

1 ENGROSSED HOUSE  
2 BILL NO. 2355

By: Caldwell (Chad) of the  
House

3 and

4 David of the Senate

5  
6  
7  
8 [ motor vehicles sales and registration - modifying  
9 definition - adjusting amount upon which sales  
10 tax is levied for motor vehicle sales - effective  
11 date -

12 emergency ]

13  
14  
15  
16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

21 1. "Bundled transaction" means the retail sale of two or more  
22 products, except real property and services to real property, where  
23 the products are otherwise distinct and identifiable, and the  
24 products are sold for one nonitemized price. A "bundled

1 transaction" does not include the sale of any products in which the  
2 sales price varies, or is negotiable, based on the selection by the  
3 purchaser of the products included in the transaction. As used in  
4 this paragraph:

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

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

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

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

23 b. "one nonitemized price" does not include a price that  
24 is separately identified by product on binding sales

1 or other supporting sales-related documentation made  
2 available to the customer in paper or electronic form  
3 including, but not limited to an invoice, bill of  
4 sale, receipt, contract, service agreement, lease  
5 agreement, periodic notice of rates and services, rate  
6 card, or price list.

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

- 9 (1) the retail sale of tangible personal property and  
10 a service where the tangible personal property is  
11 essential to the use of the service, and is  
12 provided exclusively in connection with the  
13 service, and the true object of the transaction  
14 is the service,
- 15 (2) the retail sale of services where one service is  
16 provided that is essential to the use or receipt  
17 of a second service and the first service is  
18 provided exclusively in connection with the  
19 second service and the true object of the  
20 transaction is the second service,
- 21 (3) a transaction that includes taxable products and  
22 nontaxable products and the purchase price or  
23 sales price of the taxable products is de  
24 minimis. For purposes of this subdivision, "de

1           de minimis" means the seller's purchase price or  
2           sales price of taxable products is ten percent  
3           (10%) or less of the total purchase price or  
4           sales price of the bundled products. Sellers  
5           shall use either the purchase price or the sales  
6           price of the products to determine if the taxable  
7           products are de minimis. Sellers may not use a  
8           combination of the purchase price and sales price  
9           of the products to determine if the taxable  
10          products are de minimis. Sellers shall use the  
11          full term of a service contract to determine if  
12          the taxable products are de minimis, or

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

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

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

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

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

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

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

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

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

23           7. "Contractor" means any person who performs any improvement  
24 upon real property and who, as a necessary and incidental part of

1 performing such improvement, incorporates tangible personal property  
2 belonging to or purchased by the person into the real property being  
3 improved;

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

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

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

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

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

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

1 11. "Fair authority" means:

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

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

12 12. a. "Gross receipts", "gross proceeds" or "sales price"

13 means the total amount of consideration, including  
14 cash, credit, property and services, for which  
15 personal property or services are sold, leased or  
16 rented, valued in money, whether received in money or  
17 otherwise, without any deduction for the following:

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

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

21 (3) interest, losses, all costs of transportation to  
22 the seller, all taxes imposed on the seller, and  
23 any other expense of the seller,  
24

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

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

7 ~~(6) credit for any trade-in.~~

8 b. Such term shall not include:

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

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

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

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

24

- 1 (1) the seller actually receives consideration from a  
2 party other than the purchaser and the  
3 consideration is directly related to a price  
4 reduction or discount on the sale,
- 5 (2) the seller has an obligation to pass the price  
6 reduction or discount through to the purchaser,
- 7 (3) the amount of the consideration attributable to  
8 the sale is fixed and determinable by the seller  
9 at the time of the sale of the item to the  
10 purchaser, and
- 11 (4) one of the following criteria is met:
  - 12 (a) the purchaser presents a coupon, certificate  
13 or other documentation to the seller to  
14 claim a price reduction or discount where  
15 the coupon, certificate or documentation is  
16 authorized, distributed or granted by a  
17 third party with the understanding that the  
18 third party will reimburse any seller to  
19 whom the coupon, certificate or  
20 documentation is presented,
  - 21 (b) the purchaser identifies himself or herself  
22 to the seller as a member of a group or  
23 organization entitled to a price reduction  
24 or discount; provided, a "preferred

1 customer" card that is available to any  
2 patron does not constitute membership in  
3 such a group, or

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

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

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

19 (b) having agents operating in this state,  
20 whether the place of business or agent  
21 is within this state temporarily or  
22 permanently or whether the person or  
23 agent is authorized to do business  
24 within this state, and

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

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

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

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

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

22 (e) conducts any other activities in this state  
23 that are significantly associated with the  
24

1 vendor's ability to establish and maintain a  
2 market in this state for the vendor's sale.

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

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

22 14. "Manufacturing" means and includes the activity of  
23 converting or conditioning tangible personal property by changing  
24 the form, composition, or quality of character of some existing

1 material or materials, including natural resources, by procedures  
2 commonly regarded by the average person as manufacturing,  
3 compounding, processing or assembling, into a material or materials  
4 with a different form or use. "Manufacturing" does not include  
5 extractive industrial activities such as mining, quarrying, logging,  
6 and drilling for oil, gas and water, nor oil and gas field  
7 processes, such as natural pressure reduction, mechanical  
8 separation, heating, cooling, dehydration and compression;

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

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

24

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

- 4 a. a "Drug Facts" panel, or
- 5 b. a statement of the "active ingredient(s)" with a list  
6 of those ingredients contained in the compound,  
7 substance or preparation;

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

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

20 20. "Prewritten computer software" means "computer software",  
21 including prewritten upgrades, which is not designed and developed  
22 by the author or other creator to the specifications of a specific  
23 purchaser. The combining of two or more prewritten computer  
24 software programs or prewritten portions thereof does not cause the

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

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

22 22. "Sale" means the transfer of either title or possession of  
23 tangible personal property for a valuable consideration regardless  
24 of the manner, method, instrumentality, or device by which the

1 transfer is accomplished in this state, or other transactions as  
2 provided by this paragraph, including but not limited to:

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

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

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

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

18 e. any use of motor fuel or diesel fuel by a supplier, as  
19 defined in Section 500.3 of this title, upon which  
20 sales tax has not previously been paid, for purposes  
21 other than to propel motor vehicles over the public  
22 highways of this state. Motor fuel or diesel fuel  
23 purchased outside the state and used for purposes  
24 other than to propel motor vehicles over the public

1 highways of this state shall not constitute a sale  
2 within the meaning of this paragraph;

3 23. "Sale for resale" means:

- 4 a. a sale of tangible personal property to any purchaser  
5 who is purchasing tangible personal property for the  
6 purpose of reselling it within the geographical limits  
7 of the United States of America or its territories or  
8 possessions, in the normal course of business either  
9 in the form or condition in which it is purchased or  
10 as an attachment to or integral part of other tangible  
11 personal property,
- 12 b. a sale of tangible personal property to a purchaser  
13 for the sole purpose of the renting or leasing, within  
14 the geographical limits of the United States of  
15 America or its territories or possessions, of the  
16 tangible personal property to another person by the  
17 purchaser, but not if incidental to the renting or  
18 leasing of real estate,
- 19 c. a sale of tangible goods and products within this  
20 state if, simultaneously with the sale, the vendor  
21 issues an export bill of lading, or other  
22 documentation that the point of delivery of such goods  
23 for use and consumption is in a foreign country and  
24 not within the territorial confines of the United

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

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

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

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

1       26. "Tax period" or "taxable period" means the calendar period  
2 or the taxpayer's fiscal period for which a taxpayer has obtained a  
3 permit from the Tax Commission to use a fiscal period in lieu of a  
4 calendar period;

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

11       28. "Vendor" means:

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

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

22           c. any person who solicits business by employees,  
23               independent contractors, agents, or other  
24               representatives in this state, and thereby makes sales

1 to persons within this state of tangible personal  
2 property or services, the gross receipts or gross  
3 proceeds from which are taxed by the Oklahoma Sales  
4 Tax Code, or

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

12 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1355, as  
13 last amended by Section 1, Chapter 356, O.S.L. 2017 (68 O.S. Supp.  
14 2018, Section 1355), is amended to read as follows:

15 Section 1355. There are hereby specifically exempted from the  
16 tax levied pursuant to the provisions of Section 1350 et seq. of  
17 this title:

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

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

10           3. Sale of crude petroleum or natural or casinghead gas and  
11 other products subject to gross production tax pursuant to the  
12 provisions of Section 1001 et seq. and Section 1101 et seq. of this  
13 title. This exemption shall not apply when such products are sold  
14 to a consumer or user for consumption or use, except when used for  
15 injection into the earth for the purpose of promoting or  
16 facilitating the production of oil or gas. This paragraph shall not  
17 operate to increase or repeal the gross production tax levied by the  
18 laws of this state;

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

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

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

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

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

13           b. a group home for mentally disabled individuals exempt  
14 from taxation pursuant to the provisions of paragraph  
15 (3) of subsection (c) of Section 501 of the United  
16 States Internal Revenue Code of 1986, as amended, 26  
17 U.S.C., Section 501(c) et seq., or

18           c. a charitable healthcare organization which is exempt  
19 from taxation pursuant to the provisions of paragraph  
20 (3) of subsection (c) of Section 501 of the United  
21 States Internal Revenue Code of 1986, as amended, 26  
22 U.S.C., Section 501(c) et seq.;

23       8. Sales of cigarettes or tobacco products to:  
24

- 1 a. a federally recognized Indian tribe or nation which  
2 has entered into a compact with the State of Oklahoma  
3 pursuant to the provisions of subsection C of Section  
4 346 of this title or to a licensee of such a tribe or  
5 nation, upon which the payment in lieu of taxes  
6 required by the compact has been paid, or  
7 b. a federally recognized Indian tribe or nation or to a  
8 licensee of such a tribe or nation upon which the tax  
9 levied pursuant to the provisions of Section 349.1 or  
10 Section 426 of this title has been paid;

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

15 10. The sale of low-speed or medium-speed electrical vehicles  
16 on which the Oklahoma Motor Vehicle Excise Tax levied in Section  
17 2101 et seq. of this title has been or will be paid; and

18 11. Effective January 1, 2005, sales of cigarettes on which the  
19 tax levied in Section 301 et seq. of this title or tobacco products  
20 on which the tax levied in Section 401 et seq. of this title has  
21 been paid.

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

1 Section 2103. A. 1. Except as otherwise provided in Sections  
2 2101 through 2108 of this title, there shall be levied an excise tax  
3 upon the transfer of legal ownership of any vehicle registered in  
4 this state and upon the use of any vehicle registered in this state  
5 and upon the use of any vehicle registered for the first time in  
6 this state. Except for persons that possess an agricultural  
7 exemption pursuant to Section 1358.1 of this title, the excise tax  
8 shall be levied upon transfers of legal ownership of all-terrain  
9 vehicles and motorcycles used exclusively off roads and highways  
10 which occur on or after July 1, 2005, and upon transfers of legal  
11 ownership of utility vehicles used exclusively off roads and  
12 highways which occur on or after July 1, 2008. The excise tax for  
13 new and used all-terrain vehicles, utility vehicles and motorcycles  
14 used exclusively off roads and highways shall be levied at four and  
15 one-half percent (4 1/2%) of the actual sales price of each new and  
16 used all-terrain vehicle and motorcycle used exclusively off roads  
17 and highways before any discounts or credits are given for a trade-  
18 in. Provided, the minimum excise tax assessment for such all-  
19 terrain vehicles, utility vehicles and motorcycles used exclusively  
20 off roads and highways shall be Five Dollars (\$5.00). The excise  
21 tax for new vehicles shall be levied at three and one-fourth percent  
22 (3 1/4%) of the value of each new vehicle. The excise tax for used  
23 vehicles shall be as follows:

24

- 1 a. from October 1, 2000, until June 30, 2001, Twenty  
2 Dollars (\$20.00) on the first One Thousand Dollars  
3 (\$1,000.00) or less of value of such vehicle, and  
4 three and one-fourth percent (3 1/4%) of the remaining  
5 value of such vehicle,
- 6 b. for the year beginning July 1, 2001, and ending June  
7 30, 2002, Twenty Dollars (\$20.00) on the first One  
8 Thousand Two Hundred Fifty Dollars (\$1,250.00) or less  
9 of value of such vehicle, and three and one-fourth  
10 percent (3 1/4%) of the remaining value of such  
11 vehicle, and
- 12 c. for the year beginning July 1, 2002, and all  
13 subsequent years, Twenty Dollars (\$20.00) on the first  
14 One Thousand Five Hundred Dollars (\$1,500.00) or less  
15 of value of such vehicle, and three and one-fourth  
16 percent (3 1/4%) of the remaining value of such  
17 vehicle.

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

- 20 a. truck or truck-tractor registered under the provisions  
21 of subsection A of Section 1133 of Title 47 of the  
22 Oklahoma Statutes, for a laden weight or combined  
23 laden weight of fifty-five thousand (55,000) pounds or  
24 more,

1           b.    trailer or semitrailer registered under subsection C  
2                   of Section 1133 of Title 47 of the Oklahoma Statutes,  
3                   which is primarily designed to transport cargo over  
4                   the highways of this state and generally recognized as  
5                   such, and

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

9           Except for frac tanks, the excise tax levied pursuant to this  
10           paragraph shall not apply to special mobilized machinery, trailers,  
11           or semitrailers manufactured, modified or remanufactured for the  
12           purpose of providing services other than transporting cargo over the  
13           highways of this state. The excise tax levied pursuant to this  
14           paragraph shall also not apply to pickup trucks, vans, or sport  
15           utility vehicles.

16           3.    The tax levied pursuant to this section shall be due at the  
17           time of the transfer of legal ownership or first registration in  
18           this state of such vehicle; provided, the tax shall not be due at  
19           the time of the issuance of a certificate of title for an all-  
20           terrain vehicle, utility vehicle or motorcycle used exclusively off  
21           roads and highways which is not required to be registered but which  
22           the owner chooses to register pursuant to the provisions of  
23           subsection B of Section 1115.3 of Title 47 of the Oklahoma Statutes,  
24           and shall be collected by the Oklahoma Tax Commission or Corporation

1 Commission, as applicable, or an appointed motor license agent, at  
2 the time of the issuance of a certificate of title for any such  
3 vehicle. In the event an excise tax is collected on the transfer of  
4 legal ownership or use of the vehicle during any calendar year, then  
5 an additional excise tax must be collected upon all subsequent  
6 transfers of legal ownership. In computing the motor vehicle excise  
7 tax, the amount collected shall be rounded to the nearest dollar.  
8 The excise tax levied by this section shall be delinquent from and  
9 after the thirtieth day after the legal ownership or possession of  
10 any vehicle is obtained. Any person failing or refusing to pay the  
11 tax as herein provided on or before date of delinquency shall pay in  
12 addition to the tax a penalty of One Dollar (\$1.00) per day for each  
13 day of delinquency, but such penalty shall in no event exceed the  
14 amount of the tax. Of each dollar penalty collected pursuant to  
15 this subsection:

- 16       a. twenty-five cents (\$0.25) shall be apportioned as  
17       provided in Section 1104 of this title~~+~~l
- 18       b. twenty-five cents (\$0.25) shall be retained by the  
19       motor license agent~~+~~l and
- 20       c. fifty cents (\$0.50) shall be deposited in the General  
21       Revenue Fund for the fiscal year beginning on July 1,  
22       2011, and for all subsequent fiscal years, shall be  
23       deposited in the State Highway Construction and  
24       Maintenance Fund.

1           B. The excise tax levied in subsection A of this section  
2 assessed on all commercial vehicles registered pursuant to Section  
3 1120 of Title 47 of the Oklahoma Statutes, trucks and truck-tractors  
4 registered under subsection A of Section 1133 of Title 47 of the  
5 Oklahoma Statutes for a laden weight or combined laden weight of  
6 fifty-five thousand (55,000) pounds or more, trailers and  
7 semitrailers registered under subsection C of Section 1133 of Title  
8 47 of the Oklahoma Statutes to transport cargo over the highways of  
9 this state and frac tanks registered under subsection C of Section  
10 1133 of Title 47 of the Oklahoma Statutes shall be in lieu of all  
11 sales and use taxes levied pursuant to the Sales Tax Code or the Use  
12 Tax Code. The transfer of legal ownership of any motor vehicle as  
13 used in this section and the Sales Tax Code and the Use Tax Code  
14 shall include the lease, lease purchase or lease finance agreement  
15 involving any truck in excess of eight thousand (8,000) pounds  
16 combined laden weight or any truck-tractor provided the vehicle is  
17 registered in Oklahoma pursuant to Section 1120 of Title 47 of the  
18 Oklahoma Statutes or any frac tank, trailer, semitrailer or open  
19 commercial vehicle registered pursuant to Section 1133 of Title 47  
20 of the Oklahoma Statutes. The excise tax levied pursuant to this  
21 section shall not be subsequently collected at the end of the lease  
22 period if the lessee acquires complete legal title of the vehicle.

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

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

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

- 8 a. a new original vehicle which is stolen from the
- 9 purchaser/registrant within ninety (90) days of the
- 10 date of purchase of the original vehicle as certified
- 11 by a police report or other documentation as required
- 12 by the Tax Commission, or
- 13 b. a defective new original vehicle returned by the
- 14 purchaser/registrant to the seller within six (6)
- 15 months of the date of purchase of the defective new
- 16 original vehicle as certified by the manufacturer.

17 2. The credit allowed pursuant to paragraph 1 of this  
18 subsection shall be in the amount of the excise tax which was paid  
19 for the new original vehicle and shall be applied to the excise tax  
20 due on the replacement vehicle. In no event shall the credit be  
21 refunded.

22 E. Despite any other definitions of the terms "new vehicle" and  
23 "used vehicle", to the contrary, contained in any other law, the  
24 term "new vehicle" as used in this section shall also include any

1 vehicle of the latest manufactured model which is owned or acquired  
2 by a licensed used motor vehicle dealer which has not previously  
3 been registered in this state and upon which the motor vehicle  
4 excise tax as set forth in this section has not been paid. However,  
5 upon the sale or transfer by a licensed used motor vehicle dealer  
6 located in this state of any such vehicle which is the latest  
7 manufactured model, the vehicle shall be considered a used vehicle  
8 for purposes of determining excise tax.

9 F. The provisions of this section shall not apply to state  
10 government entities.

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

12 SECTION 5. It being immediately necessary for the preservation  
13 of the public peace, health or safety, an emergency is hereby  
14 declared to exist, by reason whereof this act shall take effect and  
15 be in full force from and after its passage and approval.

16 Passed the House of Representatives the 11th day of March, 2019.

17

18

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

19

20

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2019.

21

22

23

\_\_\_\_\_  
Presiding Officer of the Senate

24