

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                   STATE OF OKLAHOMA

3                   1st Session of the 57th Legislature (2019)

4 HOUSE BILL 2355

                    By: Caldwell (Chad) of the  
                    House

5   and

6   **David** of the Senate

7  
8  
9   AS INTRODUCED

10                   **[ motor vehicles sales and registration - modifying  
11                   definition - adjusting amount upon which sales tax  
12                   is levied for motor vehicle sales - effective date -  
13                   emergency ]**

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15  
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19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20           SECTION 1.        AMENDATORY        68 O.S. 2011, Section 1352, as  
21 amended by Section 2, Chapter 311, O.S.L. 2016 (68 O.S. Supp. 2018,  
22 Section 1352), is amended to read as follows:

23                Section 1352. As used in the Oklahoma Sales Tax Code:  
24

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

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

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

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

24

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

4 b. "one nonitemized price" does not include a price that  
5 is separately identified by product on binding sales  
6 or other supporting sales-related documentation made  
7 available to the customer in paper or electronic form  
8 including, but not limited to an invoice, bill of  
9 sale, receipt, contract, service agreement, lease  
10 agreement, periodic notice of rates and services, rate  
11 card, or price list<sup>7</sup>.

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

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

20 (2) the retail sale of services where one service is  
21 provided that is essential to the use or receipt  
22 of a second service and the first service is  
23 provided exclusively in connection with the  
24

1 second service and the true object of the  
2 transaction is the second service,

3 (3) a transaction that includes taxable products and  
4 nontaxable products and the purchase price or  
5 sales price of the taxable products is de  
6 minimis. For purposes of this subdivision, "de  
7 minimis" means the seller's purchase price or  
8 sales price of taxable products is ten percent  
9 (10%) or less of the total purchase price or  
10 sales price of the bundled products. Sellers  
11 shall use either the purchase price or the sales  
12 price of the products to determine if the taxable  
13 products are de minimis. Sellers may not use a  
14 combination of the purchase price and sales price  
15 of the products to determine if the taxable  
16 products are de minimis. Sellers shall use the  
17 full term of a service contract to determine if  
18 the taxable products are de minimis, or

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

22 (a) the transaction includes food and food  
23 ingredients, drugs, durable medical  
24 equipment, mobility enhancing equipment,

1 over-the-counter drugs, prosthetic devices  
2 or medical supplies, and

3 (b) the seller's purchase price or sales price  
4 of the taxable tangible personal property is  
5 fifty percent (50%) or less of the total  
6 purchase price or sales price of the bundled  
7 tangible personal property. Sellers may not  
8 use a combination of the purchase price and  
9 sales price of the tangible personal  
10 property when making the fifty percent (50%)  
11 determination for a transaction;

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

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

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

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

23 6. "Consumer" or "user" means a person to whom a taxable sale  
24 of tangible personal property is made or to whom a taxable service

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

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

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

- 12 a. recognized in the official United States  
13 Pharmacopoeia, official Homeopathic Pharmacopoeia of  
14 the United States, or official National Formulary, and  
15 supplement to any of them,
- 16 b. intended for use in the diagnosis, cure, mitigation,  
17 treatment, or prevention of disease, or
- 18 c. intended to affect the structure or any function of  
19 the body;

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

23 10. "Established place of business" means the location at which  
24 any person regularly engages in, conducts, or operates a business in

1 a continuous manner for any length of time, that is open to the  
2 public during the hours customary to such business, in which a stock  
3 of merchandise for resale is maintained, and which is not exempted  
4 by law from attachment, execution, or other species of forced sale  
5 barring any satisfaction of any delinquent tax liability accrued  
6 under the Oklahoma Sales Tax Code;

7 11. "Fair authority" means:

- 8 a. any county, municipality, school district, public  
9 trust or any other political subdivision of this  
10 state, or  
11 b. any not-for-profit corporation acting pursuant to an  
12 agency, operating or management agreement which has  
13 been approved or authorized by the governing body of  
14 any of the entities specified in subparagraph a of  
15 this paragraph which conduct, operate or produce a  
16 fair commonly understood to be a county, district or  
17 state fair;

- 18 12. a. "Gross receipts", "gross proceeds" or "sales price"  
19 means the total amount of consideration, including  
20 cash, credit, property and services, for which  
21 personal property or services are sold, leased or  
22 rented, valued in money, whether received in money or  
23 otherwise, without any deduction for the following:  
24 (1) the seller's cost of the property sold,

- 1 (2) the cost of materials used, labor or service  
2 cost,  
3 (3) interest, losses, all costs of transportation to  
4 the seller, all taxes imposed on the seller, and  
5 any other expense of the seller,  
6 (4) charges by the seller for any services necessary  
7 to complete the sale, other than delivery and  
8 installation charges, and  
9 (5) delivery charges and installation charges, unless  
10 separately stated on the invoice, billing or  
11 similar document given to the purchaser, ~~and~~  
12 ~~(6) credit for any trade-in.~~

13 b. Such term shall not include:

- 14 (1) discounts, including cash, term, or coupons that  
15 are not reimbursed by a third party that are  
16 allowed by a seller and taken by a purchaser on a  
17 sale,  
18 (2) interest, financing, and carrying charges from  
19 credit extended on the sale of personal property  
20 or services, if the amount is separately stated  
21 on the invoice, bill of sale or similar document  
22 given to the purchaser, and  
23 (3) any taxes legally imposed directly on the  
24 consumer that are separately stated on the



1 invoice, bill of sale or similar document given  
2 to the purchaser.

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

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

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

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

15 (4) one of the following criteria is met:

16 (a) the purchaser presents a coupon, certificate  
17 or other documentation to the seller to  
18 claim a price reduction or discount where  
19 the coupon, certificate or documentation is  
20 authorized, distributed or granted by a  
21 third party with the understanding that the  
22 third party will reimburse any seller to  
23 whom the coupon, certificate or  
24 documentation is presented,

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

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

14 13. a. "Maintaining a place of business in this state" means  
15 and shall be presumed to include:

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

23 (b) having agents operating in this state,  
24 whether the place of business or agent

1 is within this state temporarily or  
2 permanently or whether the person or  
3 agent is authorized to do business  
4 within this state, and

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

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

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

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

18 (d) facilitates the vendor's delivery of  
19 property to customers in the state by  
20 allowing the vendor's customers to pick  
21 up property sold by the vendor at an  
22 office, distribution facility,  
23 warehouse, storage place or similar  
24

1 place of business maintained by the  
2 person in this state, or

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

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

13 c. Any ruling, agreement or contract, whether written or  
14 oral, express or implied, between a person and  
15 executive branch of this state, or any other state  
16 agency or department, stating, agreeing or ruling that  
17 the person is not "maintaining a place of business in  
18 this state" or is not required to collect sales and  
19 use tax in this state despite the presence of a  
20 warehouse, distribution center or fulfillment center  
21 in this state that is owned or operated by the vendor  
22 or an affiliated person of the vendor shall be null  
23 and void unless it is specifically approved by a  
24

1 majority vote of each house of the Oklahoma  
2 Legislature;

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

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

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

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

- 8 a. a "Drug Facts" panel, or  
9 b. a statement of the "active ingredient(s)" with a list  
10 of those ingredients contained in the compound,  
11 substance or preparation;

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

20 19. "Prescription" means an order, formula or recipe issued in  
21 any form of oral, written, electronic, or other means of  
22 transmission by a duly licensed "practitioner" as defined in Section  
23 1357.6 of this title;

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

21       21. "Repairman" means any person who performs any repair  
22 service upon tangible personal property of the consumer, whether or  
23 not the repairman, as a necessary and incidental part of performing  
24 the service, incorporates tangible personal property belonging to or

1 purchased by the repairman into the tangible personal property being  
2 repaired;

3 22. "Sale" means the transfer of either title or possession of  
4 tangible personal property for a valuable consideration regardless  
5 of the manner, method, instrumentality, or device by which the  
6 transfer is accomplished in this state, or other transactions as  
7 provided by this paragraph, including but not limited to:

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

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

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

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

23 e. any use of motor fuel or diesel fuel by a supplier, as  
24 defined in Section 500.3 of this title, upon which



1 sales tax has not previously been paid, for purposes  
2 other than to propel motor vehicles over the public  
3 highways of this state. Motor fuel or diesel fuel  
4 purchased outside the state and used for purposes  
5 other than to propel motor vehicles over the public  
6 highways of this state shall not constitute a sale  
7 within the meaning of this paragraph;

8 23. "Sale for resale" means:

- 9 a. a sale of tangible personal property to any purchaser  
10 who is purchasing tangible personal property for the  
11 purpose of reselling it within the geographical limits  
12 of the United States of America or its territories or  
13 possessions, in the normal course of business either  
14 in the form or condition in which it is purchased or  
15 as an attachment to or integral part of other tangible  
16 personal property,
- 17 b. a sale of tangible personal property to a purchaser  
18 for the sole purpose of the renting or leasing, within  
19 the geographical limits of the United States of  
20 America or its territories or possessions, of the  
21 tangible personal property to another person by the  
22 purchaser, but not if incidental to the renting or  
23 leasing of real estate,
- 24

1 c. a sale of tangible goods and products within this  
2 state if, simultaneously with the sale, the vendor  
3 issues an export bill of lading, or other  
4 documentation that the point of delivery of such goods  
5 for use and consumption is in a foreign country and  
6 not within the territorial confines of the United  
7 States. If the vendor is not in the business of  
8 shipping the tangible goods and products that are  
9 purchased from the vendor, the buyer or purchaser of  
10 the tangible goods and products is responsible for  
11 providing an export bill of lading or other  
12 documentation to the vendor from whom the tangible  
13 goods and products were purchased showing that the  
14 point of delivery of such goods for use and  
15 consumption is a foreign country and not within the  
16 territorial confines of the United States, or

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

23 24. "Tangible personal property" means personal property that  
24 can be seen, weighed, measured, felt, or touched or that is in any

1 other manner perceptible to the senses. "Tangible personal  
2 property" includes electricity, water, gas, steam and prewritten  
3 computer software. This definition shall be applicable only for  
4 purposes of the Oklahoma Sales Tax Code;

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

7 26. "Tax period" or "taxable period" means the calendar period  
8 or the taxpayer's fiscal period for which a taxpayer has obtained a  
9 permit from the Tax Commission to use a fiscal period in lieu of a  
10 calendar period;

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

17 28. "Vendor" means:

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

22 b. any person maintaining a place of business in this  
23 state and making sales of tangible personal property  
24 or services, whether at the place of business or

1 elsewhere, to persons within this state, the gross  
2 receipts or gross proceeds from which are taxed by the  
3 Oklahoma Sales Tax Code,

4 c. any person who solicits business by employees,  
5 independent contractors, agents, or other  
6 representatives in this state, and thereby makes sales  
7 to persons within this state of tangible personal  
8 property or services, the gross receipts or gross  
9 proceeds from which are taxed by the Oklahoma Sales  
10 Tax Code, or

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

18 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1355, as  
19 last amended by Section 1, Chapter 356, O.S.L. 2017 (68 O.S. Supp.  
20 2018, Section 1355), is amended to read as follows:

21 Section 1355. There are hereby specifically exempted from the  
22 tax levied pursuant to the provisions of Section 1350 et seq. of  
23 this title:

1           1. Sale of gasoline, motor fuel, methanol, "M-85" which is a  
2 mixture of methanol and gasoline containing at least eighty-five  
3 percent (85%) methanol, compressed natural gas, liquefied natural  
4 gas, or liquefied petroleum gas on which the Motor Fuel Tax,  
5 Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special  
6 Fuels Tax levied in Section 500.1 et seq., Section 601 et seq. or  
7 Section 701 et seq. of this title has been, or will be paid;

8           2. For the sale of motor vehicles or any optional equipment or  
9 accessories attached to motor vehicles on which the Oklahoma Motor  
10 Vehicle Excise Tax levied in Section 2101 et seq. of this title has  
11 been, or will be paid, all but a portion of the levy provided under  
12 Section 1354 of this title, equal to one and twenty-five-hundredths  
13 percent (1.25%) of the gross receipts less the amount of credit for  
14 any trade-in of such sales. Provided, the sale of motor vehicles  
15 shall not be subject to any sales and use taxes levied by cities,  
16 counties or other jurisdictions of the state;

17           3. Sale of crude petroleum or natural or casinghead gas and  
18 other products subject to gross production tax pursuant to the  
19 provisions of Section 1001 et seq. and Section 1101 et seq. of this  
20 title. This exemption shall not apply when such products are sold  
21 to a consumer or user for consumption or use, except when used for  
22 injection into the earth for the purpose of promoting or  
23 facilitating the production of oil or gas. This paragraph shall not  
24

1 operate to increase or repeal the gross production tax levied by the  
2 laws of this state;

3 4. Sale of aircraft on which the tax levied pursuant to the  
4 provisions of Sections 6001 through 6007 of this title has been, or  
5 will be paid or which are specifically exempt from such tax pursuant  
6 to the provisions of Section 6003 of this title;

7 5. Sales from coin-operated devices on which the fee imposed by  
8 Sections 1501 through 1512 of this title has been paid;

9 6. Leases of twelve (12) months or more of motor vehicles in  
10 which the owners of the vehicles have paid the vehicle excise tax  
11 levied by Section 2103 of this title;

12 7. Sales of charity game equipment on which a tax is levied  
13 pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of  
14 Title 3A of the Oklahoma Statutes, or which is sold to an  
15 organization that is:

16 a. a veterans' organization exempt from taxation pursuant  
17 to the provisions of paragraph (4), (7), (8), (10) or  
18 (19) of subsection (c) of Section 501 of the United  
19 States Internal Revenue Code of 1986, as amended, 26  
20 U.S.C., Section 501(c) et seq.,

21 b. a group home for mentally disabled individuals exempt  
22 from taxation pursuant to the provisions of paragraph  
23 (3) of subsection (c) of Section 501 of the United  
24

1 States Internal Revenue Code of 1986, as amended, 26  
2 U.S.C., Section 501(c) et seq., or

- 3 c. a charitable healthcare organization which is exempt  
4 from taxation pursuant to the provisions of paragraph  
5 (3) of subsection (c) of Section 501 of the United  
6 States Internal Revenue Code of 1986, as amended, 26  
7 U.S.C., Section 501(c) et seq.;

8 8. Sales of cigarettes or tobacco products to:

- 9 a. a federally recognized Indian tribe or nation which  
10 has entered into a compact with the State of Oklahoma  
11 pursuant to the provisions of subsection C of Section  
12 346 of this title or to a licensee of such a tribe or  
13 nation, upon which the payment in lieu of taxes  
14 required by the compact has been paid, or  
15 b. a federally recognized Indian tribe or nation or to a  
16 licensee of such a tribe or nation upon which the tax  
17 levied pursuant to the provisions of Section 349.1 or  
18 Section 426 of this title has been paid;

19 9. Leases of aircraft upon which the owners have paid the  
20 aircraft excise tax levied by Section 6001 et seq. of this title or  
21 which are specifically exempt from such tax pursuant to the  
22 provisions of Section 6003 of this title;

1        10. The sale of low-speed or medium-speed electrical vehicles  
2 on which the Oklahoma Motor Vehicle Excise Tax levied in Section  
3 2101 et seq. of this title has been or will be paid; and

4        11. Effective January 1, 2005, sales of cigarettes on which the  
5 tax levied in Section 301 et seq. of this title or tobacco products  
6 on which the tax levied in Section 401 et seq. of this title has  
7 been paid.

8        SECTION 3.        AMENDATORY        68 O.S. 2011, Section 2103, as  
9 amended by Section 4, Chapter 316, O.S.L. 2012 (68 O.S. Supp. 2018,  
10 Section 2103), is amended to read as follows:

11        Section 2103. A. 1. Except as otherwise provided in Sections  
12 2101 through 2108 of this title, there shall be levied an excise tax  
13 upon the transfer of legal ownership of any vehicle registered in  
14 this state and upon the use of any vehicle registered in this state  
15 and upon the use of any vehicle registered for the first time in  
16 this state. Except for persons that possess an agricultural  
17 exemption pursuant to Section 1358.1 of this title, the excise tax  
18 shall be levied upon transfers of legal ownership of all-terrain  
19 vehicles and motorcycles used exclusively off roads and highways  
20 which occur on or after July 1, 2005, and upon transfers of legal  
21 ownership of utility vehicles used exclusively off roads and  
22 highways which occur on or after July 1, 2008. The excise tax for  
23 new and used all-terrain vehicles, utility vehicles and motorcycles  
24 used exclusively off roads and highways shall be levied at four and



1 one-half percent (4 1/2%) of the actual sales price of each new and  
2 used all-terrain vehicle and motorcycle used exclusively off roads  
3 and highways before any discounts or credits are given for a trade-  
4 in. Provided, the minimum excise tax assessment for such all-  
5 terrain vehicles, utility vehicles and motorcycles used exclusively  
6 off roads and highways shall be Five Dollars (\$5.00). The excise  
7 tax for new vehicles shall be levied at three and one-fourth percent  
8 (3 1/4%) of the value of each new vehicle. The excise tax for used  
9 vehicles shall be as follows:

- 10 a. from October 1, 2000, until June 30, 2001, Twenty  
11 Dollars (\$20.00) on the first One Thousand Dollars  
12 (\$1,000.00) or less of value of such vehicle, and  
13 three and one-fourth percent (3 1/4%) of the remaining  
14 value of such vehicle,
- 15 b. for the year beginning July 1, 2001, and ending June  
16 30, 2002, Twenty Dollars (\$20.00) on the first One  
17 Thousand Two Hundred Fifty Dollars (\$1,250.00) or less  
18 of value of such vehicle, and three and one-fourth  
19 percent (3 1/4%) of the remaining value of such  
20 vehicle, and
- 21 c. for the year beginning July 1, 2002, and all  
22 subsequent years, Twenty Dollars (\$20.00) on the first  
23 One Thousand Five Hundred Dollars (\$1,500.00) or less  
24 of value of such vehicle, and three and one-fourth

1           percent (3 1/4%) of the remaining value of such  
2           vehicle.

3           2. There shall be levied an excise tax of Ten Dollars (\$10.00)  
4 for any:

5           a. truck or truck-tractor registered under the provisions  
6           of subsection A of Section 1133 of Title 47 of the  
7           Oklahoma Statutes, for a laden weight or combined  
8           laden weight of fifty-five thousand (55,000) pounds or  
9           more,

10          b. trailer or semitrailer registered under subsection C  
11          of Section 1133 of Title 47 of the Oklahoma Statutes,  
12          which is primarily designed to transport cargo over  
13          the highways of this state and generally recognized as  
14          such, and

15          c. frac tank, as defined by Section 54 of Title 17 of the  
16          Oklahoma Statutes, and registered under subsection C  
17          of Section 1133 of Title 47 of the Oklahoma Statutes.

18          Except for frac tanks, the excise tax levied pursuant to this  
19 paragraph shall not apply to special mobilized machinery, trailers,  
20 or semitrailers manufactured, modified or remanufactured for the  
21 purpose of providing services other than transporting cargo over the  
22 highways of this state. The excise tax levied pursuant to this  
23 paragraph shall also not apply to pickup trucks, vans, or sport  
24 utility vehicles.

1           3. The tax levied pursuant to this section shall be due at the  
2 time of the transfer of legal ownership or first registration in  
3 this state of such vehicle; provided, the tax shall not be due at  
4 the time of the issuance of a certificate of title for an all-  
5 terrain vehicle, utility vehicle or motorcycle used exclusively off  
6 roads and highways which is not required to be registered but which  
7 the owner chooses to register pursuant to the provisions of  
8 subsection B of Section 1115.3 of Title 47 of the Oklahoma Statutes,  
9 and shall be collected by the Oklahoma Tax Commission or Corporation  
10 Commission, as applicable, or an appointed motor license agent, at  
11 the time of the issuance of a certificate of title for any such  
12 vehicle. In the event an excise tax is collected on the transfer of  
13 legal ownership or use of the vehicle during any calendar year, then  
14 an additional excise tax must be collected upon all subsequent  
15 transfers of legal ownership. In computing the motor vehicle excise  
16 tax, the amount collected shall be rounded to the nearest dollar.  
17 The excise tax levied by this section shall be delinquent from and  
18 after the thirtieth day after the legal ownership or possession of  
19 any vehicle is obtained. Any person failing or refusing to pay the  
20 tax as herein provided on or before date of delinquency shall pay in  
21 addition to the tax a penalty of One Dollar (\$1.00) per day for each  
22 day of delinquency, but such penalty shall in no event exceed the  
23 amount of the tax. Of each dollar penalty collected pursuant to  
24 this subsection:

- 1 a. twenty-five cents (\$0.25) shall be apportioned as  
2 provided in Section 1104 of this title~~+~~,  
3 b. twenty-five cents (\$0.25) shall be retained by the  
4 motor license agent~~+~~, and  
5 c. fifty cents (\$0.50) shall be deposited in the General  
6 Revenue Fund for the fiscal year beginning on July 1,  
7 2011, and for all subsequent fiscal years, shall be  
8 deposited in the State Highway Construction and  
9 Maintenance Fund.

10 B. The excise tax levied in subsection A of this section  
11 assessed on all commercial vehicles registered pursuant to Section  
12 1120 of Title 47 of the Oklahoma Statutes, trucks and truck-tractors  
13 registered under subsection A of Section 1133 of Title 47 of the  
14 Oklahoma Statutes for a laden weight or combined laden weight of  
15 fifty-five thousand (55,000) pounds or more, trailers and  
16 semitrailers registered under subsection C of Section 1133 of Title  
17 47 of the Oklahoma Statutes to transport cargo over the highways of  
18 this state and frac tanks registered under subsection C of Section  
19 1133 of Title 47 of the Oklahoma Statutes shall be in lieu of all  
20 sales and use taxes levied pursuant to the Sales Tax Code or the Use  
21 Tax Code. The transfer of legal ownership of any motor vehicle as  
22 used in this section and the Sales Tax Code and the Use Tax Code  
23 shall include the lease, lease purchase or lease finance agreement  
24 involving any truck in excess of eight thousand (8,000) pounds

1 combined laden weight or any truck-tractor provided the vehicle is  
2 registered in Oklahoma pursuant to Section 1120 of Title 47 of the  
3 Oklahoma Statutes or any frac tank, trailer, semitrailer or open  
4 commercial vehicle registered pursuant to Section 1133 of Title 47  
5 of the Oklahoma Statutes. The excise tax levied pursuant to this  
6 section shall not be subsequently collected at the end of the lease  
7 period if the lessee acquires complete legal title of the vehicle.

8 C. The provisions of this section shall not apply to transfers  
9 made without consideration between:

- 10 1. Husband and wife;
- 11 2. Parent and child; or
- 12 3. An individual and an express trust which that individual or  
13 the spouse, child or parent of that individual has a right to  
14 revoke.

15 D. 1. There shall be a credit allowed with respect to the  
16 excise tax paid for a new vehicle which is a replacement for:

- 17 a. a new original vehicle which is stolen from the  
18 purchaser/registrant within ninety (90) days of the  
19 date of purchase of the original vehicle as certified  
20 by a police report or other documentation as required  
21 by the Tax Commission, or
- 22 b. a defective new original vehicle returned by the  
23 purchaser/registrant to the seller within six (6)

24

1 months of the date of purchase of the defective new  
2 original vehicle as certified by the manufacturer.

3 2. The credit allowed pursuant to paragraph 1 of this  
4 subsection shall be in the amount of the excise tax which was paid  
5 for the new original vehicle and shall be applied to the excise tax  
6 due on the replacement vehicle. In no event shall the credit be  
7 refunded.

8 E. Despite any other definitions of the terms "new vehicle" and  
9 "used vehicle", to the contrary, contained in any other law, the  
10 term "new vehicle" as used in this section shall also include any  
11 vehicle of the latest manufactured model which is owned or acquired  
12 by a licensed used motor vehicle dealer which has not previously  
13 been registered in this state and upon which the motor vehicle  
14 excise tax as set forth in this section has not been paid. However,  
15 upon the sale or transfer by a licensed used motor vehicle dealer  
16 located in this state of any such vehicle which is the latest  
17 manufactured model, the vehicle shall be considered a used vehicle  
18 for purposes of determining excise tax.

19 F. The provisions of this section shall not apply to state  
20 government entities.

21 SECTION 4. This act shall become effective July 1, 2019.

22 SECTION 5. It being immediately necessary for the preservation  
23 of the public peace, health or safety, an emergency is hereby  
24

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

3

4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
5 02/28/2019 - DO PASS, As Amended and Coauthored.

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