

The within copy of Petition in Referendum was offered and filed by T. S. Caldwell, and Edward Milligan, citizens of the State of Oklahoma on this the 9th day of May, 1933. The filing thereof was accepted and the same duly filed in the office of Secretary of State this 9th day of May, 1933, and the same designated as State Question No. 179, Referendum No. 56.

R. G. Freed
WARNING SECRETARY OF STATE
Walter P. ...
Assistant Secretary of State

IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR KNOWINGLY TO SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN SUCH PETITIONS WHEN HE IS NOT A LEGAL VOTER.

State Question No. 179 Referendum No. 56

(Twenty Names Only Allowed on a Petition of This Nature.)

Petition In Referendum

To The HONORABLE WILLIAM H. MURRAY, Governor of Oklahoma:

We the undersigned citizens and legal voters of the State of Oklahoma, respectfully order that the House Bill No. 229 entitled:

"AN ACT LEVYING A STAMP TAX ON THE SALE OF CIGARETTES; PRESCRIBING THE RATE THEREOF; PROVIDING FOR STAMPS AND THE USE THEREOF; PROVIDING FOR THE ENFORCEMENT OF THIS ACT BY THE OKLAHOMA TAX COMMISSION AND FOR RULES AND REGULATIONS IN RELATION THERETO; PROVIDING THAT THE REVENUE DERIVED HEREFUNDER, LESS EXPENSES FOR COLLECTION AND ENFORCEMENT, SHALL BE USED TO RETIRE OBLIGATIONS OF SCHOOL DISTRICTS AND OTHERWISE TO REDUCE AD VALOREM TAXES; CREATING A FUND FOR THE ENFORCEMENT OF THIS ACT AND FOR REFUNDS, AND MAKING APPROPRIATIONS THEREFOR; PRESCRIBING PENALTIES."

Passed by the Fourteenth session of the Legislature of the State of Oklahoma, at the regular session of said Legislature, shall be referred to the people of the state, for their approval or rejection at the next election held throughout the State or at a special election to be called hereon by the Governor of the State of Oklahoma, and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma, and my residence and postoffice address are correctly written after my name.

The question we herewith submit to our fellow voters is: "SHALL THE FOLLOWING BILL OF THE LEGISLATURE BE VETOED?"

ENROLLED

HOUSE BILL, NO. 229

By GRAY

AN ACT LEVYING A STAMP TAX ON THE SALE OF CIGARETTES; PRESCRIBING THE RATE THEREOF; PROVIDING FOR STAMPS AND THE USE THEREOF; PROVIDING FOR THE ENFORCEMENT OF THIS ACT BY THE OKLAHOMA TAX COMMISSION AND FOR THE RULES AND REGULATIONS IN RELATION THERETO; PROVIDING THAT THE REVENUE DERIVED HEREUNDER, LESS EXPENSES FOR COLLECTION AND ENFORCEMENT, SHALL BE USED TO RETIRE OBLIGATIONS OF SCHOOL DISTRICTS AND OTHERWISE TO REDUCE AD VALOREM TAXES; CREATING A FUND FOR THE ENFORCEMENT OF THIS ACT AND FOR REFUNDS, AND MAKING APPROPRIATIONS THEREFOR; PRESCRIBING PENALTIES.

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

SECTION 1.

The title of this Act shall be the "Oklahoma Cigarette Stamp Tax."

SECTION 2.

The sale, barter or exchange of cigarettes is hereby declared to be a subject of taxation authorized by Section 12, Article X, of the Oklahoma Constitution; and it is the purpose and intent of this Act to liquidate the outstanding warrant and bond indebtedness of the school districts of this State; to reduce the burden of ad valorem taxation; and to place all school district warrants on a cash basis as nearly as may be.

SECTION 3.

Wherever used in this Act—

- (a) The term "cigarette" is defined to mean and include all rolled tobacco, or any substitute therefor, not rolled or wrapped in tobacco leaf;
- (b) The term "person" is defined to mean and include individuals, firms, associations, corporations and any and all other business organizations or entities;
- (c) The term "wholesaler" is defined to mean a person who comes into possession of cigarettes, whether as manufacturer or distributor, for the purpose of selling the same to other persons who resell or retail such cigarettes to consumers;
- (d) The term "retailer" is defined to mean a person who comes into possession of cigarettes for the purpose of selling the same to consumers, and if any wholesaler, as herein defined, sells any such cigarettes to any person other than a retailer, or uses or consumes the same, such wholesaler is hereby declared to be subject to all the provisions of this Act applying to retailers;
- (e) The term "consumer" is defined to mean a person who comes into possession of cigarettes for the purpose of using the same.
- (f) The term "Commission" is defined to mean the Oklahoma Tax Commission.

SECTION 4.

There is hereby levied a tax on all sales of cigarettes in intrastate commerce in this State, which tax shall be collected and paid at rate as follows, to-wit:

On all cigarettes, three cents (3c) on each package of twenty (20), or at the rate of one and 50-100 Dollars (\$1.50) per each one thousand (1,000) cigarettes sold.

The tax hereby levied shall be paid only once on account of any cigarettes sold and shall be paid by the person making the first sale thereof in intrastate commerce in this State, and payment shall be evidenced by stamps purchased from the Commission and properly cancelled and securely affixed to the package, parcel or other container in which such cigarettes are sold, denoting the amount of the tax thereon as levied by this Act; provided, that such stamps may be purchased and cancelled and affixed to such package, parcel or other container by a manufacturer, distributor or wholesaler outside of this State, in which case no further payment of tax shall be required. Provided that the tax imposed by this Act shall be in lieu of any and all other forms of tax upon the sales of cigarettes within this State.

SECTION 5.

It shall be unlawful for any person to sell cigarettes on which the tax, as herein levied, has not been paid, and which are not contained in packages, parcels or other containers to which are securely affixed the stamps evidencing payment of the tax imposed by this Act.

SECTION 6.

The tax hereby levied shall be paid to the Commission by all persons liable for a tax hereunder; and, for convenience in the enforcement and collection of the taxes imposed by this Act, stamps shall be provided by said Commission for sale to, and use by, persons paying taxes under this Act.

No person subject to the provisions of this Act shall display or expose for sale in this State, after the effective date of this act, any cigarettes, as herein defined, without complying with the provisions of this Act with respect to stamping the same; and if any person does display or expose for sale in this State any cigarettes, without the same having first been stamped, as herein required, the said cigarettes shall be subject to seizure and sale, as provided by law for sale of property under execution.

SECTION 7.

Every wholesaler, before making any sale of cigarettes to a retailer, in intrastate commerce, shall stamp the same, and every retailer of cigarettes shall, immediately after receiving any unstamped cigarettes, stamp the same; and, in each case, shall affix to each package the stamp or stamps denoting the tax thereon, as herein levied, in the manner and way as follows, to-wit:

The stamp shall be affixed, in all cases, where practicable, by securely attaching same across the lid or opening of the package or container, in such manner that the said stamp or stamps shall be exposed, and in such manner that the stamp or stamps will be broken when the package or container is opened.

SECTION 8.

It shall be the duty of the Commission to have engraved or printed, stamps of the proper denominations necessary to comply with this Act; and to sell the same to all manufacturers, wholesalers or retailers, upon demand and payment therefor; and said Commission shall be responsible for the custody and sale of such stamps and for the disposition of the proceeds from such sales, as hereinafter provided. Such stamps shall be of such design and character as the said Commission shall, from time to time, prescribe; and shall state the amount of tax, the payment of which is evidenced thereby, and shall contain the words "Oklahoma Cigarette Stamp Tax Paid."

Any stamp or stamps affixed to any package or container of cigarettes shall, immediately upon being affixed, be cancelled in such manner as may be prescribed by the rules and regulations adopted and promulgated by the Commission.

SECTION 9.

The right of a common carrier in this State to carry unstamped cigarettes, as defined in this Act, shall not be affected hereby; but, if any such carrier shall sell any such cigarettes to its passengers, while being carried in the State of Oklahoma, it shall be subject to the stamp tax and other provisions of this Act, and to the rules and regulations of the Commission.

SECTION 10.

Any person who shall, without the authorization of the Commission, make or manufacture, or who shall falsely or fraudulently forge or counterfeit any stamp prescribed for use in the administration of this Act, or who shall knowingly use or pass, or tender as true, any unauthorized, false, altered, forged, counterfeited or previously used stamp, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for a term of not less than one year nor more than five years, or by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than five thousand dollars (\$5,000.00), or by both such imprisonment and fine.

Each and every person violating any other provision of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for a period of not less than one (1) month nor more than (6) months, or by a fine of not less than one hundred dollars (\$100.00) nor more than six hundred dollars (\$600.00), or by both such fine and imprisonment.

SECTION 11.

Each and every person subject to the payment of a tax hereunder, is hereby required to keep accurate records covering the business carried on and shall, for such reasonable time as may be prescribed by the rules and regulations of the Commission, file and keep his invoices or other memoranda, showing all purchases and sales of cigarettes, as herein defined; and such invoices or memoranda, and his stock of cigarettes shall, at all times, be subject to the examination and inspection of any member or agent of the Commission, in the enforcement of this Act.

SECTION 12.

In addition to the penalties herein provided for violation of this Act, each and every person who refuses to permit the examination of his books, records and files, or who ignores or violates the rules and regulations of the Commission, made pursuant to this Act, or who violates any provision of this Act, shall be subject to injunction forbidding such person from continuing to carry on business, until such time as he makes full and complete compliance with the provisions of this Act; and a suit for such injunction may be brought in any court of competent jurisdiction, in the name of the State of Oklahoma, upon the relation of the Oklahoma Tax Commission.

SECTION 13.

The Commission is hereby authorized to prescribe and promulgate all necessary rules and regulations for the enforcement of all the provisions of this Act.

SECTION 14.

Any person, as herein defined, or any representative or agent of any person, who is required to pay taxes under the provisions of this Act, who shall fail to affix stamps properly, and to cancel such stamps, in accordance with the provisions of this Act, and the rules and regulations of the Commission made pursuant hereto, or who shall refuse to permit any

member or agent of the Commission to examine and inspect the taxable stock of cigarettes, invoices, files, records, papers and other memoranda necessary for full and complete information relating to the administration and enforcement of this Act, shall be guilty of a misdemeanor and be punished as elsewhere herein provided.

SECTION 15.

Five percentum (5%) of all moneys collected under this Act shall be placed to the credit of a fund to be designated as "Oklahoma Cigarette Stamp Tax Enforcement Fund," to be used for the collection of revenue, making refunds under this Act, and for the enforcement thereof; and the Commission shall appoint necessary employees and incur all necessary expenses for such purposes. Upon the presentation of a claim, upon itemized vouchers, in form as required by law, the State Auditor shall draw warrants therefor upon the State Treasury, and the same shall be paid out of the aforesaid fund; and the said fund, or so much thereof as may be necessary, is hereby appropriated for the payment of salaries, expenses and refunds, as above mentioned; and if, at the end of any fiscal year, any part of said fund shall remain unexpended, such balance shall, by the State Treasurer, be transferred to and become a part of the General Revenue Fund of the State.

SECTION 16.

Ninety-five percentum (95%) of the moneys collected hereunder shall be apportioned quarterly to the several common school districts of the State on a scholastic enumeration per capita distribution basis; and shall be distributed to the various Counties in accordance with existing law for distribution of like funds; and the distribution to the various Counties shall be made by the Commission as soon as practicable after the close of each quarterly period ending March 31st, June 30th, September 30th, and December 31st of each year.

The moneys so apportioned and distributed to each school district shall not be considered as income or revenue for the fiscal year in which they are collected, or the fiscal year in which they are apportioned, and shall not be appropriated or taken into consideration in the making of any appropriation or in estimating revenue to be received from sources other than ad valorem taxes, but shall be used for the following purposes:

(a) Each school district receiving any moneys hereunder shall first use the same to pay and retire all outstanding warrants which shall have been legally issued against a valid appropriation and which shall have been outstanding and unpaid for at least one year prior to the beginning of the fiscal year in which the moneys are distributed to such school districts; the oldest of said outstanding warrants shall be paid first and others shall be paid in the order of their date of issue.

(b) When any school district shall have paid all such outstanding warrants, as hereinbefore provided, or shall have accumulated sufficient funds to pay the same, or should any such school district have no outstanding warrants which have been outstanding and unpaid for at least one year prior to the beginning of the fiscal year in which the moneys collected hereunder are distributed to such school district, the moneys apportioned to such school district under the provisions of this Act shall be credited to its sinking fund for the purpose of retiring its outstanding bond indebtedness.

(c) When any school district shall have paid, or accumulated sufficient funds to pay, such outstanding warrants, as hereinbefore provided, or should such school district have no outstanding warrants which have been outstanding and unpaid for at least one year prior to the beginning of the fiscal year in which the moneys collected hereunder are distributed to such school district; and when any school district shall have paid all outstanding bond indebtedness, or accumulated sufficient funds to pay such bond indebtedness at maturity, or should any such school district have no bond indebtedness, the moneys collected and apportioned hereunder shall be used by such school district to reduce the rate of ad valorem taxation in accordance with the provisions of Section 12499, Oklahoma Statutes 1931, including the provisions thereof relating to the participation of the State Common School Equalization Fund.

SECTION 17.

The provisions of this Act are hereby declared to be severable; and, in case any part or provision of the Act is held void by any court, the remaining parts or provisions of the Act shall not be thereby impaired or otherwise affected.

SECTION 18.

This Act shall become operative on and after the thirtieth day following its approval by the Governor of Oklahoma; and its provisions shall apply to all cigarettes in stock and on hand on the date this Act becomes operative.

PASSED the House of Representatives the 17th day of April, 1933.

PASSED the Senate the 17th day of April, 1933.

TOM ANGLIN,
Speaker of the House of Representatives.

ROBERT BURNS,
President of the Senate.

APPROVED the 17th day of April, 1933, by the Governor of the State of Oklahoma.

CORRECTLY ENROLLED

Wm. H. MURRAY.

JULIUS W. COX,
Acting Chairman Committee on Enrolled and Engrossed Bills.

IN THE OFFICE OF THE SECRETARY OF STATE OF OKLAHOMA.

TO HONORABLE R. A. SNEED SECRETARY OF STATE OF OKLAHOMA.

We the undersigned citizens, residents and legal voters of the State of Oklahoma, state that heretofore, to-wit; that on the 9th day of May, A. D. 1933, we filed in your office a copy of a Petition in Referendum seeking to refer to the legal voters of the State of Oklahoma, House Bill No. 229 passed by the Regular Session of the Fourteenth Legislature of the State of Oklahoma, 1933, which bill was duly approved by the Governor of the State of Oklahoma on the 17th day of April, A. D. 1933.

That we circulated and caused to be circulated an original petition therein. That on this the 19th day of July A. D. 1933, we tender for filing and request the same to be filed, the original petition in Referendum No. 56, State Question No. 179. That there is contained on said original petition herein 83,114 names. That each person whose name appears therein personally signed the same, and gave their residence and post office address, and that the several circulators who circulated the petition and secured said signers duly verified the same before an officer having authority to administer oath. That the number of names attached to the original petition herein is far in excess of the number required to invoke a referendum vote on said measure. That as shown by the office of the Secretary of State, Election Board, there was cast at the regular general election of the State of Oklahoma 1932 704,633 votes, for state electors, being the highest vote cast for any other state officers, and that the number of voters necessary to cause a referendum to be had on the within measure is 35,233 names.

We herewith tender 17 packages numbered from one (1) to seventeen (17) inclusive. That there is contained in each of the packages 5000 names of legal voters save and except package No. 16, which contains approximately 4,020 names of complete petitions, and package No. 17 containing 4,094 names of incomplete petitions.

H. S. Caldwell

Edward Milligan
CIRCULATORS.

STATE OF OKLAHOMA OFFICE OF THE SECRETARY OF STATE.

I, R. A. Sneed, Secretary of the State of Oklahoma, on this the 19th day of July A. D. 1933 acknowledge that I received from H. S. Caldwell and Edward Milligan, packages numbered one (1) to seventeen (17) inclusive.

That each and all of the packages purport to contain 5000 names of legal voters of the State of Oklahoma and package No. 16 purports to contain 4,020 names, and package No. 17 of incomplete petitions contains 4,094 names, making a total of 83,114 signatures of legal voters purporting to sign said petition.

Package No.	1,	5000 names.
"	"	2, 5000 names.
"	"	3, 5000 names.
"	"	4, 5000 names.
"	"	5, 5000 names.
"	"	6, 5000 names.
"	"	7, 5000 names.
"	"	8, 5000 names.
"	"	9, 5000 names.
"	"	10, 5000 names.
"	"	11, 5000 names.
"	"	12, 5000 names.
"	"	13, 5000 names.
"	"	14, 5000 names.
"	"	15, 5000 names.
"	"	16, 4020 names, Complete petitions.
"	"	17, 4094 names, Incomplete petitions.

TOTAL SIGNATURES-----83,114.

R. A. Sneed
SECRETARY OF STATE.
Wm. L. Roberts
Assistant Secretary of State