

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1103

By: Fields

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5
6 AS INTRODUCED

7 An Act relating to cigarette tax; amending 68 O.S.
8 2011, Section 302-5, which relates to apportionment;
9 providing exception; limiting specified amounts
10 apportioned on or after certain date; providing for
11 deposit of funds in excess of limit; updating
12 references; providing an effective date; and
13 declaring an emergency.

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

15 SECTION 1. AMENDATORY 68 O.S. 2011, Section 302-5, is
16 amended to read as follows:

17 Section 302-5. A. Effective January 1, 2005, in addition to
18 the tax levied in Sections 302, 302-1, 302-2, 302-3 and 302-4 of
19 this title, there is hereby levied upon the sale, use, gift,
20 possession, or consumption of cigarettes, as defined in Sections 301
21 through 325 of this title, within this state, a tax at the rate of
22 forty (40) mills per cigarette.

23 B. Except as provided in ~~subsection D~~ subsections D and G of
24 this section, the revenue resulting from the additional tax levied

1 in subsection A of this section shall be apportioned by the Oklahoma
2 Tax Commission and transmitted to the State Treasurer as follows:

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

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

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

15 a. every month, an amount equal to the actual amount
16 placed to the credit of the Trauma Care Assistance
17 Revolving Fund pursuant to this paragraph for the same
18 month of the 2008 fiscal year shall be credited to the
19 Trauma Care Assistance Revolving Fund,

20 b. every month, any amount over and above the amount
21 placed to the credit of the Trauma Care Assistance
22 Revolving Fund pursuant to subparagraph a of this
23 paragraph shall be credited to the Oklahoma Emergency
24 Response Systems Stabilization and Improvement

1 Revolving Fund as created in Section & 1-2512.1 of
2 ~~this act~~ Title 63 of the Oklahoma Statutes until the
3 combined amount credited to the Oklahoma Emergency
4 Response Systems Stabilization and Improvement
5 Revolving Fund pursuant to this section and Section
6 402-3 of this title is equal to a total of Two Million
7 Five Hundred Thousand Dollars (\$2,500,000.00) each
8 year, and

9 c. any additional revenue allocated pursuant to this
10 paragraph shall be placed to the credit of the Trauma
11 Care Assistance Revolving Fund;

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

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

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

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

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

12 9. Two and seven-hundredths percent (2.07%) shall be placed to
13 the credit of the Education Reform Revolving Fund created in Section
14 ~~41.29b~~ 34.89 of Title 62 of the Oklahoma Statutes;

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

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

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

3 For fiscal years beginning July 1, 2006, and thereafter, the
4 apportionment percentage specified in paragraph 12 of this
5 subsection will be adjusted by dividing the total municipal and
6 county sales tax revenue collected in the calendar year immediately
7 preceding the commencement of the fiscal year by the sum of the
8 state sales tax revenue and total municipal and county sales tax
9 revenue collected in the same year. This ratio shall be divided by
10 the ratio of the total municipal and county sales tax revenue
11 collected in the calendar year beginning January 1, 2004, and ending
12 December 31, 2004, divided by the sum of the state sales tax revenue
13 and total municipal and county sales tax revenue collected in the
14 same year. The resulting quotient shall be multiplied by fourteen
15 and twenty-three-hundredths percent (14.23%) to determine the
16 apportionment percentage for the fiscal year.

17 For fiscal years beginning July 1, 2006, and thereafter, any
18 adjustment to the percentage of revenues apportioned to
19 municipalities and counties shall be reflected in the percent of
20 revenues apportioned to the General Revenue Fund.

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

3 D. ~~The~~ Except as provided in subsection G of this section, the
4 net amount of any revenue resulting from a payment in lieu of excise
5 taxes on cigarettes levied by this section, pursuant to a compact
6 with a federally recognized Indian tribe or nation after deductions
7 for deposits into trust accounts pursuant to such compacts, shall be
8 apportioned by the Tax Commission and transmitted to the State
9 Treasurer as follows:

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

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

18 3. Before July 1, 2008, eleven and thirty-nine-hundredths
19 percent (11.39%) shall be placed to the credit of the Trauma Care
20 Assistance Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of
21 Title 63 of the Oklahoma Statutes. On and after July 1, 2008,
22 eleven and thirty-nine-hundredths percent (11.39%) shall be
23 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. Four and sixty-nine-hundredths percent (4.69%) shall be
23 placed to the credit of the Oklahoma State University College of
24

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

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

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

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

19 8. One percent (1%) shall be placed to the credit of the
20 Tobacco Prevention and Cessation Revolving Fund created in Section
21 1-105d of Title 63 of the Oklahoma Statutes.

22 E. No part of the revenues resulting from the additional taxes
23 levied in this section shall be used in determining the amount of
24 cigarette tax collections to be paid into:

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

4 2. The State of Oklahoma Institutional Building Bonds of 1965
5 Sinking Fund pursuant to the provisions of Sections 57.61 through
6 57.73 of Title 62 of the Oklahoma Statutes;

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

10 4. The State of Oklahoma Building Bonds of 1968 Sinking Fund
11 pursuant to the provisions of Sections 57.121 through 57.193 of
12 Title 62 of the Oklahoma Statutes; or

13 5. The Oklahoma Building Bonds of 1992 Sinking Fund pursuant to
14 the provisions of Sections 57.300 through 57.313 of Title 62 of the
15 Oklahoma Statutes.

16 F. The cigarette taxes levied in this section shall be
17 collected and administered in all respects not inconsistent with as
18 now or hereafter provided for by law for other cigarette taxes now
19 levied, collected, and administered pursuant to the provisions of
20 Sections 301 through 325 of this title.

21 G. In no event, for the fiscal year beginning on July 1, 2016,
22 and all subsequent fiscal years, shall the amounts apportioned
23 pursuant to each of the paragraphs 1, 5 through 7, 10 and 12 of
24 subsection B and each of the paragraphs 1 and 5 through 8 of

1 subsection D, exceed the amounts apportioned to those paragraphs for
2 the fiscal year ending on June 30, 2013. Any amounts which exceed
3 this limitation shall be placed to the credit of the General Revenue
4 Fund.

5 SECTION 2. This act shall become effective July 1, 2016.

6 SECTION 3. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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