An Act

ENROLLED HOUSE
BILL NO. 2531

By: Caldwell, Denney, Kannady, Wright and Hickman of the House

and

Ford and Jech of the Senate

An Act relating to revenue and taxation; creating the Oklahoma Retail Protection Act of 2016; amending 68 O.S. 2011, Section 1352, which relates to sales tax; providing short title; modifying definitions; amending 68 O.S. 2011, Sections 1401, 1407.2 and 1407.3, which relate to use tax; modifying definition; requiring certain retailers and vendors to provide certain statement to customers and specifying language thereof; modifying purpose and scope of certain initiative; deleting certain provisions relating to Retailer Compliance Initiative; modifying purpose and scope of certain outreach program; repealing 68 O.S. 2011, Sections 1354.1, 1354.2, 1354.3, 1354.4, 1354.5 and 1354.6, which relate to sales tax; providing for codification; providing for noncodification; and providing an effective date.

SUBJECT: Sales and use taxation

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Retail Protection Act of 2016".

SECTION 2. AMENDATORY 68 O.S. 2011, Section 1352, is amended to read as follows:

Section 1352. As used in the Oklahoma Sales Tax Code:

1. "Bundled transaction" means the retail sale of two or more products, except real property and services to real property, where the products are otherwise distinct and identifiable, and the products are sold for one nonitemized price. A "bundled transaction" does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction. As used in this paragraph:

a. "distinct and identifiable products" does not include:

(1) packaging such as containers, boxes, sacks, bags, and bottles, or other materials such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof, including but not limited to, grocery sacks, shoeboxes, dry cleaning garment bags and express delivery envelopes and boxes,

(2) a product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge, or

(3) items included in the definition of gross receipts or sales price, pursuant to this section,

b. "one nonitemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form including, but not limited to an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list,

A transaction that otherwise meets the definition of a bundled transaction shall not be considered a bundled transaction if it is:

(1) the retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service,

(2) the retail sale of services where one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service, ~~or~~

(3) a transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis. For purposes of this subdivision, "de minimis" means the seller's purchase price or sales price of taxable products is ten percent (10%) or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers may not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis, or

(4) the retail sale of exempt tangible personal property and taxable tangible personal property where:

(a) the transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices or medical supplies, and

(b) the seller's purchase price or sales price of the taxable tangible personal property is fifty percent (50%) or less of the total purchase price or sales price of the bundled

tangible personal property. Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the fifty percent (50%) determination for a transaction;

2. "Business" means any activity engaged in or caused to be engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect;

3. "Commission" or "Tax Commission" means the Oklahoma Tax Commission;

4. "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions;

5. "Computer software" means a set of coded instructions designed to cause a "computer" or automatic data processing equipment to perform a task;

6. "Consumer" or "user" means a person to whom a taxable sale of tangible personal property is made or to whom a taxable service is furnished. "Consumer" or "user" includes all contractors to whom a taxable sale of materials, supplies, equipment, or other tangible personal property is made or to whom a taxable service is furnished to be used or consumed in the performance of any contract;

7. "Contractor" means any person who performs any improvement upon real property and who, as a necessary and incidental part of performing such improvement, incorporates tangible personal property belonging to or purchased by the person into the real property being improved;

8. "Drug" means a compound, substance or preparation, and any component of a compound, substance or preparation:

a. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them,

b. intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease, or

c. intended to affect the structure or any function of the body;

9. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

10. "Established place of business" means the location at which any person regularly engages in, conducts, or operates a business in a continuous manner for any length of time, that is open to the public during the hours customary to such business, in which a stock of merchandise for resale is maintained, and which is not exempted by law from attachment, execution, or other species of forced sale barring any satisfaction of any delinquent tax liability accrued under the Oklahoma Sales Tax Code;

11. "Fair authority" means:

a. any county, municipality, school district, public trust or any other political subdivision of this state, or

b. any not-for-profit corporation acting pursuant to an agency, operating or management agreement which has been approved or authorized by the governing body of any of the entities specified in subparagraph a of this paragraph which conduct, operate or produce a fair commonly understood to be a county, district or state fair;

12. a. "Gross receipts", "gross proceeds" or "sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(1) the seller's cost of the property sold,

(2) the cost of materials used, labor or service cost,

(3) interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller,

(4) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges,

(5) delivery charges and installation charges, unless separately stated on the invoice, billing or similar document given to the purchaser, and

(6) credit for any trade-in.

b. Such term shall not include:

(1) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale,

(2) interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser, and

(3) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser.

c. Such term shall include consideration received by the seller from third parties if:

(1) the seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale,

(2) the seller has an obligation to pass the price reduction or discount through to the purchaser,

(3) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser, and

(4) one of the following criteria is met:

(a) the purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented,

(b) the purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount; provided, a "preferred customer" card that is available to any patron does not constitute membership in such a group, or

(c) the price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser;

13. a. "Maintaining a place of business in this state" means and ~~includes having~~ shall be presumed to include:

(1) (a) utilizing or maintaining in this state, directly or by subsidiary, an office, distribution house, sales house, warehouse, or other physical place of business, whether owned or operated by the vendor or any other person, other than a common carrier acting in its capacity as such, or

(b) having agents operating in this state, whether the place of business or agent is within this state temporarily or permanently or whether the person or ~~subsidiary~~ agent is authorized to do business within this state, and

(2) the presence of any person, other than a common carrier acting in its capacity as such, that has substantial nexus in this state and that:

(a) sells a similar line of products as the vendor and does so under the same or a similar business name,

(b) uses trademarks, service marks or trade names in this state that are the same or substantially similar to those used by the vendor,

(c) delivers, installs, assembles or performs maintenance services for the vendor,

(d) facilitates the vendor's delivery of property to customers in the state by allowing the vendor's customers to pick up property sold by the vendor at an office, distribution facility, warehouse, storage place or similar place of business maintained by the person in this state, or

(e) conducts any other activities in this state that are significantly associated with the vendor's ability to establish and maintain a market in this state for the vendor's sale.

b. The presumptions in divisions (1) and (2) of subparagraph a of this paragraph may be rebutted by demonstrating that the person's activities in this state are not significantly associated with the vendor's ability to establish and maintain a market in this state for the vendor's sales.

c. Any ruling, agreement or contract, whether written or oral, express or implied, between a person and executive branch of this state, or any other state agency or department, stating, agreeing or ruling that the person is not "maintaining a place of business in this state" or is not required to collect sales and use tax in this state despite the presence of a

warehouse, distribution center or fulfillment center in this state that is owned or operated by the vendor or an affiliated person of the vendor shall be null and void unless it is specifically approved by a majority vote of each house of the Oklahoma Legislature;

14. "Manufacturing" means and includes the activity of converting or conditioning tangible personal property by changing the form, composition, or quality of character of some existing material or materials, including natural resources, by procedures commonly regarded by the average person as manufacturing, compounding, processing or assembling, into a material or materials with a different form or use. "Manufacturing" does not include extractive industrial activities such as mining, quarrying, logging, and drilling for oil, gas and water, nor oil and gas field processes, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration and compression;

15. "Manufacturing operation" means the designing, manufacturing, compounding, processing, assembling, warehousing, or preparing of articles for sale as tangible personal property. A manufacturing operation begins at the point where the materials enter the manufacturing site and ends at the point where a finished product leaves the manufacturing site. "Manufacturing operation" does not include administration, sales, distribution, transportation, site construction, or site maintenance. Extractive activities and field processes shall not be deemed to be a part of a manufacturing operation even when performed by a person otherwise engaged in manufacturing;

16. "Manufacturing site" means a location where a manufacturing operation is conducted, including a location consisting of one or more buildings or structures in an area owned, leased, or controlled by a manufacturer;

17. "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R., Section 201.66. The over-the-counter-drug label includes:

a. a "Drug Facts" panel, or

b. a statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation;

18. "Person" means any individual, company, partnership, joint venture, joint agreement, association, mutual or otherwise, limited liability company, corporation, estate, trust, business trust, receiver or trustee appointed by any state or federal court or otherwise, syndicate, this state, any county, city, municipality, school district, any other political subdivision of the state, or any group or combination acting as a unit, in the plural or singular number;

19. "Prescription" means an order, formula or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed "practitioner" as defined in Section 1357.6 of this title;

20. "Prewritten computer software" means "computer software", including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software;

21. "Repairman" means any person who performs any repair service upon tangible personal property of the consumer, whether or not the repairman, as a necessary and incidental part of performing the service, incorporates tangible personal property belonging to or purchased by the repairman into the tangible personal property being repaired;

22. "Sale" means the transfer of either title or possession of tangible personal property for a valuable consideration regardless

of the manner, method, instrumentality, or device by which the transfer is accomplished in this state, or other transactions as provided by this paragraph, including but not limited to:

a. the exchange, barter, lease, or rental of tangible personal property resulting in the transfer of the title to or possession of the property,

b. the disposition for consumption or use in any business or by any person of all goods, wares, merchandise, or property which has been purchased for resale, manufacturing, or further processing,

c. the sale, gift, exchange, or other disposition of admission, dues, or fees to clubs, places of amusement, or recreational or athletic events or for the privilege of having access to or the use of amusement, recreational, athletic or entertainment facilities,

d. the furnishing or rendering of services taxable under the Oklahoma Sales Tax Code, and

e. any use of motor fuel or diesel fuel by a supplier, as defined in Section 500.3 of this title, upon which sales tax has not previously been paid, for purposes other than to propel motor vehicles over the public highways of this state. Motor fuel or diesel fuel purchased outside the state and used for purposes other than to propel motor vehicles over the public highways of this state shall not constitute a sale within the meaning of this paragraph;

23. "Sale for resale" means:

a. a sale of tangible personal property to any purchaser who is purchasing tangible personal property for the purpose of reselling it within the geographical limits of the United States of America or its territories or possessions, in the normal course of business either in the form or condition in which it is purchased or as an attachment to or integral part of other tangible personal property,

b. a sale of tangible personal property to a purchaser for the sole purpose of the renting or leasing, within the geographical limits of the United States of America or its territories or possessions, of the tangible personal property to another person by the purchaser, but not if incidental to the renting or leasing of real estate,

c. a sale of tangible goods and products within this state if, simultaneously with the sale, the vendor issues an export bill of lading, or other documentation that the point of delivery of such goods for use and consumption is in a foreign country and not within the territorial confines of the United States. If the vendor is not in the business of shipping the tangible goods and products that are purchased from the vendor, the buyer or purchaser of the tangible goods and products is responsible for providing an export bill of lading or other documentation to the vendor from whom the tangible goods and products were purchased showing that the point of delivery of such goods for use and consumption is a foreign country and not within the territorial confines of the United States, or

d. a sales of any carrier access services, right of access services, telecommunications services to be resold, or telecommunications used in the subsequent provision of, use as a component part of, or integrated into, end-to-end telecommunications service;

24. "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses. "Tangible personal property" includes electricity, water, gas, steam and prewritten computer software. This definition shall be applicable only for purposes of the Oklahoma Sales Tax Code;

25. "Taxpayer" means any person liable to pay a tax imposed by the Oklahoma Sales Tax Code;

26. "Tax period" or "taxable period" means the calendar period or the taxpayer's fiscal period for which a taxpayer has obtained a

permit from the Tax Commission to use a fiscal period in lieu of a calendar period;

27. "Tax remitter" means any person required to collect, report, or remit the tax imposed by the Oklahoma Sales Tax Code. A tax remitter who fails, for any reason, to collect, report, or remit the tax shall be considered a taxpayer for purposes of assessment, collection, and enforcement of the tax imposed by the Oklahoma Sales Tax Code; and

28. "Vendor" means:

a. any person making sales of tangible personal property or services in this state, the gross receipts or gross proceeds from which are taxed by the Oklahoma Sales Tax Code,

b. any person maintaining a place of business in this state and making sales of tangible personal property or services, whether at the place of business or elsewhere, to persons within this state, the gross receipts or gross proceeds from which are taxed by the Oklahoma Sales Tax Code,

c. any person who solicits business by employees, independent contractors, agents, or other representatives ~~or by distribution of catalogs or other advertising matter~~ in this state, and thereby makes sales to persons within this state of tangible personal property or services, the gross receipts or gross proceeds from which are taxed by the Oklahoma Sales Tax Code, or

d. any person, pursuant to an agreement with the person with an ownership interest in or title to tangible personal property, who has been entrusted with the possession of any such property and has the power to designate who is to obtain title, to physically transfer possession of, or otherwise make sales of the property.

SECTION 3. AMENDATORY 68 O.S. 2011, Section 1401, is amended to read as follows:

Section 1401. The following words, terms and phrases when used in this article shall have the meanings respectively given to them in this section:

1. The term "person" shall mean and include any individual, company, partnership, joint venture, joint agreement, association (mutual or otherwise), limited liability company, corporation, estate, trust, business trust, receiver, or trustee appointed by the state or federal court, syndicate, this state, any county, city, municipality, or other political subdivision or agency of the state, or group or combination acting as a unit in the plural or singular number;

2. The term "Tax Commission" means the Oklahoma Tax Commission;

3. The term "purchase price" applies to the measure subject to the tax levied under Section 1402 of this title and has the same meaning as "gross receipts" or "gross proceeds" or "sales price" as defined in Section 1352 of this title;

4. The term "taxpayer" means any person liable to pay a tax hereunder, or charged with the collection and remission thereof, or to make a report for the purpose of claiming any exemptions in payment of any tax levied by this article;

5. The term "purchase at retail" means and includes all purchases except purchases made for the purpose of resale;

6. The term "sale" means and includes the transfer of either the title or possession for a valuable consideration of tangible personal property, regardless of the manner, method, instrumentality or device by which such transfer is accomplished. The term "sale" also includes the exchange, barter, lease, or rental of tangible personal property where such exchange, barter, lease or rental results in either the transfer of the title or the possession;

7. The term "purchase" means and includes any method whereby a transferee receives from a transferor either the title or possession, for a valuable consideration, of tangible personal property, regardless of the manner, method, instrumentality or device by which such transfer is accomplished. The term "purchase" also includes the exchange, barter, lease or rental of tangible personal property where such exchange, barter, lease or rental results in either the transfer of the title or the possession to the transferee;

8. The term "use" means and includes the exercise of any right or power over tangible personal property incident to the ownership or possession of that property, except that it shall not include the sale of that property in the regular course of business;

9. ~~a.~~ The term "retailer" means every person engaged in the business of selling tangible personal property for use within the meaning of the article; provided, however, that when in the opinion of the Tax Commission it is necessary for the efficient administration of this article to regard any salesmen, representatives, truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors, employers or persons as retailers for purposes of this article~~.~~

~~b. A retailer shall be deemed to be engaged in the business of selling tangible personal property for use in this state if:~~

~~(1) both of the following conditions exist:~~

~~(a) the retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by, a retailer maintaining a place of business within this state, and~~

~~(b) the retailer sells the same or a substantially similar line of products as the related Oklahoma retailer and does so under the same or a substantially similar business name, or the Oklahoma facilities or Oklahoma employees of the related Oklahoma retailer are used to advertise, promote or facilitate sales by the retailer to consumers, or~~

~~(2) the retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by, a business that maintains a distribution house, sales house, warehouse or similar place of business in Oklahoma that delivers property sold by the retailer to consumers.~~

~~c. For purposes of subparagraph b of this paragraph:~~

~~(1) "substantial ownership interest" means an interest in an entity that is not less than the degree of ownership of equity interest in an entity that is specified by Section 78p of Title 15 of the United States Code, or any successor to that statute, with respect to a person other than a director or officer,~~

~~(2) "ownership" means and includes both direct ownership and indirect ownership through a parent, subsidiary or affiliate, and~~

~~(3) the processing of orders electronically, including facsimile, telephone, the Internet or other electronic ordering process, does not relieve a retailer of responsibility for collection of the tax from the purchaser if the retailer is doing business in this state pursuant to this paragraph.~~

~~d. Any retailer that is part of a controlled group of corporations, and that controlled group of corporations has a component member that is a retailer engaged in business in this state as described in subparagraph b of this paragraph, shall be presumed to be a retailer engaged in business in this state. This presumption may be rebutted by evidence that during the calendar year at issue the component member that is a retailer engaged in business in this state did not engage in any of the activities described in this subparagraph on behalf of the retailer. For purposes of this subparagraph, "controlled group of corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code, and "component member" means "component member"~~

~~as defined in Section 1563(b) of the Internal Revenue Code.~~

~~e.~~ ~~Any retailer making sales of tangible personal property to purchasers in this state by mail, telephone, the Internet or other media which has a contractual relationship with an entity to provide and perform installation or maintenance services for the retailer's purchasers within this state shall be included within the definition of "retailer" under the provisions of subparagraph a of this paragraph~~; and

10. The phrase "maintaining a place of business within the state" ~~includes any person having or maintaining in the state, directly or by subsidiary, an office, distribution house, sales house, warehouse, or other place of business. It also includes any person having agents operating in the state under authority of the retailer or subsidiary, whether the place of business or agent is within the state permanently or temporarily, or whether the person or subsidiary is authorized to do business within the state is immaterial~~ shall have the same meaning as provided in Section 1352 of this title.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1406.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each retailer or vendor making sales of tangible personal property from a place of business outside this state for use in this state that is not required to collect use tax shall, by February 1 of each year, provide to each customer to whom tangible personal property was delivered in this state a statement of the total sales made to the customer during the preceding calendar year. The statement must contain language substantially similar to the following:

> "YOU MAY OWE OKLAHOMA USE TAX ON PURCHASES YOU MADE FROM US DURING THE PREVIOUS TAX YEAR. THE AMOUNT OF TAX YOU MAY OWE IS BASED ON THE TOTAL SALES PRICE OF [INSERT TOTAL SALES PRICE] THAT MUST BE REPORTED AND PAID WHEN YOU FILE YOUR OKLAHOMA INCOME TAX RETURN UNLESS YOU HAVE ALREADY PAID THE TAX."

The statement must not contain any other information that would indicate, imply or identify the class, type, description or name of

the products purchased. Any information that would indicate, imply or identify the class, type, description or name of the products purchased is strictly confidential.

B. The statement may be provided by first-class mail, email or other electronic communication.

SECTION 5. AMENDATORY 68 O.S. 2011, Section 1407.2, is amended to read as follows:

Section 1407.2 A. For the purpose of ~~encouraging the voluntary~~ registration, collection, and remittance of sales and use taxes owed to this state pursuant to the Oklahoma Retail Protection Act of 2016, the Oklahoma Tax Commission is hereby authorized and directed to establish ~~a Retailer Compliance Initiative~~ an initiative for out-of-state retailers, as provided in this section.

B. 1. The Tax Commission shall not seek payment of uncollected use taxes from an out-of-state retailer who registers to collect and remit applicable sales and use taxes on sales made to purchasers in this state prior to registration under the ~~Retailer Compliance Initiative~~ initiative, provided that the retailer was not registered in this state in the twelve-month period preceding the effective date of this section.

2. The provisions of this subsection will preclude assessment for uncollected sales and use taxes together with penalty or interest for sales made during the period the retailer was not registered in this state, provided registration occurs prior to ~~July 1, 2011~~ May 1, 2017.

3. The relief provided herein shall not be available to a retailer with respect to any matter or matters for which the retailer received notice of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes and is not available for use taxes already paid or remitted to the state or taxes collected, but not remitted, by the retailer.

4. The relief provided herein is fully effective, absent the retailer's fraud or intentional misrepresentation of a material fact, as long as the retailer continues registration and continues collection and remittance of applicable use taxes for a period of at least thirty-six (36) months. The statute of limitations applicable

to asserting a tax liability during this thirty-six-month period shall be tolled.

5. The relief provided herein is applicable only to sales and use taxes due from a retailer in its capacity as a retailer and not to sales and use taxes due from a retailer in its capacity as a buyer.

C. ~~The registration by an out-of-state retailer for the collection of use taxes under the Retailer Compliance Initiative shall not be used as a factor in determining whether the retailer has nexus with this state for any other taxes, including income taxes, at any time.~~

~~D. Out-of-state retailers registering under the Retailer Compliance Initiative shall receive a discount for timely reporting and remitting use taxes as provided in Section 1354.31 of Title 68 of the Oklahoma Statutes.~~

~~E. No registration fee shall be charged against any voluntary out-of-state retailer that comes forward to register to collect and remit use taxes under the Retailer Compliance Initiative.~~

~~F.~~ The Tax Commission shall promulgate rules detailing the terms and other conditions of this program.

SECTION 6. AMENDATORY 68 O.S. 2011, Section 1407.3, is amended to read as follows:

Section 1407.3 In an effort to improve compliance by Internet and other out-of-state retailers maintaining a place of business in this state for the collection of use tax on their sales to Oklahoma residents, the Oklahoma Tax Commission shall implement an outreach program ~~to Internet retailers~~. The program shall include contacting ~~Internet~~ retailers for a review of their business activities to determine if such activities may require the registration and collection of Oklahoma use taxes and the providing of information ~~to the out-of-state retailers about the Retailer Compliance Initiative to encourage registration in this state~~ regarding the provisions of the Retail Protection Act of 2016.

SECTION 7. REPEALER 68 O.S. 2011, Sections 1354.1, 1354.2, 1354.3, 1354.4, 1354.5 and 1354.6, are hereby repealed.

SECTION 8. This act shall become effective November 1, 2016.

Passed the House of Representatives the 12th day of May, 2016.

Presiding Officer of the House of Representatives

Passed the Senate the 21st day of April, 2016.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 16th day of May, 2016, at 2:57 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 17th day of May, 2016, at 3:41 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 17th day of May, 2016, at 3:57 o'clock P. M.

By: Chris Benge