

An Act

ENROLLED SENATE
BILL NO. 499

By: Sykes and Sharp of the
Senate

and

McBride and Echols of the
House

An Act relating to tax liability; creating Facilitating Business Rapid Response to State Declared Disasters Act of 2015; defining terms; limiting applicability of specified tax and regulatory requirements for out-of-state business under specified circumstances; specifying applicability to certain filing and apportionment procedures; limiting applicability of specified tax and regulatory requirements for out-of-state employee under specified circumstances; establishing liability for certain transaction taxes and fees for out-of-state businesses and employees under specified circumstances; establishing status and requirements for out-of-state businesses and employees remaining in the state after disaster response period; requiring specified businesses to provide certain information to Oklahoma Tax Commission under specified circumstances; and providing for codification.

SUBJECT: creating the Facilitating Business Rapid Response to State Declared Disasters Act of 2015

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 55005 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. This act may be cited as the "Facilitating Business Rapid Response to State Declared Disasters Act of 2015".

B. As used in this act:

1. "Critical Infrastructure" means property and equipment owned or used by a telecommunications provider, a cable operator, and other communications networks, electric generation, transmission and distribution systems, natural gas and natural gas liquids gathering, processing, storage, transmission and distribution systems, water pipelines, and related support facilities that service multiple customers or citizens including, but not limited to, real and personal property such as buildings, offices, lines, poles, pipes, structures, and equipment;

2. "Declared state disaster or emergency" means a disaster or emergency event:

- a. for which a Governor's State of Emergency Proclamation has been issued,
- b. for which a Presidential Declaration of a Federal Major Disaster or Emergency has been issued, or
- c. other disaster or emergency event within the state for which a good faith response effort is required, and for which another authorized official of the state is given notification from the registered business and such official designates such event as a disaster or emergency, thereby invoking the provisions of this act;

3. "Disaster or emergency related work" means repairing, renovating, installing, building, rendering services or other business activities that relate to critical infrastructure that has been damaged, impaired or destroyed by the declared state disaster or emergency;

4. "Disaster response period" means a period that begins ten (10) days prior to the first day of the Governor's Proclamation, the President's Declaration or designation by any other authorized official of the state, whichever occurs first, and which extends sixty (60) calendar days after the declared state disaster or emergency, or any longer period authorized by the applicable state entity or official;

5. "Out-of-state business" means a business entity that, except for disaster or emergency related work, has no presence in the state and conducts no business in the state, whose services are requested by a registered business or by a state or local government for purposes of performing disaster or emergency related work in the state. This shall include a business entity affiliated with the registered business in the state solely through common ownership. An out-of-state-business has no registrations, tax filings or nexus in the state other than disaster or emergency related work during the tax year immediately preceding the declared state disaster or emergency;

6. "Out-of-state employee" means an employee who does not work in the state, except for disaster or emergency related work during the disaster response period; and

7. "Registered business" means a business entity that is currently registered to do business in the state prior to the declared state disaster or emergency.

C. Except as provided in subsection E of this section, an out-of-state business that conducts operations within the state for purposes of performing work or services related to a declared state disaster or emergency during the disaster response period shall not be considered to have established a level of presence that would require that business to register, file and/or remit state or local taxes or that would require that business or its out-of-state employees to be subject to any state licensing or registration requirements. This includes any and all state or local business licensing, registration or regulatory requirements, state and local taxes or fees including, but not limited to, unemployment insurance, state or local occupational licensing fees, use tax or ad valorem tax on equipment brought into the state temporarily for use during the disaster response period and subsequently removed from the

state. For purposes of any state or local tax on, or measured by, in whole or in part, net or gross income or receipts, all activity of the out-of-state business that is conducted in this state pursuant to this act shall be disregarded with respect to any filing requirements for such tax including the filing required for a unitary or combined group of which the out-of-state business may be a part. For the purpose of apportioning income, revenue or receipts, the performance by an out-of-state business of any work in accordance with this title shall not be sourced to or shall not otherwise impact or increase the amount of income, revenue or receipts apportioned to this state.

D. No out-of-state employee shall be considered to have established residency or a presence in the state that would require that person or that person's employer to file and pay income taxes or be subjected to tax withholdings or to file and pay any other state or local tax or fee during the disaster response period. This includes any related state employer withholding and remittance obligations, but does not include any transaction taxes or fees as described in subsection E.

E. Out-of-state businesses and out-of-state employees shall be required to pay transaction taxes and fees including, but not limited to, fuel taxes or sales taxes on materials or services consumed or used in the state subject to sales taxes, hotel taxes, car rental taxes or fees that the out-of-state affiliated business or out-of-state employee purchases for use or consumption in the state during the disaster response period, unless such taxes are otherwise exempted during a disaster response period.

F. Any out-of-state business or out-of-state employee that remains in the state after the disaster response period shall:

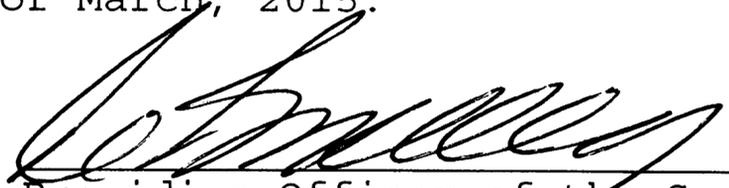
1. Become subject to the state requirements for establishing presence, residency or doing business in the state and will therefore become responsible for any business or employee tax requirements that ensue; and

2. Complete state and local registration, licensing, and filing requirements that ensue as a result of establishing the requisite business presence or residency in the state applicable under the existing rules.

G. 1. An out-of-state business that enters the state shall, upon request, provide to the Oklahoma Tax Commission a statement that it is in the state for purposes of responding to the disaster or emergency, which statement shall include the business name, state of domicile, principal business address, federal tax identification number, date of entry, and contact information.

2. A registered business in the state shall, upon request, provide the information required in paragraph 1 of this subsection for any affiliate that enters the state that is an out-of-state business. The notification shall also include contact information for the registered business in the state.

Passed the Senate the 11th day of March, 2015.



Presiding Officer of the Senate

Passed the House of Representatives the 13th day of April, 2015.



Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 14th
day of April, 20 15, at 3:35 o'clock P M.
By: Audrey Kestwell

Approved by the Governor of the State of Oklahoma this 20th
day of April, 20 15, at 2:55 o'clock P M.



Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 20th
day of April, 20 15, at 3:35 o'clock P. M.
By: C. Benze