An Act

ENROLLED HOUSE
BILL NO. 2576

By: Ownbey of the House

and

Mazzei of the Senate

An Act relating to tax provisions; amending 37 O.S. 2011, Sections 163.5 and 553, which relate to excise tax; modifying due date for tax; amending 63 O.S. 2011, Section 2418, which relates to telephone fees; modifying due date for fee; amending 68 O.S. 2011, Section 212, which relates to sales tax permits; expanding remedy options under certain circumstances; defining terms; prohibiting certain act relating to sales suppression devices; providing punishment; providing for administrative fine; providing for revocation of sales tax permit; amending 68 O.S. 2011, Sections 317.5 and 413, which relate to cigarette and tobacco taxes; modifying due date for reports; amending 68 O.S. 2011, Section 2385.3, which relates to income tax; modifying frequency of report filing; amending 68 O.S. 2011, Sections 2385.6, 2385.28 and 2385.31, which relate to the payment of tax; modifying timing of penalty for failure to pay; providing for codification; providing an effective date; and declaring an emergency.

SUBJECT: Taxation

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

SECTION 1. AMENDATORY 37 O.S. 2011, Section 163.5, is amended to read as follows:

Section 163.5 The excise tax levied by Section 163.3 of this title on low-point beer shall be due and payable on or before the

~~tenth~~ twentieth day of each month for the preceding calendar month. At the time of paying such tax each taxpayer shall, upon forms prescribed, prepared and furnished by the Tax Commission, file with the Tax Commission a return, under oath, showing the total sales of such beverages during the preceding calendar month, the amount of taxes due, and such further information as the Tax Commission may require to enable it to compute correctly and collect the taxes levied under Section 163.1 et seq. of this title. Any tax not paid within ten (10) days after the close of the preceding calendar month shall be delinquent.

SECTION 2. AMENDATORY 37 O.S. 2011, Section 553, is amended to read as follows:

Section 553. A. Except as provided in paragraph 5 of this subsection, an excise tax is hereby levied and imposed upon all alcoholic beverages imported or manufactured, for sale, use or distribution, or used or possessed in this state at the following rates:

1. One Dollar and forty-seven cents ($1.47) per liter, and a proportionate rate on fractions thereof, on each liter of spirits;

2. Nineteen cents ($0.19) per liter, and a proportionate rate on fractions thereof, on each liter of wine;

3. Fifty-five cents ($0.55) per liter, and a proportionate rate on fractions thereof, on each liter of sparkling wine;

4. Twelve Dollars and fifty cents ($12.50) per barrel (thirty-one (31) wine gallons) and a proportionate rate on portions thereof, on each barrel of beer; and

5. Beer manufactured in this state for export shall not be taxed.

B. The excise tax levied on alcoholic beverages except beer under subsection A of this section shall be paid as follows:

1. Payment of the excise tax levied by this section with respect to all alcoholic beverages, other than beer, shall be made by the person shipping the same into Oklahoma, or in the case of direct imports from foreign countries by the importer, or in the case of alcoholic beverages manufactured in Oklahoma by the first seller thereof;

2. On and after January 1, 1981, the due and payable excise tax levied by this section shall be made by tax returns filed with the Oklahoma Tax Commission. The tax returns shall be made under oath by the person liable for the tax on forms prescribed and provided by the Oklahoma Tax Commission and shall be accompanied by payment of the taxes due and any additional sums due as provided by this section. Invoices describing all alcoholic beverages as described in this section which are shipped into this state or which are first sold in this state shall be delivered to the Oklahoma Tax Commission and to the Alcoholic Beverage Laws Enforcement Commission immediately following shipment of liquors into the state or delivery to the first purchaser. Tax returns and payment of excise tax and other sums due shall be delivered to the Oklahoma Tax Commission no later than the ~~tenth~~ twentieth day of the month immediately succeeding the month of shipment, importation or first sale of the alcoholic beverages as provided in paragraph 1 of this subsection;

3. All tax returns required to be filed during the twelve-month period beginning January 1, 1981, shall be accompanied by payment of the excise tax due plus an additional payment in the amount of twenty percent (20%) of said tax. Up to ten percent (10%) of the total payments made during said period may be made in the form of revenue stamps previously purchased pursuant to Section 540 of this title; and

4. On and after February 1, 1982, each person required to file a tax return pursuant to this section shall remit the excise tax due, less an amount not to exceed two percent (2%) of the total of the additional payments made by said taxpayer pursuant to paragraph 3 of this subsection. The total of said deductions shall not exceed the total of the additional payments made pursuant to paragraph 3 of this subsection. Up to ten percent (10%) of each tax payment made under this subsection may be made in the form of revenue stamps previously purchased pursuant to Section 540 of this title.

C. For the purpose of collecting and remitting the excise tax imposed under this section, the person liable for such tax is hereby declared to be the agent of the state for such purposes.

D. Nothing herein shall be construed to impose an additional excise tax on intoxicating beverages held in inventory by wholesalers and retailers upon which the excise tax was paid prior to the effective date of any excise tax increase.

SECTION 3. AMENDATORY 63 O.S. 2011, Section 2418, is amended to read as follows:

Section 2418. A. There is hereby imposed a surcharge of five cents ($0.05) per local exchange telephone access line per month to pay for the equipment and maintenance program provided for in Section 2417 of this title and to provide for other needed services for the deaf, severely hard-of-hearing, severely speech-impaired and deaf-blind programs administered through the Department of Rehabilitation Services, such surcharge to be paid by each local exchange subscriber to local telephone service in this state, unless such subscriber is otherwise exempt from taxation.

B. The surcharge shall be collected on the regular monthly bill by each local exchange telephone company operating in this state and shall be remitted quarterly to the Oklahoma Tax Commission no later than ~~fifteen (15)~~ twenty (20) days following the end of each quarter.

C. There is hereby created in the State Treasury the Telecommunications for the Deaf and Hard-of-Hearing Revolving Fund. The fund shall consist of monies imposed in subsection A of this section. All monies accruing to the fund are hereby appropriated and may be budgeted and expended by the Department of Rehabilitation Services. The fund shall be a continuing fund not subject to fiscal year limitations and expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims submitted to the Director of State Finance for the purpose of implementation of this act.

SECTION 4. AMENDATORY 68 O.S. 2011, Section 212, is amended to read as follows:

Section 212. ~~(a)~~ A. The Tax Commission is authorized to cancel or to refuse the issuance, extension or reinstatement of any license, permit or duplicate copy thereof, under the provisions of any state tax law or other law, to any person, firm, or corporation who shall be guilty of:

~~(1)~~ 1. Violation of any of the provisions of this article;

~~(2)~~ 2. Violation of the provisions of any state tax law;

~~(3)~~ 3. Violation of the rules and regulations promulgated by the Tax Commission for the administration and enforcement of any state tax law~~, or~~;

~~(4)~~ 4. Failure to observe or fulfill the conditions upon which the license or permit was issued~~,~~; or

~~(5)~~ 5. Nonpayment of any delinquent tax or penalty.

~~(b)~~ B. Before any license, permit or duplicate copy thereof may be canceled, or the issuance, reinstatement, or extension thereof refused, the Tax Commission shall give the owner of such license or permit, or applicant therefor, twenty (20) days' notice by registered mail or certified mail with return receipt requested, of a hearing before said Tax Commission, granting said person an opportunity to show cause why such action should not be taken. If the notice has been mailed as required by this section, failure of the person to have received actual notice of the hearing shall neither invalidate nor be grounds for invalidating any action taken at the hearing or pursuant to the hearing.

~~(c)~~ C. Upon the cancellation of any license, permit, or duplicate copy thereof by the Tax Commission, all accrued taxes and penalties, although said taxes and penalties are not, at the time of the cancellation, due and payable under the terms of the state tax law imposing or levying such tax or taxes, shall become due and payable concurrently with the cancellation of such license, permit or duplicate copy thereof, and the licensee or permittee shall forthwith make a report covering the period of time not covered by preceding reports filed by said person and ending with the date of the cancellation and shall pay all such taxes and penalties.

~~(d)~~ D. The Tax Commission may enter its order temporarily suspending any license, permit or duplicate copy thereof pending a final hearing before it on the subject of the cancellation of such license, permit or duplicate copy thereof, and may give notice of such temporary suspension at the same time that notice of its intention to cancel any license, permit or duplicate copy or to refuse the issuance, reinstatement or extension thereof is given, as provided by this section. After being given notice of any such order of suspension, it shall be unlawful for any person to continue to operate his business under any such suspended license, permit or duplicate copy thereof~~, and in~~.

E. In the event any such person shall continue or threaten to continue such unlawful operations after having received proper notice of the suspension ~~of~~, cancellation, revocation, or refusal to issue, extend, or reinstate his license, permit or duplicate copy thereof, upon complaint of the Tax Commission such person shall be enjoined from further operating or conducting such unlawful business ~~pending final hearing by the Tax Commission~~. In all cases where injunction proceedings are brought under this article, the Commission shall not be required to furnish bond, and where notice of suspension ~~of~~, cancellation, revocation, or refusal to issue, extend, or reinstate any license, permit or duplicate copy thereof has been given in accordance with the provisions of this section, no further notice shall be required before the issuance of a temporary restraining order by the district court.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 212.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, the term:

1. "Automated sales suppression device" or "zapper" means a software program, carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including, but not limited to, transaction data and transaction reports;

2. "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in whatever manner;

3. "Phantom-ware" means a hidden, preinstalled, or installed-at-a-later-time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second till or may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register;

4. "Transaction data" includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of

cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction; and

5. "Transaction reports" means a report documenting, but not limited to, the sales, tax collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

B. It shall be unlawful to willfully and knowingly sell, purchase, install, transfer, or possess in this state any automated sales suppression device or zapper or phantom-ware.

C. Any person convicted of a violation of subsection B of this section shall be guilty of a felony and shall be punished by imprisonment of not less than one (1) nor more than five (5) years, a fine not to exceed One Hundred Thousand Dollars ($100,000.00), or both.

D. In addition to the criminal penalty provided in subsection C of this section, any person violating subsection B of this section shall be subject to an administrative fine of Ten Thousand Dollars ($10,000.00). Administrative fines collected pursuant to the provisions of this subsection shall be deposited to the General Revenue Fund.

E. The Tax Commission shall immediately revoke the sales tax permit of a person who violated subsection B of this section. A person whose license is so revoked shall not be eligible to receive another sales tax permit issued pursuant to Section 1364 of Title 68 of the Oklahoma Statutes for a period of ten (10) years.

SECTION 6. AMENDATORY 68 O.S. 2011, Section 317.5, is amended to read as follows:

Section 317.5 A. Prior to making delivery sales or mailing, shipping, or otherwise delivering cigarettes in connection with any such sales, every person shall file with the Oklahoma Tax Commission a statement setting forth such person's name, trade name, and the address of such person's principal place of business and any other place of business.

B. Not later than the ~~tenth~~ twentieth day of each calendar month, each person that has made a delivery sale or mailed, shipped or otherwise delivered cigarettes in connection with any such sale during the previous calendar month shall file with the Tax Commission a memorandum or a copy of the invoice which provides for each and every such delivery sale:

1. The name and address of the individual to whom such delivery sale was made;

2. The brand or brands of the cigarettes that were sold in such delivery sale; and

3. The quantity of cigarettes that were sold in such delivery sale.

C. Any person that satisfies the requirements of Section 376 of Title 15 of the United States Code shall be deemed to satisfy the requirements of this section.

SECTION 7. AMENDATORY 68 O.S. 2011, Section 413, is amended to read as follows:

Section 413. A. The right of a carrier in this state to carry unstamped cigars and tobacco products shall not be affected hereby; provided, that carriers delivering untaxed tobacco products to any person in this state for the purpose of selling or consuming untaxed tobacco products in this state in violation of this article shall be subject to seizure of the shipments and forfeiture of the inventory pursuant to the provisions of Section 417 of this title. Provided further, that should any such carrier sell any cigars and tobacco products in this state, such sale shall be subject to the stamp tax and other provisions of this article and to the rules of the Tax Commission. The carrier transporting tobacco products and cigars to a point within this state, or a bonded warehouseman or bailee having in its possession tobacco products and cigars, shall transmit to the Tax Commission a statement of such consignment of tobacco products and cigars, showing the date, point of origin, point of delivery, and to whom delivered. All carriers or bailees or warehousemen shall permit an examination by the Tax Commission, or its agents or legally authorized representatives, of their records relating to the shipment or receipt of tobacco products and cigars. Any person who fails or refuses to transmit to the Tax Commission the aforesaid statement, or who refuses to permit the examination of his or her records by the Tax Commission or its legally authorized agents or

representatives, shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed Five Hundred Dollars ($500.00) and not less than Twenty-five Dollars ($25.00).

B. Wholesalers shall make a monthly report to the Tax Commission. Such report must be received in the office of the Tax Commission not later than the ~~fifteenth~~ twentieth day of each month, showing purchases and invoices of all merchandise coming under this article, for the previous month; and the report shall also show the invoice number, the name and address of the consignee and consignor, the date, and such other information as may be requested by the Tax Commission. Retailers or consumers purchasing tobacco products and cigars in drop shipments shall be required to make monthly reports to the Tax Commission, as are required of wholesalers.

SECTION 8. AMENDATORY 68 O.S. 2011, Section 2385.3, is amended to read as follows:

Section 2385.3 A. Every employer required to deduct and withhold taxes under Section 2385.2 of this title shall pay over the amount so withheld as taxes to the Oklahoma Tax Commission pursuant to the schedule outlined in paragraphs 1 through 3 of this subsection, and shall file a quarterly return in such form as the Tax Commission shall prescribe ~~under the following schedule~~ on or before the twentieth day of the month following the close of each calendar quarter:

1. ~~Effective July 1, 1999, every employer owing an average of Ten Thousand Dollars ($10,000.00) or more per month in taxes in the previous fiscal year shall pay over the amount so withheld on the same dates as required under the Federal Semiweekly Deposit Schedule for federal withholding taxes. For employers making payments other than by electronic funds transfer, a withholding return shall be filed with each payment. For employers making payments by electronic funds transfer, a withholding return shall not be required to be filed with each payment. A withholding return for payments made by electronic funds transfer shall be filed monthly on or before the twentieth day of the month following the close of each monthly period;~~

~~2. Effective March 1, 2010, every~~ Every employer required to remit federal withholding under the Federal Semiweekly Deposit Schedule shall pay over the amount so withheld under subsection A of this section on the same dates as required under the Federal Semiweekly Deposit Schedule for federal withholding taxes~~. For~~

~~employers making payments other than by electronic funds transfer, a withholding return shall be filed with each payment. For employers making payments by electronic funds transfer, a withholding return shall not be required to be filed with each payment. A withholding return for payments made by electronic funds transfer shall be filed monthly on or before the twentieth day of the month following the close of each monthly period~~;

~~3.~~ 2. Every employer owing an average of Five Hundred Dollars ($500.00) or more per quarter in taxes in the previous fiscal year who is not subject to the provisions of paragraph 1 ~~or 2~~ of this subsection shall pay over the amount so withheld on or before the twentieth day of each succeeding month ~~and shall file a monthly return together with the payment~~; and

~~4.~~ 3. Every employer owing an average of less than Five Hundred Dollars ($500.00) per quarter in taxes in the previous fiscal year shall pay over the amount so withheld on or before the twentieth day of the month following the close of each succeeding quarterly period ~~and shall file a quarterly return together with the payment~~.

B. ~~Effective October 1, 2003, every employer owing an average of Five Thousand Dollars ($5,000.00) or more per month in taxes in the previous fiscal year shall file returns pursuant to the Tax Commission's electronic data interchange program. Effective March 1, 2010, every~~ Every employer subject to the provisions of paragraph ~~2~~ 1 of subsection A of this section shall file returns pursuant to the Tax Commission's electronic data interchange program.

C. Every employer required under Section 2385.2 of this title to deduct and withhold a tax from the wages paid an employee shall, as to the total wages paid to each employee during the calendar year, furnish to such employee, on or before January 31 of the succeeding year, a written statement showing the name of the employer, the name of the employee and the employee's social security account number, if any, the total amount of wages subject to taxation, and the total amount deducted and withheld as tax and such other information as the Tax Commission may require. If an employee's employment is terminated before the close of a calendar year, the written statement must be furnished within thirty (30) days of the date of which the last payment of wages is made.

D. If the Tax Commission, in any case, has justifiable reason to believe that the collection of the tax provided for in Section

2385.2 of this title is in jeopardy, the Tax Commission may require the employer to file a return and pay the tax at any time.

E. Every employer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma. The term "employer" as used in this subsection and in Section 2385.6 of this title includes an officer or employee of a corporation, manager or member of a limited liability company or a member or employee of a partnership, who as an officer or employee of a corporation, or manager or member of a limited liability company or member or employee of a partnership is under a duty to act for a corporation, limited liability company or partnership to withhold and remit withholding taxes in accordance with this section and Section 2385.2 of this title. Any sum or sums withheld in accordance with the provisions of Section 2385.2 of this title shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the employer shall have a fiduciary duty to the State of Oklahoma in regard to such sums and shall be subject to the trust laws of this state.

F. If any employer fails to withhold the tax required to be withheld by Section 2385.2 of this title and thereafter the income tax is paid by the employee, the tax so required to be withheld shall not be collected from the employer but such employer shall not be relieved from the liability for penalties or interest otherwise applicable because of such failure to withhold the tax.

G. Every person making payments of winnings subject to withholding shall, for each monthly period, on or before the twentieth day of the month following the payment of such winnings pay over to the Tax Commission the amounts so withheld, and shall file a return, in a form as prescribed by the Tax Commission.

H. Every person making payments of winnings subject to withholding shall furnish to each recipient on or before January 31 of the succeeding year a written statement in a form as prescribed by the Tax Commission. Every person making such reports shall also furnish a copy of such report to the Tax Commission in a manner and at a time as shall be prescribed by the Tax Commission.

SECTION 9. AMENDATORY 68 O.S. 2011, Section 2385.6, is amended to read as follows:

Section 2385.6 A. If an employer fails to file a return or to pay to the Oklahoma Tax Commission the withholding tax within the time prescribed by this article, there shall be imposed on him a penalty equal to ten percent (10%) of the amount of tax, or ten percent (10%) of the amount of the underpayment of tax, if such failure is not corrected ~~on or before the last day of the month when due~~ within fifteen (15) days after the tax becomes delinquent. There shall also be imposed on such employer interest at the rate of one and one-quarter percent (1 1/4%) per month during the period such underpayment exists. For the purposes of this paragraph, "underpayment" shall mean the excess of the amount of the tax required to be paid over the amount thereof actually paid on or before the date prescribed therefor. Such penalty and interest shall be added to and become a part of the tax assessed. However, the Tax Commission shall not collect the penalty assessed if the taxpayer remits the tax within sixty (60) days of the mailing of a proposed assessment or voluntarily pays the tax upon the filing of an amended return.

B. Any employer who is required under the provisions of Section 2385.3 of this title to furnish a statement to an employee, but who willfully fails to furnish such employee the statement required by said section, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not exceeding One Hundred Dollars ($100.00), or by imprisonment for not more than six (6) months in the county jail, or by both such fine and imprisonment for each such offense.

C. The provisions of subsections A and B of this section shall also apply to every person making payments of winnings subject to withholding.

SECTION 10. AMENDATORY 68 O.S. 2011, Section 2385.28, is amended to read as follows:

Section 2385.28 A. Any amounts withheld in accordance with the provisions of Section ~~7~~ 2385.26 of this ~~act~~ title shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the remitter shall have a fiduciary duty to the State of Oklahoma in regard to such amounts and shall be subject to the trust laws of this state. Any remitter who fails to pay to the Tax Commission any amounts required to be withheld by such remitter, after such amounts have been withheld from oil or gas royalty payments, and appropriates the amount held in trust to the remitter's own use, or

to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

B. If any remitter fails to withhold the amounts required to be withheld by Section ~~7~~ 2385.26 of this ~~act~~ title and thereafter income tax is paid by the recipient of the oil or gas production payment with respect to such payment, the amount so required to be withheld shall not be collected from the remitter but such remitter shall not be relieved from the liability for penalties or interest otherwise applicable because of such failure to withhold such amount.

C. If a remitter fails to file a return or to pay to the Tax Commission the amounts withheld within the time prescribed by Sections ~~6~~ 2385.25 through ~~9~~ 2385.28 of this ~~act~~ title, there shall be imposed on the remitter a penalty equal to ten percent (10%) of the amount required to be withheld, or ten percent (10%) of the amount of the underpayment of the amount required to be withheld, if such failure is not corrected ~~on or before the last day of the month when due~~ within fifteen (15) days after the tax becomes delinquent. There shall also be imposed on such remitter interest at the rate of one and one-quarter percent (1 1/4%) per month during the period such underpayment exists. For the purposes of this subsection, "underpayment" shall mean the excess of the amount required to be paid over the amount thereof actually paid on or before the date prescribed therefor. Such penalty and interest shall be added to and become a part of the amount assessed. However, the Tax Commission shall not collect the penalty assessed if the remitter remits the amount required to be withheld within thirty (30) days of the mailing of a proposed assessment or voluntarily pays such amount upon the filing of an amended return.

D. Any remitter who is required under the provisions of subsection C of Section ~~8~~ 2385.27 of this ~~act~~ title to furnish a statement to a recipient of oil or gas royalty payment, but who willfully fails to furnish such recipient the statement, shall be punished by an administrative fine not exceeding One Thousand Dollars ($1,000.00).

SECTION 11. AMENDATORY 68 O.S. 2011, Section 2385.31, is amended to read as follows:

Section 2385.31 A. Any amounts withheld in accordance with the provisions of Section 2385.30 of this title shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the pass-

through entity shall have a fiduciary duty to the State of Oklahoma in regard to such amounts and shall be subject to the trust laws of this state. Any pass-through entity who fails to pay to the Tax Commission any amounts required to be withheld by such pass-through entity, after such amounts have been withheld from distributions to nonresident members, and appropriates the amount held in trust to the pass-through entity's own use, or to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

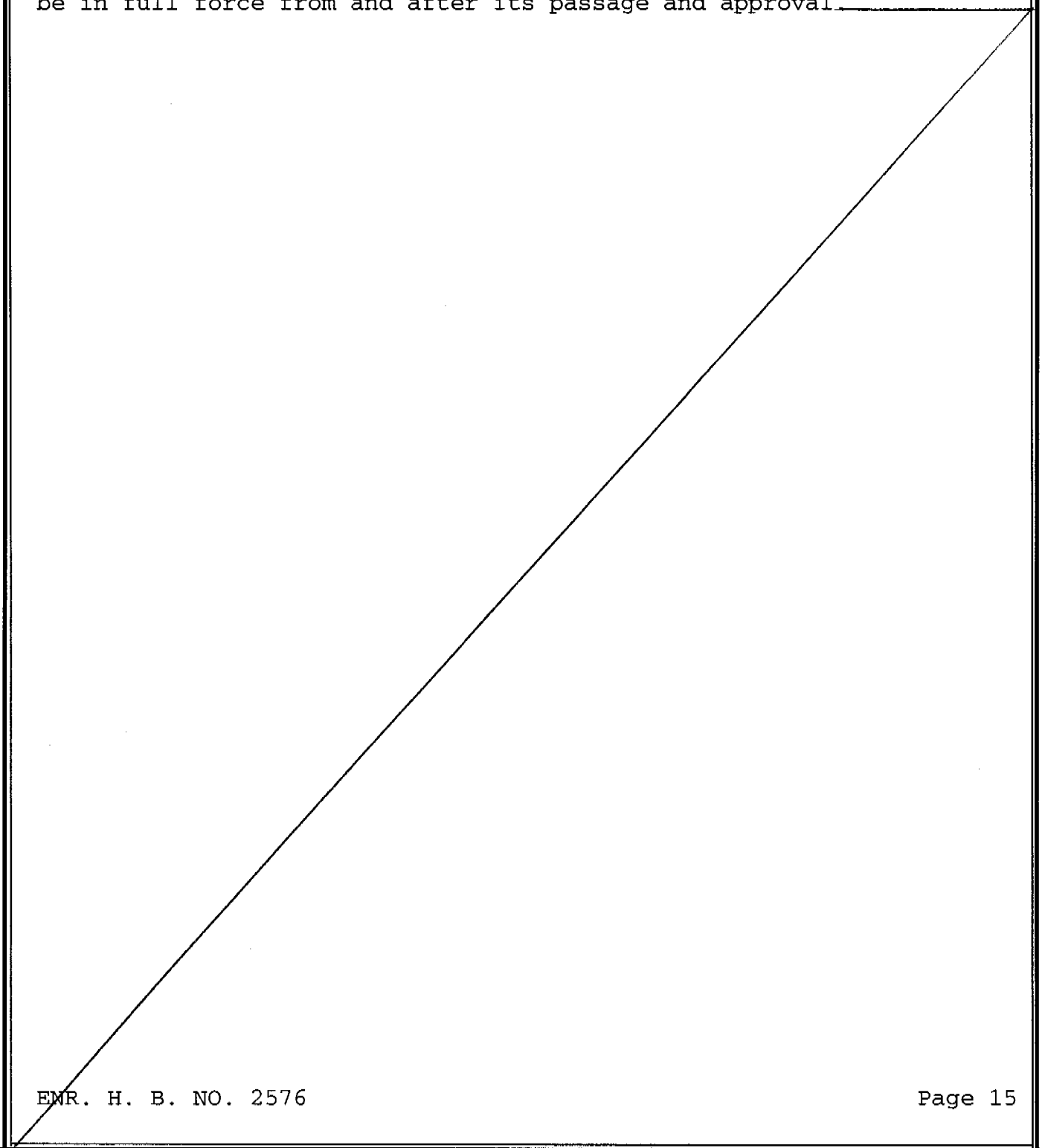
B. If any pass-through entity fails to withhold or pay required estimated payments of the amounts required to be withheld by Section 2385.30 of this title and thereafter income tax is paid by the nonresident member with respect to such payment, the amount so required to be withheld shall not be collected from the pass-through entity, but such pass-through entity shall not be relieved from the liability for penalties or interest otherwise applicable because of such failure to withhold or pay such amount.

C. If a pass-through entity fails to file a return or to pay to the Tax Commission the amounts withheld or any estimated payment required within the time prescribed by Section 2385.30 of this title, there shall be imposed on the pass-through entity a penalty equal to ten percent (10%) of the amount required to be withheld or paid, or ten percent (10%) of the amount of the underpayment of the amount required to be withheld or paid, if such failure is not corrected ~~on or before the last day of the month when due~~ within fifteen (15) days after the tax becomes delinquent. There shall also be imposed on such pass-through entity interest at the rate of one and one-fourth percent (1 1/4%) per month during the period such underpayment exists. For the purposes of this subsection, "underpayment" shall mean the excess of the amount required to be paid over the amount thereof actually paid on or before the date prescribed therefor. Such penalty and interest shall be added to and become a part of the amount assessed. However, the Tax Commission shall not collect the penalty assessed if the pass-through entity remits the amount required to be withheld within thirty (30) days of the mailing of a proposed assessment or voluntarily pays such amount upon the filing of an amended return.

D. Any pass-through entity who is required under the provisions of subsection E of Section 2385.30 of this title to furnish a statement to a nonresident member, but who willfully fails to furnish such recipient the statement, shall be punished by an administrative fine not exceeding One Thousand Dollars ($1,000.00).

SECTION 12. This act shall become effective July 1, 2012.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.



Passed the House of Representatives the 23rd day of May, 2012.

Presiding Officer of the House of Representatives

Passed the Senate the 24th day of May, 2012.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 25th **day of** May, **20** 12, **at** 12:00 **o'clock** PM.

By: Jessica R. Rogers

Approved by the Governor of the State of Oklahoma the 8th **day of** June, **20** 12, **at** 3:00 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 8th **day of** June, **20** 12 **at** 4:45 **o'clock** P. **M.**

By: Michelle R. Day