

1 ENGROSSED SENATE
2 BILL NO. 1421

By: Schulz of the Senate

and

McCall of the House

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6 An Act relating to tobacco products tax; amending 68
7 O.S. 2011, Section 402-3, which relates to
8 apportionment of revenue; limiting certain annual
9 apportionment to specified funds; providing for
10 distribution of amounts in excess of limitation;
11 providing methodology for calculating limitation;
12 updating statutory references; providing an effective
13 date; and declaring an emergency.

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

15 SECTION 1. AMENDATORY 68 O.S. 2011, Section 402-3, is
16 amended to read as follows:

17 Section 402-3. A. In addition to the tax levied in Sections
18 402, 402-1 and 402-2 of this title, effective January 1, 2005, there
19 shall be levied, assessed, collected, and paid in respect to the
20 articles containing tobacco enumerated in Section 401 et seq. of
21 this title, a tax in the following amounts:

22 1. Little Cigars. Upon cigars of all descriptions made of
23 tobacco, or any substitute therefor, and weighing not more than
24 three (3) pounds per thousand, twenty-seven (27) mills for each
cigar. Provided, that the tax levied on the products coming under
this paragraph shall not apply if the tax on such products is

1 reported and paid as cigarette tax under Sections 301 through 325 of
2 this title;

3 2. 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, Ninety Dollars (\$90.00) per thousand. For
6 the purpose of computing the tax, cheroots, stogies, etc., are
7 hereby classed as cigars;

8 3. 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 4. Chewing Tobacco. Upon chewing tobacco, smokeless tobacco,
15 and snuff, the tax shall be thirty percent (30%) of the factory list
16 price exclusive of any trade discount, special discount or deals.

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

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

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 ~~1-2522~~ 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 8 of this act~~
20 Section 1-2512.1 of Title 63 of the Oklahoma Statutes
21 until the combined amount credited to the Oklahoma
22 Emergency Response Systems Stabilization and
23 Improvement Revolving Fund pursuant to this section
24 and Section 302-5 of this title is equal to Two

1 Million Five Hundred Thousand Dollars (\$2,500,000.00)
2 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", reimbursing city/county-owned
16 hospitals, increasing emergency room physician rates, and providing
17 TEFRA 134, also known as "Katie Beckett" services;

18 6. Two and sixty-five-hundredths percent (2.65%) shall be
19 placed to the credit of the Department of Mental Health and
20 Substance Abuse Services Revolving Fund created in Section 2-303 of
21 Title 43A of the Oklahoma Statutes, but in no event shall the amount
22 apportioned in any fiscal year pursuant to this paragraph exceed the
23 limitation provided in subsection E of this section. Any amounts in

1 excess of such limitation shall be placed to the credit of the
2 General Revenue Fund;

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

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

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

13 10. Sixty-six-hundredths percent (.66%) shall be placed to the
14 credit of the Tobacco Prevention and Cessation Revolving Fund
15 created in Section 1-105d of Title 63 of the Oklahoma Statutes;

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

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

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

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

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

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

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

11 3. Before July 1, 2008, eleven and thirty-nine-hundredths
12 percent (11.39%) shall be placed to the credit of the Trauma Care
13 Assistance Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of
14 Title 63 of the Oklahoma Statutes. On and after July 1, 2008,
15 eleven and thirty-nine-hundredths percent (11.39%) shall be
16 allocated as follows:

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

22 b. every month, any amount over and above the amount
23 placed to the credit of the Trauma Care Assistance
24 Revolving Fund pursuant to subparagraph a of this

1 paragraph shall be credited to the Oklahoma Emergency
2 Response Systems Stabilization and Improvement
3 Revolving Fund as created in ~~Section 8 of this act~~
4 Section 1-2512.1 of Title 63 of the Oklahoma Statutes
5 until the combined amount credited to the Oklahoma
6 Emergency Response Systems Stabilization and
7 Improvement Revolving Fund pursuant to this section
8 and Section 302-5 of this title is equal to Two
9 Million Five Hundred Thousand Dollars (\$2,500,000.00)
10 each year, and

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

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

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

3 6. Four and one-hundredths percent (4.01%) shall be placed to
4 the credit of the Department of Mental Health and Substance Abuse
5 Services Revolving Fund created in Section 2-303 of Title 43A of the
6 Oklahoma Statutes, but in no event shall the amount apportioned in
7 any fiscal year pursuant to this paragraph exceed the limitation
8 provided in subsection E of this section. Any amounts in excess of
9 such limitation shall be placed to the credit of the General Revenue
10 Fund;

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

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

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

21 E. The amounts apportioned annually pursuant to paragraph 6 of
22 subsections B and C of this section shall be limited to the 3-year
23 average of the amounts apportioned for fiscal years 2015, 2016 and
24 2017.

1 SECTION 2. This act shall become effective July 1, 2018.

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

6 Passed the Senate the 7th day of March, 2018.

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Presiding Officer of the Senate

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10 Passed the House of Representatives the ____ day of _____,
11 2018.

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Presiding Officer of the House
of Representatives

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