 through 57.313 of Title 62 of the
3 Oklahoma Statutes.

4 F. The cigarette taxes levied in this section shall be
5 collected and administered in all respects not inconsistent with as
6 now or hereafter provided for by law for other cigarette taxes now
7 levied, collected, and administered pursuant to the provisions of
8 Sections 301 through 325 of this title.

9 SECTION 6. AMENDATORY 68 O.S. 2021, Section 402, is
10 amended to read as follows:

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

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

21 2. Cigars. Upon cigars of all descriptions made of tobacco, or
22 any substitute therefor, weighing more than three (3) pounds per
23 thousand and having a manufacturer's recommended retail selling
24

1 price, under the Federal Code, of not exceeding four cents (\$0.04)
2 per cigar, one cent (\$0.01) for each cigar;

3 3. Cigars. Upon all other cigars of all descriptions made of
4 tobacco, or any substitute therefor, and weighing more than three
5 (3) pounds per thousand, ~~Twenty Dollars (\$20.00)~~ Ten Dollars
6 (\$10.00) per thousand. For the purpose of computing the tax,
7 cheroots, stogies, etc., are hereby classed as cigars;

8 4. Smoking Tobacco. Upon all smoking tobacco, the tax shall be
9 ~~twenty-five percent (25%)~~ twelve and fifty hundredths percent
10 (12.50%) of the factory list price exclusive of any trade discount,
11 special discount, or deals; and

12 5. Smokeless Tobacco. Upon smokeless tobacco, the tax shall be
13 ~~twenty percent (20%)~~ ten percent (10%) of the factory list price
14 exclusive of any trade discount, special discount, or deals.

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

18 Notwithstanding any other provision of law, the tax levied
19 pursuant to the provisions of Section 401 et seq. of this title
20 shall be part of the gross proceeds or gross receipts from the sale
21 of tobacco products, or both, as those terms are defined in
22 paragraph 12 of Section 1352 of this title.

23 SECTION 7. AMENDATORY 68 O.S. 2021, Section 402-1, is
24 amended to read as follows:

1 Section 402-1. In addition to the tax levied by Section 402 of
2 this title, there is hereby levied upon the sale, use, exchange, or
3 possession of articles containing tobacco as defined in Section 402
4 of this title, a tax in the following amounts:

5 1. Upon cigars of all descriptions made of tobacco, or any
6 substitute therefor, and weighing more than three (3) pounds per
7 thousand, and having a manufacturer's recommended retail selling
8 price, under the Federal Code, of more than four cents (\$0.04) for
9 each cigar, ~~Ten Dollars (\$10.00)~~ Five Dollars (\$5.00) per thousand.
10 For the purpose of computing the tax, cheroots, stogies, etc., are
11 hereby classed as cigars;

12 2. Upon all smoking tobacco, the tax shall be ~~fifteen percent~~
13 ~~(15%)~~ seven and fifty hundredths percent (7.50%) of the factory list
14 price exclusive of any trade discount, special discount or deals;
15 and

16 3. Upon smokeless tobacco, the tax shall be ~~ten percent (10%)~~
17 five percent (5%) of the factory list price exclusive of any trade
18 discount, special discount or deals.

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

21 The tax herein levied on tobacco products shall be collected on
22 the same basis and in the same manner and in all respects as the tax
23 levied by the Tobacco Products Tax ~~Law~~ Enforcement Act of 2021. The
24 revenue from this additional tax shall be apportioned by the

1 Oklahoma Tax Commission in the same manner as provided in Section
2 404 of this title, for the apportionment of other tobacco products
3 tax revenue.

4 SECTION 8. AMENDATORY 68 O.S. 2021, 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 and 402-1 of this title, ~~effective~~ from January 1, 2005 until
8 the effective date of this act, there shall be levied, assessed,
9 collected, and paid in respect to the articles containing tobacco
10 enumerated in Section 401 et seq. of this title, a tax in the
11 following amounts:

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

17 2. Smoking Tobacco. Upon all smoking tobacco, the tax shall be
18 forty percent (40%) of the factory list price exclusive of any trade
19 discount, special discount or deals; and

20 3. Smokeless Tobacco. Upon smokeless tobacco, the tax shall be
21 thirty percent (30%) of the factory list price exclusive of any
22 trade discount, special discount or deals.

23 B. In addition to the tax levied in Sections 402 and 402-1 of
24 this title, upon the effective date of this act, there shall be

1 levied, assessed, collected, and paid in respect to the articles
2 containing tobacco enumerated in Section 401 et seq. of this title,
3 a tax in the following amounts:

4 1. Cigars. Upon all cigars of all descriptions made of
5 tobacco, or any substitute therefor, and weighing more than three
6 (3) pounds per thousand, Forty-five Dollars (\$45.00) per thousand.
7 For the purpose of computing the tax, cheroots, stogies, etc., are
8 hereby classed as cigars;

9 2. Smoking Tobacco. Upon all smoking tobacco, the tax shall be
10 twenty percent (20%) of the factory list price exclusive of any
11 trade discount, special discount or deals; and

12 3. Smokeless Tobacco. Upon smokeless tobacco, the tax shall be
13 fifteen percent (15%) of the factory list price exclusive of any
14 trade discount, special discount, or deals.

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

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

24

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

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

9 a. every month, an amount equal to the actual amount
10 placed to the credit of the Trauma Care Assistance
11 Revolving Fund pursuant to this paragraph for the same
12 month of the 2008 fiscal year shall be credited to the
13 Trauma Care 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 1-2512.1 of Title
20 63 of the Oklahoma Statutes until the combined amount
21 credited to the Oklahoma Emergency Response Systems
22 Stabilization and Improvement Revolving Fund pursuant
23 to this section and Section 302-5 of this title is

1 equal to Two Million Five Hundred Thousand Dollars
2 (\$2,500,000.00) each year, and

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

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

10 5. Twenty-six and thirty-eight-hundredths percent (26.38%)
11 shall be placed to the credit of the Oklahoma Health Care Authority
12 Medicaid Program Fund created in Section 5020 of Title 63 of the
13 Oklahoma Statutes for the purposes of maintaining programs and
14 services funded under the federal ~~"Jobs and Growth Tax Relief~~
15 ~~Reconciliation Act of 2003"~~ Jobs and Growth Tax Relief
16 Reconciliation Act of 2003, reimbursing city/county-owned hospitals,
17 increasing emergency room physician rates, and providing TEFRA 134,
18 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~~ 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.~~ D. The net amount of any revenue resulting from a payment in
15 lieu of excise taxes on little cigars, cigars, smoking tobacco and
16 smokeless tobacco levied by this section, pursuant to a compact with
17 a federally recognized Indian tribe or nation after deductions for
18 deposits into trust accounts pursuant to such compacts, shall be
19 apportioned by the Tax Commission and transmitted to the State
20 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 Jobs and Growth Tax Relief Reconciliation Act of 2003, reimbursing
17 city/county-owned hospitals, increasing emergency room physician
18 rates, and providing TEFRA 134, also known as "Katie Beckett"
19 services;

20 6. Four and one-hundredths percent (4.01%) shall be placed to
21 the credit of the Department of Mental Health and Substance Abuse
22 Services Revolving Fund created in Section 2-303 of Title 43A of the
23 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.~~ E. It shall not be permissible for a retailer to advertise
9 that the retailer will absorb the tax due on the taxable merchandise
10 described herein. Such tax shall be paid by the consumer.

11 SECTION 9. This act shall become effective November 1, 2024.

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