

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 2315

By: Hilbert of the House

4 and

5 Gollihare of the Senate

6
7 An Act relating to revenue and taxation; amending 68
8 O.S. 2021, Sections 6504, 6506 and 6508, which relate
9 to the Driving on Road Infrastructure with Vehicles
10 of Electricity Act of 2021; modifying provisions
11 related to determination of tax rate; modifying
reporting date for tax; modifying requirements with
respect to the Oklahoma Tax Commission; eliminating
requirement for certain administrative rules; and
providing an effective date.

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14 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
15 entire bill and insert

16 "An Act relating to electric vehicle charging tax;
17 amending 68 O.S. 2021, Sections 6504, 6506, and 6508,
18 which relate to the Driving on Road Infrastructure
19 with Vehicles of Electricity (DRIVE) Act of 2021;
20 modifying provisions related to determination of tax
21 rate; modifying reporting and remittance date for
22 tax; modifying requirements with respect to the
23 Oklahoma Tax Commission; eliminating requirement for
24 certain administrative rules; imposing duties on
Corporation Commission; providing for certain
administrative determinations; updating statutory
reference; and providing an effective date.

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

1 SECTION 1. AMENDATORY 68 O.S. 2021, Section 6504, is
2 amended to read as follows:

3 Section 6504. A. There is hereby imposed a tax of three cents
4 (\$0.03) per kilowatt hour or its equivalent, as determined by the
5 ~~Oklahoma Tax~~ Corporation Commission, on the electric current used to
6 charge or recharge the battery or batteries of an electric vehicle.
7 The tax shall be levied beginning January 1, 2024.

8 B. The amount of tax prescribed or authorized by this section
9 shall not include any fees or charges associated with the method for
10 payment for the charging service, but shall be based only upon the
11 rate of tax and the electricity transferred during the charging
12 process.

13 C. The tax imposed pursuant to this section shall not be
14 applicable to electric vehicles charged at a private residence at
15 which the owner or occupant of the residence uses electric power
16 paid for by the owner or occupant of the residence which is supplied
17 to the residence by a regulated public utility, an electric
18 cooperative or other wholesale level of electric supply, whether or
19 not supplemented by electric power produced by the owner or occupant
20 using solar energy or other methods to provide electric power to the
21 residence.

22 D. The tax imposed pursuant to this section shall not be
23 applicable to electric vehicles charged at charging stations with a
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1 charging capacity of less than fifty (50) kilowatts and charging
2 stations that do not require payment for use.

3 E. In order to determine an equivalent measurement as required
4 in subsection A of this section, the ~~Oklahoma Tax~~ Corporation
5 Commission shall promulgate rules that allow businesses, based on
6 the average cost that such business charged customers at the
7 business's charging stations in the preceding year, to charge the
8 tax on a statewide percentage basis equivalent to the amount of tax
9 that would otherwise have been charged had the rate provided in
10 subsection A of this section been applied in the preceding year.
11 The percentage basis equivalent shall be recalculated annually ~~in~~
12 ~~conjunction with the Oklahoma Tax~~ through an administrative process
13 outlined in Corporation Commission rules. Parties who wish to
14 challenge the administrative calculation shall follow the process
15 outlined in Commission rules. Businesses with multiple charging
16 station locations in the state shall be authorized to utilize the
17 same percentage basis equivalent at all such locations. The
18 Corporation Commission shall provide the calculation, once deemed
19 final by rule, to the Oklahoma Tax Commission for collection from
20 businesses.

21 SECTION 2. AMENDATORY 68 O.S. 2021, Section 6506, is
22 amended to read as follows:

23 Section 6506. A. ~~The~~ For the period beginning January 1, 2024,
24 and ending December 31, 2028, the tax imposed pursuant to the

1 provisions of Section 4 6504 of this ~~act~~ title shall be remitted
2 ~~monthly~~ annually, not later than the twenty-seventh day of the first
3 month following the annual period, by each charging station owner or
4 operator. For the periods beginning January 1, 2029, and all
5 subsequent periods, the tax imposed pursuant to the provisions of
6 Section 6504 of this title shall be remitted quarterly, not later
7 than the twenty-seventh day of the first month following the
8 quarterly period. The tax shall be remitted using such forms as the
9 Oklahoma Tax Commission may prescribe for that purpose.

10 B. ~~The tax and any~~ Any required report shall be filed with the
11 Tax Commission ~~not later than the twentieth day of the month~~
12 ~~following the month during which the electric charging for an~~
13 ~~electric vehicle occurred~~ no later than the day taxes are required
14 to be remitted pursuant to subsection A of this section.

15 C. The charging station owner or operator shall separately
16 state on any invoice or billing document provided to the customer
17 the amount of the tax imposed pursuant to Section 4 6504 of this ~~act~~
18 title and shall not include the tax amount in the total amount
19 billed to the customer.

20 D. The provisions of this section shall not prohibit a charging
21 station owner or operator from imposing a fee or charge in addition
22 to the kilowatt hour or other equivalent unit of measurement for the
23 transfer of electric power to an electric vehicle.

1 E. Legacy chargers shall be exempt from ~~remitting~~ the tax
2 levied in this section until November 1, 2041.

3 F. Public charging stations that have never charged a fee for
4 their use shall be exempt from remitting the tax levied in this
5 section until November 1, 2041.

6 SECTION 3. AMENDATORY 68 O.S. 2021, Section 6508, is
7 amended to read as follows:

8 Section 6508. A. Except for charging stations with a charging
9 capacity of less than fifty (50) kilowatts, and charging stations
10 that do not require payment for use, all charging stations in
11 operation prior to ~~the effective date of this act~~ November 1, 2021,
12 shall register with the Oklahoma Tax Commission not later than
13 January 31, 2024. The Oklahoma Tax Commission shall provide or make
14 available updated registration information to the ~~Oklahoma~~
15 Corporation Commission.

16 B. For a charging station which requires payment for its use
17 and begins operations for the first time on or after November 1,
18 2021, the charging station owner or operator shall register with the
19 Oklahoma Tax Commission not later than fifteen (15) days after the
20 date as of which the first business operations at the station site
21 begin or by January 31, 2024, whichever is later.

22 C. Any public charging station for an electric vehicle
23 constructed or which begins operations for the first time on or
24 after ~~November 1, 2021,~~ shall use the effective date of this act

1 shall utilize a metering system that is capable of imposing the cost
2 for the charging service using a unit per kilowatt hour or ~~an~~
3 ~~equivalent~~ a comparable measurement ~~as determined by the Tax~~
4 ~~Commission,~~ such as time elapsed while charging and the charging
5 capacity of the charging station, ~~or such as the process described~~
6 ~~in subsection E of Section 1 of this act.~~ The metering system shall
7 include a system by which an audit of the electricity supplied
8 through the system may be performed to determine the amount of
9 electricity transferred to a customer and the cost charged by the
10 charging station owner or operator for each unit of electricity
11 transferred.

12 D. The Oklahoma Tax Commission shall have the authority to
13 inspect the premises and equipment of any charging station owner or
14 operator to enforce compliance with the provisions of this section.

15 E. If a charging station owner or operator fails to remit the
16 tax as required by the provisions of ~~this act~~ the Driving on Road
17 Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021, the
18 Oklahoma Tax Commission shall begin proceedings to terminate the
19 charging station owner or operator license to do business for
20 failure to remit in the same manner as prescribed by law for failure
21 to remit sales tax.

22 SECTION 4. This act shall become effective November 1, 2023."
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1 ENGROSSED HOUSE
2 BILL NO. 2315

By: Hilbert of the House

3 and

4 Gollihare of the Senate

5
6 An Act relating to revenue and taxation; amending 68
7 O.S. 2021, Sections 6504, 6506 and 6508, which relate
8 to the Driving on Road Infrastructure with Vehicles
9 of Electricity Act of 2021; modifying provisions
10 related to determination of tax rate; modifying
reporting date for tax; modifying requirements with
respect to the Oklahoma Tax Commission; eliminating
requirement for certain administrative rules; and
providing an effective date.

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

14 SECTION 5. AMENDATORY 68 O.S. 2021, Section 6504, is
15 amended to read as follows:

16 Section 6504. A. There is hereby imposed a tax of three cents
17 (\$0.03) per kilowatt hour or its equivalent, as determined by the
18 Oklahoma ~~Tax~~ Corporation Commission, on the electric current used to
19 charge or recharge the battery or batteries of an electric vehicle.

20 The tax shall be levied beginning January 1, 2024.

21 B. The amount of tax prescribed or authorized by this section
22 shall not include any fees or charges associated with the method for
23 payment for the charging service, but shall be based only upon the
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1 rate of tax and the electricity transferred during the charging
2 process.

3 C. The tax imposed pursuant to this section shall not be
4 applicable to electric vehicles charged at a private residence at
5 which the owner or occupant of the residence uses electric power
6 paid for by the owner or occupant of the residence which is supplied
7 to the residence by a regulated public utility, an electric
8 cooperative or other wholesale level of electric supply, whether or
9 not supplemented by electric power produced by the owner or occupant
10 using solar energy or other methods to provide electric power to the
11 residence.

12 D. The tax imposed pursuant to this section shall not be
13 applicable to electric vehicles charged at charging stations with a
14 charging capacity of less than fifty (50) kilowatts and charging
15 stations that do not require payment for use.

16 E. In order to determine an equivalent measurement as required
17 in subsection A of this section, the Oklahoma ~~Tax~~ Corporation
18 Commission shall promulgate rules that allow businesses, based on
19 the average cost that such business charged customers at the
20 business's charging stations in the preceding year, to charge the
21 tax on a percentage basis equivalent to the amount of tax that would
22 otherwise have been charged had the rate provided in subsection A of
23 this section been applied in the preceding year. The percentage
24 basis equivalent shall be recalculated annually in conjunction with

1 the Oklahoma ~~Tax~~ Corporation Commission. Businesses with multiple
2 charging station locations in the state shall be authorized to
3 utilize the same percentage basis equivalent at all such locations.

4 SECTION 6. AMENDATORY 68 O.S. 2021, Section 6506, is
5 amended to read as follows:

6 Section 6506. A. The tax imposed pursuant to the provisions of
7 Section 4 6503 of this ~~act~~ title shall be remitted monthly by each
8 charging station owner or operator. The tax shall be remitted using
9 such forms as the Oklahoma Tax Commission may prescribe for that
10 purpose.

11 B. The tax and any required report shall be filed with the Tax
12 Commission not later than the ~~twentieth~~ twenty-seventh day of the
13 month following the month during which the electric charging for an
14 electric vehicle occurred.

15 C. The charging station owner or operator shall separately
16 state on any invoice or billing document provided to the customer
17 the amount of the tax imposed pursuant to Section 4 6503 of this ~~act~~
18 title and shall not include the tax amount in the total amount
19 billed to the customer.

20 D. The provisions of this section shall not prohibit a charging
21 station owner or operator from imposing a fee or charge in addition
22 to the kilowatt hour or other equivalent unit of measurement for the
23 transfer of electric power to an electric vehicle.

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1 E. Legacy chargers shall be exempt from remitting the tax
2 levied in this section until November 1, 2041.

3 F. Public charging stations that have never charged a fee for
4 their use shall be exempt from remitting the tax levied in this
5 section until November 1, 2041.

6 SECTION 7. AMENDATORY 68 O.S. 2021, Section 6508, is
7 amended to read as follows:

8 Section 6508. A. Except for charging stations with a charging
9 capacity of less than fifty (50) kilowatts, and charging stations
10 that do not require payment for use, all charging stations in
11 operation prior to the effective date of this act shall register
12 with the Oklahoma Tax Commission not later than January 31, 2024.
13 The Oklahoma Tax Commission shall provide or make available updated
14 registration information to the Oklahoma Corporation Commission.

15 B. For a charging station which requires payment for its use
16 and begins operations for the first time on or after November 1,
17 2021, the charging station owner or operator shall register with the
18 Oklahoma Tax Commission not later than fifteen (15) days after the
19 date as of which the first business operations at the station site
20 begin or by January 31, 2024, whichever is later.

21 C. Any public charging station for an electric vehicle
22 constructed or which begins operations for the first time on or
23 after November 1, 2021, shall use a metering system that is capable
24 of imposing the cost for the charging service using a unit per

1 kilowatt hour or an equivalent measurement as determined by the ~~Tax~~
2 Oklahoma Corporation Commission, such as time elapsed while charging
3 and the charging capacity of the charging station, or such as the
4 process described in subsection E of Section ~~4~~ 6504 of this ~~act~~
5 title. The metering system shall include a system by which an audit
6 of the electricity supplied through the system may be performed to
7 determine the amount of electricity transferred to a customer and
8 the cost charged by the charging station owner or operator for each
9 unit of electricity transferred.

10 D. The Oklahoma Tax Commission shall have the authority to
11 inspect the premises and equipment of any charging station owner or
12 operator to enforce compliance with the provisions of this section.

13 E. If a charging station owner or operator fails to remit the
14 tax as required by the provisions of this act, the Oklahoma Tax
15 Commission shall begin proceedings to terminate the charging station
16 owner or operator license to do business for failure to remit in the
17 same manner as prescribed by law for failure to remit sales tax.

18 SECTION 8. This act shall become effective November 1, 2023.
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1 Passed the House of Representatives the 8th day of March, 2023.

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3 _____
4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ___ day of _____, 2023.

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9 Presiding Officer of the Senate