An Act

ENROLLED HOUSE
BILL NO. 2315

By: Hilbert of the House

and

Gollihare of the Senate

An Act relating to electric vehicle charging tax; amending 68 O.S. 2021, Sections 6504, 6506, and 6508, which relate to the Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021; modifying provisions related to determination of tax rate; modifying reporting and remittance date for tax; modifying requirements with respect to the Oklahoma Tax Commission; updating statutory reference; and providing an effective date.

SUBJECT: Electric vehicle charging tax

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 6504, is amended to read as follows:

Section 6504. A. There is hereby imposed a tax of three cents ($0.03) per kilowatt hour or its equivalent, as determined by the Oklahoma ~~Tax~~ Corporation Commission, on the electric current used to charge or recharge the battery or batteries of an electric vehicle. The tax shall be levied beginning January 1, 2024.

B. The amount of tax prescribed or authorized by this section shall not include any fees or charges associated with the method for payment for the charging service, but shall be based only upon the rate of tax and the electricity transferred during the charging process.

C. The tax imposed pursuant to this section shall not be applicable to electric vehicles charged at a private residence at

which the owner or occupant of the residence uses electric power paid for by the owner or occupant of the residence which is supplied to the residence by a regulated public utility, an electric cooperative or other wholesale level of electric supply, whether or not supplemented by electric power produced by the owner or occupant using solar energy or other methods to provide electric power to the residence.

D. The tax imposed pursuant to this section shall not be applicable to electric vehicles charged at charging stations with a charging capacity of less than fifty (50) kilowatts and charging stations that do not require payment for use.

E. In order to determine an equivalent measurement as required in subsection A of this section, the Oklahoma ~~Tax~~ Corporation Commission shall promulgate rules that allow businesses, based on the average cost that such business charged customers at the business's charging stations in the preceding year, to charge the tax on a statewide percentage basis equivalent to the amount of tax that would otherwise have been charged had the rate provided in subsection A of this section been applied in the preceding year. The percentage basis equivalent shall be recalculated annually ~~in conjunction with the Oklahoma Tax~~ through an administrative process outlined in Oklahoma Corporation Commission rules. Parties who wish to challenge the administrative calculation shall follow the process outlined in Commission rules. Businesses with multiple charging station locations in the state shall be authorized to utilize the same percentage basis equivalent at all such locations. The Oklahoma Corporation Commission shall provide the calculation, once deemed final by rule, to the Oklahoma Tax Commission for collection from businesses.

SECTION 2. AMENDATORY 68 O.S. 2021, Section 6506, is amended to read as follows:

Section 6506. A. ~~The~~ For the period beginning January 1, 2024, and ending December 31, 2028, the tax imposed pursuant to the provisions of Section ~~4~~ 6504 of this ~~act~~ title shall be remitted ~~monthly~~ annually, not later than the twenty-seventh day of the first month following the annual period, by each charging station owner or operator. For the periods beginning January 1, 2029, and all subsequent periods, the tax imposed pursuant to the provisions of Section 6504 of this title shall be remitted quarterly, not later than the twenty-seventh day of the first month following the

quarterly period. The tax shall be remitted using such forms as the Oklahoma Tax Commission may prescribe for that purpose.

B. ~~The tax and any~~ Any required report shall be filed with the Oklahoma Tax Commission ~~not later than the twentieth day of the month following the month during which the electric charging for an electric vehicle occurred~~ no later than the day taxes are required to be remitted pursuant to subsection A of this section.

C. The charging station owner or operator shall separately state on any invoice or billing document provided to the customer the amount of the tax imposed pursuant to Section ~~4~~ 6504 of this ~~act~~ title and shall not include the tax amount in the total amount billed to the customer.

D. The provisions of this section shall not prohibit a charging station owner or operator from imposing a fee or charge in addition to the kilowatt hour or other equivalent unit of measurement for the transfer of electric power to an electric vehicle.

E. Legacy chargers shall be exempt from ~~remitting~~ the tax levied in this section until November 1, 2041.

F. Public charging stations that have never charged a fee for their use shall be exempt from remitting the tax levied in this section until November 1, 2041.

SECTION 3. AMENDATORY 68 O.S. 2021, Section 6508, is amended to read as follows:

Section 6508. A. Except for charging stations with a charging capacity of less than fifty (50) kilowatts, and charging stations that do not require payment for use, all charging stations in operation prior to ~~the effective date of this act~~ November 1, 2021, shall register with the Oklahoma Tax Commission not later than January 31, 2024. The Oklahoma Tax Commission shall provide or make available updated registration information to the Oklahoma Corporation Commission.

B. For a charging station which requires payment for its use and begins operations for the first time on or after November 1, 2021, the charging station owner or operator shall register with the Oklahoma Tax Commission not later than fifteen (15) days after the date as of which the first business operations at the station site begin or by January 31, 2024, whichever is later.

C. Any public charging station for an electric vehicle constructed or which begins operations for the first time on or after ~~November 1, 2021, shall use~~ the effective date of this act shall utilize a metering system that is capable of imposing the cost for the charging service using a unit per kilowatt hour or ~~an equivalent~~ a comparable measurement ~~as determined by the Tax Commission~~, such as time elapsed while charging, and the charging capacity of the charging station~~, or such as the process described in subsection E of Section 1 of this act~~. The metering system shall include a system by which an audit of the electricity supplied through the system may be performed to determine the amount of electricity transferred to a customer and the cost charged by the charging station owner or operator for each unit of electricity transferred.

D. The Oklahoma Tax Commission shall have the authority to inspect the premises and equipment of any charging station owner or operator to enforce compliance with the provisions of this section.

E. If a charging station owner or operator fails to remit the tax as required by the provisions of ~~this act~~ the Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021, the Oklahoma Tax Commission shall begin proceedings to terminate the charging station owner or operator license to do business for failure to remit in the same manner as prescribed by law for failure to remit sales tax.

SECTION 4. This act shall become effective November 1, 2023.

Passed the House of Representatives the 8th day of May, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 26th day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 9th day of May, 20 23, at 3:06 o'clock p. M.

By: [signature]

Approved by the Governor of the State of Oklahoma this 11th day of May, 20 23, at 9:32 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 11th day of May, 2023, at 12:24 o'clock P. M.

By: [signature]