

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                           2nd Session of the 56th Legislature (2018)

4   ENGROSSED SENATE  
5   BILL NO. 1421

By: Schulz of the Senate

and

McCall of the House

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

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

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

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

1. Little Cigars. Upon cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than

1 three (3) pounds per thousand, twenty-seven (27) mills for each  
2 cigar. Provided, that the tax levied on the products coming under  
3 this paragraph shall not apply if the tax on such products is  
4 reported and paid as cigarette tax under Sections 301 through 325 of  
5 this title;

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

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

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

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

24

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

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

8 3. Before July 1, 2008, seven and fifty-hundredths percent  
9 (7.50%) shall be placed to the credit of the Trauma Care Assistance  
10 Revolving Fund created in Section ~~1-2522~~ 2530.9 of Title 63 of the  
11 Oklahoma Statutes. On and after July 1, 2008, seven and fifty-  
12 hundredths percent (7.50%) shall be allocated as follows:

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

18 b. every month, any amount over and above the amount  
19 placed to the credit of the Trauma Care Assistance  
20 Revolving Fund pursuant to subparagraph a of this  
21 paragraph shall be credited to the Oklahoma Emergency  
22 Response Systems Stabilization and Improvement  
23 Revolving Fund as created in ~~Section 8 of this act~~  
24 Section 1-2512.1 of Title 63 of the Oklahoma Statutes

1           until the combined amount credited to the Oklahoma  
2           Emergency Response Systems Stabilization and  
3           Improvement Revolving Fund pursuant to this section  
4           and Section 302-5 of this title is equal to Two  
5           Million Five Hundred Thousand Dollars (\$2,500,000.00)  
6           each year, and

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

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

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

22          6.   Two and sixty-five-hundredths percent (2.65%) shall be  
23          placed to the credit of the Department of Mental Health and  
24          Substance Abuse Services Revolving Fund created in Section 2-303 of

1 Title 43A of the Oklahoma Statutes, but in no event shall the amount  
2 apportioned in any fiscal year pursuant to this paragraph exceed the  
3 limitation provided in subsection E of this section. Any amounts in  
4 excess of such limitation shall be placed to the credit of the  
5 General Revenue Fund;

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

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

13 9. Two and seven-hundredths percent (2.07%) shall be placed to  
14 the credit of the Education Reform Revolving Fund created in Section  
15 ~~41.29b~~ 34.89 of Title 62 of the Oklahoma Statutes;

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

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

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

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 net amount of any revenue resulting from a payment in  
22 lieu of excise taxes on little cigars, cigars, smoking tobacco and  
23 chewing tobacco levied by this section, pursuant to a compact with a  
24 federally recognized Indian tribe or nation after deductions for

1 deposits into trust accounts pursuant to such compacts, shall be  
2 apportioned by the Tax Commission and transmitted to the State  
3 Treasurer as follows:

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

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

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

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

23 b. every month, any amount over and above the amount  
24 placed to the credit of the Trauma Care Assistance

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

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

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

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



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  
7 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
8 03/26/2018 - DO PASS.  
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