1	STATE OF OKLAHOMA
2	1st Extraordinary Session of the 56th Legislature (2017)
З	HOUSE BILL 1075 By: Kouplen
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6	AS INTRODUCED
7	An Act relating to revenue and taxation; amending 68
8	O.S. 2011, Section 1357, as last amended by Section 18, Chapter 54, O.S.L. 2015 (68 O.S. Supp. 2017, Section 1257), which relates to called tow eventions.
9	Section 1357), which relates to sales tax exemptions; providing exemption for certain vehicle sales;
10	clarifying applicability of the Oklahoma Department of Veterans Affairs veterans registry; clarifying language; clarifying reference; repealing Section 10,
11	Chapter 229, O.S.L. 2017 (68 O.S. Supp. 2017, Section 10, 1357), which relates to a duplicate section; and
12	declaring an emergency.
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15	BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
16	SECTION 1. AMENDATORY 68 O.S. 2011, Section 1357, as
17	last amended by Section 18, Chapter 54, O.S.L. 2015 (68 O.S. Supp.
18	2017, Section 1357), is amended to read as follows:
19	Section 1357. Exemptions - General.
20	There are hereby specifically exempted from the tax levied by
21	the Oklahoma Sales Tax Code:
22	1. Transportation of school pupils to and from elementary
23	schools or high schools in motor or other vehicles;
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2. Transportation of persons where the fare of each person does
 not exceed One Dollar (\$1.00), or local transportation of persons
 within the corporate limits of a municipality except by taxicabs;

4 3. Sales for resale to persons engaged in the business of 5 reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made 6 7 to persons to whom sales tax permits have been issued as provided in the Oklahoma Sales Tax Code. This exemption shall not apply to the 8 9 sales of articles made to persons holding permits when such persons 10 purchase items for their use and which they are not regularly 11 engaged in the business of reselling; neither shall this exemption 12 apply to sales of tangible personal property to peddlers, solicitors 13 and other salespersons who do not have an established place of 14 business and a sales tax permit. The exemption provided by this 15 paragraph shall apply to sales of motor fuel or diesel fuel to a 16 Group Five vendor, but the use of such motor fuel or diesel fuel by 17 the Group Five vendor shall not be exempt from the tax levied by the 18 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel 19 is exempt from sales tax when the motor fuel is for shipment outside 20 this state and consumed by a common carrier by rail in the conduct 21 of its business. The sales tax shall apply to the purchase of motor 22 fuel or diesel fuel in Oklahoma by a common carrier by rail when 23 such motor fuel is purchased for fueling, within this state, of any 24 locomotive or other motorized flanged wheel equipment;

1 4. Sales of advertising space in newspapers and periodicals; Sales of programs relating to sporting and entertainment 2 5. events, and sales of advertising on billboards (including signage, 3 4 posters, panels, marquees, or on other similar surfaces, whether 5 indoors or outdoors) or in programs relating to sporting and entertainment events, and sales of any advertising, to be displayed 6 at or in connection with a sporting event, via the Internet, 7 electronic display devices, or through public address or broadcast 8 9 systems. The exemption authorized by this paragraph shall be 10 effective for all sales made on or after January 1, 2001;

6. Sales of any advertising, other than the advertising described by paragraph 5 of this section, via the Internet, electronic display devices, or through the electronic media, including radio, public address or broadcast systems, television (whether through closed circuit broadcasting systems or otherwise), and cable and satellite television, and the servicing of any advertising devices;

18 Eggs, feed, supplies, machinery and equipment purchased by 7. 19 persons regularly engaged in the business of raising worms, fish, 20 any insect or any other form of terrestrial or aquatic animal life 21 and used for the purpose of raising same for marketing. This 22 exemption shall only be granted and extended to the purchaser when 23 the items are to be used and in fact are used in the raising of 24 animal life as set out above. Each purchaser shall certify, in

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writing, on the invoice or sales ticket retained by the vendor that the purchaser is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

8 8. Sale of natural or artificial gas and electricity, and
9 associated delivery or transmission services, when sold exclusively
10 for residential use. Provided, this exemption shall not apply to
11 any sales tax levied by a city or town, or a county, or any other
12 jurisdiction in this state;

13 9. In addition to the exemptions authorized by Section 1357.6 14 of this title, sales of drugs sold pursuant to a prescription 15 written for the treatment of human beings by a person licensed to 16 prescribe the drugs, and sales of insulin and medical oxygen. 17 Provided, this exemption shall not apply to over-the-counter drugs; 18 10. Transfers of title or possession of empty, partially 19 filled, or filled returnable oil and chemical drums to any person 20 who is not regularly engaged in the business of selling, reselling 21 or otherwise transferring empty, partially filled, or filled 22 returnable oil drums;

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Sales of one-way utensils, paper napkins, paper cups,
 disposable hot containers and other one-way carry out materials to a
 vendor of meals or beverages;

4 12. Sales of food or food products for home consumption which 5 are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 6 7 through 2029 of Title 7 of the United States Code, as to that 8 portion purchased with such coupons. The exemption provided for 9 such sales shall be inapplicable to such sales upon the effective 10 date of any federal law that removes the requirement of the 11 exemption as a condition for participation by the state in the 12 federal food stamp program;

13 13. Sales of food or food products, or any equipment or 14 supplies used in the preparation of the food or food products to or 15 by an organization which:

16a.is exempt from taxation pursuant to the provisions of17Section 501(c)(3) of the Internal Revenue Code, 2618U.S.C., Section 501(c)(3), and which provides and19delivers prepared meals for home consumption to20elderly or homebound persons as part of a program21commonly known as "Meals on Wheels" or "Mobile Meals",22or

b. is exempt from taxation pursuant to the provisions of
Section 501(c)(3) of the Internal Revenue Code, 26

1 U.S.C., Section 501(c)(3), and which receives federal 2 funding pursuant to the Older Americans Act of 1965, 3 as amended, for the purpose of providing nutrition 4 programs for the care and benefit of elderly persons; 5 14. a. Sales of tangible personal property or services to or by organizations which are exempt from taxation 6 7 pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), 8 9 and: 10 (1)are primarily involved in the collection and distribution of food and other household products 11 12 to other organizations that facilitate the 13 distribution of such products to the needy and 14 such distributee organizations are exempt from 15 taxation pursuant to the provisions of Section 16 501(c)(3) of the Internal Revenue Code, 26 17 U.S.C., Section 501(c)(3), or 18 facilitate the distribution of such products to (2)19 the needy. 20 b. Sales made in the course of business for profit or 21 savings, competing with other persons engaged in the 22 same or similar business shall not be exempt under 23 this paragraph; 24

1 15. Sales of tangible personal property or services to 2 children's homes which are located on church-owned property and are 3 operated by organizations exempt from taxation pursuant to the 4 provisions of the Internal Revenue Code, 26 U.S.C., Section 5 501(c)(3);

6 16. Sales of computers, data processing equipment, related 7 peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or 8 9 manufacturing facility. For purposes of this paragraph, "qualified 10 aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or 11 12 rebuilding whether or not on a factory basis, whose total cost of 13 construction exceeds the sum of Five Million Dollars (\$5,000,000.00) 14 and which employs at least two hundred fifty (250) new full-time-15 equivalent employees, as certified by the Oklahoma Employment 16 Security Commission, upon completion of the facility. In order to 17 qualify for the exemption provided for by this paragraph, the cost 18 of the items purchased by the qualified aircraft maintenance or 19 manufacturing facility shall equal or exceed the sum of Two Million 20 Dollars (\$2,000,000.00);

21 17. Sales of tangible personal property consumed or
22 incorporated in the construction or expansion of a qualified
23 aircraft maintenance or manufacturing facility as defined in
24 paragraph 16 of this section. For purposes of this paragraph, sales

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1 made to a contractor or subcontractor that has previously entered 2 into a contractual relationship with a qualified aircraft 3 maintenance or manufacturing facility for construction or expansion 4 of such a facility shall be considered sales made to a qualified 5 aircraft maintenance or manufacturing facility;

Sales of the following telecommunications services: 6 18. 7 Interstate and International "800 service". "800 a. service" means a "telecommunications service" that 8 9 allows a caller to dial a toll-free number without 10 incurring a charge for the call. The service is typically marketed under the name "800", "855", "866", 11 12 "877", and "888" toll-free calling, and any subsequent 13 numbers designated by the Federal Communications 14 Commission, or

15 Interstate and International "900 service". "900 b. 16 service" means an inbound toll "telecommunications 17 service" purchased by a subscriber that allows the 18 subscriber's customers to call in to the subscriber's 19 prerecorded announcement or live service. "900 20 service" does not include the charge for: collection 21 services provided by the seller of the 22 "telecommunications services" to the subscriber, or 23 service or product sold by the subscriber to the 24 subscriber's customer. The service is typically

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marketed under the name "900" service, and any subsequent numbers designated by the Federal Communications Commission,

- Interstate and International "private communications 4 с. 5 service". "Private communications service" means a "telecommunications service" that entitles the 6 7 customer to exclusive or priority use of a communications channel or group of channels between or 8 9 among termination points, regardless of the manner in 10 which such channel or channels are connected, and 11 includes switching capacity, extension lines, 12 stations, and any other associated services that are 13 provided in connection with the use of such channel or 14 channels,
- 15d. "Value-added nonvoice data service". "Value-added16nonvoice data service" means a service that otherwise17meets the definition of "telecommunications services"18in which computer processing applications are used to19act on the form, content, code, or protocol of the20information or data primarily for a purpose other than21transmission, conveyance or routing,

e. Interstate and International telecommunications service which is:

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- (1) rendered by a company for private use within its
   organization, or
  - (2) used, allocated, or distributed by a company to its affiliated group,
- f. Regulatory assessments and charges, including charges
  to fund the Oklahoma Universal Service Fund, the
  Oklahoma Lifeline Fund and the Oklahoma High Cost
  Fund, and
- 9 g. Telecommunications nonrecurring charges, including but 10 not limited to the installation, connection, change or 11 initiation of telecommunications services which are 12 not associated with a retail consumer sale;

13 19. Sales of railroad track spikes manufactured and sold for 14 use in this state in the construction or repair of railroad tracks, 15 switches, sidings and turnouts;

16 20. Sales of aircraft and aircraft parts provided such sales 17 occur at a qualified aircraft maintenance facility. As used in this 18 paragraph, "qualified aircraft maintenance facility" means a 19 facility operated by an air common carrier, including one or more 20 component overhaul support buildings or structures in an area owned, 21 leased or controlled by the air common carrier, at which there were 22 employed at least two thousand (2,000) full-time-equivalent 23 employees in the preceding year as certified by the Oklahoma 24 Employment Security Commission and which is primarily related to the

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1 fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or 2 aircraft parts used in air common carriage. For purposes of this 3 paragraph, "air common carrier" shall also include members of an 4 5 affiliated group as defined by Section 1504 of the Internal Revenue 6 Code, 26 U.S.C., Section 1504. Beginning July 1, 2012, sales of 7 machinery, tools, supplies, equipment and related tangible personal property and services used or consumed in the repair, remodeling or 8 9 maintenance of aircraft, aircraft engines, or aircraft component 10 parts which occur at a qualified aircraft maintenance facility; 11 21. Sales of machinery and equipment purchased and used by 12 persons and establishments primarily engaged in computer services

13 and data processing:

14a. as defined under Industrial Group Numbers 7372 and157373 of the Standard Industrial Classification (SIC)16Manual, latest version, which derive at least fifty17percent (50%) of their annual gross revenues from the18sale of a product or service to an out-of-state buyer19or consumer, and

b. as defined under Industrial Group Number 7374 of the
SIC Manual, latest version, which derive at least
eighty percent (80%) of their annual gross revenues
from the sale of a product or service to an out-ofstate buyer or consumer.

1 Eligibility for the exemption set out in this paragraph shall be 2 established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the 3 4 facility so qualifies and such information as required by the Tax 5 Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, 6 7 all sales to the federal government shall be considered to be to an out-of-state buyer or consumer; 8

9 22. Sales of prosthetic devices to an individual for use by
10 such individual. For purposes of this paragraph, "prosthetic
11 device" shall have the same meaning as provided in Section 1357.6 of
12 this title, but shall not include corrective eye glasses, contact
13 lenses or hearing aids;

14 Sales of tangible personal property or services to a motion 23. 15 picture or television production company to be used or consumed in 16 connection with an eligible production. For purposes of this 17 paragraph, "eligible production" means a documentary, special, music 18 video, or a television commercial or television program that will 19 serve as a pilot for or be a segment of an ongoing dramatic or 20 situation comedy series filmed or taped for network or national or 21 regional syndication or a feature-length motion picture intended for 22 theatrical release or for network or national or regional 23 syndication or broadcast. The provisions of this paragraph shall 24 apply to sales occurring on or after July 1, 1996. In order to

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qualify for the exemption, the motion picture or television production company shall file any documentation and information required to be submitted pursuant to rules promulgated by the Tax Commission;

5 24. Sales of diesel fuel sold for consumption by commercial
6 vessels, barges and other commercial watercraft;

7 25. Sales of tangible personal property or services to tax-8 exempt independent nonprofit biomedical research foundations that 9 provide educational programs for Oklahoma science students and 10 teachers and to tax-exempt independent nonprofit community blood 11 banks headquartered in this state;

12 26. Effective May 6, 1992, sales of wireless telecommunications 13 equipment to a vendor who subsequently transfers the equipment at no 14 charge or for a discounted charge to a consumer as part of a 15 promotional package or as an inducement to commence or continue a 16 contract for wireless telecommunications services;

17 27. Effective January 1, 1991, leases of rail transportation 18 cars to haul coal to coal-fired plants located in this state which 19 generate electric power;

20 28. Beginning July 1, 2005, sales of aircraft engine repairs, 21 modification, and replacement parts, sales of aircraft frame repairs 22 and modification, aircraft interior modification, and paint, and 23 sales of services employed in the repair, modification and

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1 replacement of parts of aircraft engines, aircraft frame and 2 interior repair and modification, and paint;

3 29. Sales of materials and supplies to the owner or operator of 4 a ship, motor vessel or barge that is used in interstate or 5 international commerce if the materials and supplies:

a. are loaded on the ship, motor vessel or barge and used
in the maintenance and operation of the ship, motor
vessel or barge, or

9 b. enter into and become component parts of the ship,
10 motor vessel or barge;

30. Sales of tangible personal property made at estate sales at which such property is offered for sale on the premises of the former residence of the decedent by a person who is not required to be licensed pursuant to the Transient Merchant Licensing Act, or who is not otherwise required to obtain a sales tax permit for the sale of such property pursuant to the provisions of Section 1364 of this title; provided:

a. such sale or event may not be held for a period
exceeding three (3) consecutive days,
b. the sale must be conducted within six (6) months of
the date of death of the decedent, and
c. the exemption allowed by this paragraph shall not be

23 allowed for property that was not part of the 24 decedent's estate;

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1 Beginning January 1, 2004, sales of electricity and 31. 2 associated delivery and transmission services, when sold exclusively for use by an oil and gas operator for reservoir dewatering projects 3 4 and associated operations commencing on or after July 1, 2003, in 5 which the initial water-to-oil ratio is greater than or equal to five-to-one water-to-oil, and such oil and gas development projects 6 7 have been classified by the Corporation Commission as a reservoir dewatering unit; 8

9 32. Sales of prewritten computer software that is delivered 10 electronically. For purposes of this paragraph, "delivered 11 electronically" means delivered to the purchaser by means other than 12 tangible storage media;

13 33. Sales of modular dwelling units when built at a production 14 facility and moved in whole or in parts, to be assembled on-site, 15 and permanently affixed to the real property and used for 16 residential or commercial purposes. The exemption provided by this 17 paragraph shall equal forty-five percent (45%) of the total sales 18 price of the modular dwelling unit. For purposes of this paragraph, 19 "modular dwelling unit" means a structure that is not subject to the 20 motor vehicle excise tax imposed pursuant to Section 2103 of this 21 title;

34. <u>a.</u> Sales of tangible personal property or services to:
 <u>(1)</u> persons who are residents of Oklahoma and have
 been honorably discharged from active service in

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1 any branch of the Armed Forces of the United 2 States or Oklahoma National Guard and who have 3 been certified by the United States Department of Veterans Affairs or its successor to be in 4 5 receipt of disability compensation at the one-6 hundred-percent rate and the disability shall be 7 permanent and have been sustained through military action or accident or resulting from 8 9 disease contracted while in such active service 10 and who, after November 1, 2020, registered with 11 the veterans registry created by the Oklahoma 12 Department of Veterans Affairs; provided, that if 13 the person has received the sales tax exemption 14 pursuant to this paragraph prior to November 1, 15 2020, no registration with the veterans registry 16 shall be required, or

17 (2) the surviving spouse of such a person eligible 18 under the provisions of division (1) of this 19 subparagraph if the person is deceased and the 20 spouse has not remarried; provided, sales for the 21 benefit of the an eligible person to a spouse of 22 the eligible person or to a member of the 23 household in which the eligible person resides 24 and who is authorized to make purchases on the

person's behalf, when such eligible person is not present at the sale, shall also be exempt for purposes of this paragraph. The Oklahoma Tax Commission shall issue a separate exemption card to a spouse of an eligible person or to a member of the household in which the eligible person resides who is authorized to make purchases on the person's behalf, if requested by the eligible person.

10 Sales qualifying for the exemption authorized by this b. 11 paragraph shall not exceed Twenty-five Thousand 12 Dollars (\$25,000.00) per year per individual while the 13 disabled veteran is living. Sales qualifying for the 14 exemption authorized by this paragraph shall not 15 exceed One Thousand Dollars (\$1,000.00) per year for 16 an unremarried surviving spouse. Upon request of the 17 Tax Commission, a person asserting or claiming the 18 exemption authorized by this paragraph shall provide a 19 statement, executed under oath, that the total sales 20 amounts for which the exemption is applicable have not 21 exceeded Twenty-five Thousand Dollars (\$25,000.00) per 22 year per living disabled veteran or One Thousand 23 Dollars (\$1,000.00) per year for an unremarried 24 surviving spouse. If the amount of such exempt sales

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exceeds such amount, the sales tax in excess of the authorized amount shall be treated as a direct sales tax liability and may be recovered by the Tax Commission in the same manner provided by law for other taxes, including penalty and interest;

6 Sales of electricity to the operator, specifically 35. 7 designated by the Corporation Commission, of a spacing unit or lease from which oil is produced or attempted to be produced using 8 9 enhanced recovery methods, including, but not limited to, increased 10 pressure in a producing formation through the use of water or 11 saltwater if the electrical usage is associated with and necessary 12 for the operation of equipment required to inject or circulate 13 fluids in a producing formation for the purpose of forcing oil or 14 petroleum into a wellbore for eventual recovery and production from 15 the wellhead. In order to be eligible for the sales tax exemption 16 authorized by this paragraph, the total content of oil recovered 17 after the use of enhanced recovery methods shall not exceed one 18 percent (1%) by volume. The exemption authorized by this paragraph 19 shall be applicable only to the state sales tax rate and shall not 20 be applicable to any county or municipal sales tax rate;

36. Sales of intrastate charter and tour bus transportation.
As used in this paragraph, "intrastate charter and tour bus
transportation" means the transportation of persons from one
location in this state to another location in this state in a motor

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vehicle which has been constructed in such a manner that it may lawfully carry more than eighteen persons, and which is ordinarily used or rented to carry persons for compensation. Provided, this exemption shall not apply to regularly scheduled bus transportation for the general public;

6 37. Sales of vitamins, minerals and dietary supplements by a 7 licensed chiropractor to a person who is the patient of such chiropractor at the physical location where the chiropractor 8 9 provides chiropractic care or services to such patient. The 10 provisions of this paragraph shall not be applicable to any drug, 11 medicine or substance for which a prescription by a licensed 12 physician is required;

13 38. Sales of goods, wares, merchandise, tangible personal 14 property, machinery and equipment to a web search portal located in 15 this state which derives at least eighty percent (80%) of its annual 16 gross revenue from the sale of a product or service to an out-of-17 state buyer or consumer. For purposes of this paragraph, "web 18 search portal" means an establishment classified under NAICS code 19 519130 which operates websites that use a search engine to generate 20 and maintain extensive databases of Internet addresses and content 21 in an easily searchable format;

39. Sales of tangible personal property consumed or
incorporated in the construction or expansion of a facility for a
corporation organized under Section 437 et seq. of Title 18 of the

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Oklahoma Statutes as a rural electric cooperative. For purposes of
 this paragraph, sales made to a contractor or subcontractor that has
 previously entered into a contractual relationship with a rural
 electric cooperative for construction or expansion of a facility
 shall be considered sales made to a rural electric cooperative;

6 Sales of tangible personal property or services to a 40. 7 business primarily engaged in the repair of consumer electronic goods, including, but not limited to, cell phones, compact disc 8 9 players, personal computers, MP3 players, digital devices for the 10 storage and retrieval of information through hard-wired or wireless 11 computer or Internet connections, if the devices are sold to the 12 business by the original manufacturer of such devices and the 13 devices are repaired, refitted or refurbished for sale by the entity 14 qualifying for the exemption authorized by this paragraph directly 15 to retail consumers or if the devices are sold to another business 16 entity for sale to retail consumers;

17 41. Before July 1, 2019, sales of rolling stock when sold or 18 leased by the manufacturer, regardless of whether the purchaser is a 19 public services corporation engaged in business as a common carrier 20 of property or passengers by railway, for use or consumption by a 21 common carrier directly in the rendition of public service. For 22 purposes of this paragraph, "rolling stock" means locomotives, 23 autocars and railroad cars; and

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1	42. Sales of gold, silver, platinum, palladium or other bullion
2	items such as coins and bars and legal tender of any nation, which
3	legal tender is sold according to its value as precious metal or as
4	an investment. As used in the paragraph, "bullion" means any
5	precious metal, including, but not limited to, gold, silver,
6	platinum and palladium, that is in such a state or condition that
7	its value depends upon its precious metal content and not its form.
8	The exemption authorized by this paragraph shall not apply to
9	fabricated metals that have been processed or manufactured for
10	artistic use or as jewelry; and
11	43. Sales of pickups, trucks, and truck-tractors initially
12	registered by the purchaser under the provisions of subsection A of
13	Section 1134 of Title 47 of the Oklahoma Statutes.
14	SECTION 2. REPEALER Section 10, Chapter 229, O.S.L. 2017
15	(68 O.S. Supp. 2017, Section 1357), is hereby repealed.
16	SECTION 3. It being immediately necessary for the preservation
17	of the public peace, health or safety, an emergency is hereby
18	declared to exist, by reason whereof this act shall take effect and
19	be in full force from and after its passage and approval.
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