

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO. 790

By: Silk

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5
6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.
8 2011, Section 562, as amended by Section 1, Chapter
9 191, O.S.L. 2013 (47 O.S. Supp. 2018, Section 562),
10 which relates to definitions; adding definition;
11 amending 47 O.S. 2011, Section 565, as amended by
12 Section 1, Chapter 402, O.S.L. 2014 (47 O.S. Supp.
13 2018, Section 565), which relates to manufacturer
14 licenses; providing for direct-sale manufacturer;
15 construing certain exemption; modifying language;
16 amending 68 O.S. 2011, Sections 1361, as last amended
17 by Section 3, Chapter 356, O.S.L. 2017 and 1402, as
18 amended by Section 4, Chapter 356, O.S.L. 2017 (68
19 O.S. Supp. 2018, Sections 1361 and 1402), which
20 relate to sales and use tax; providing for exception
21 to certain procedures related to collection and
22 remittance of tax on direct-sale manufacturer;
23 amending 68 O.S. 2011, Section 2103, as amended by
24 Section 4, Chapter 316, O.S.L. 2012 (68 O.S. Supp.
25 2018, Section 2103), which relates to motor vehicle
excise tax; amending 68 O.S. 2011, Section 2105, as
last amended by Section 1, Chapter 312, O.S.L. 2016
and Section 2105, as last amended by Section 11,
Chapter 229, O.S.L. 2017 (68 O.S. Supp. 2018, Section
2105), which relates to vehicle excise tax
exemptions; removing exemptions; providing for
exception to certain procedures related to collection
and remittance of tax on direct-sale manufacturer;
and providing an effective date.

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

2 SECTION 1. AMENDATORY 47 O.S. 2011, Section 562, as
3 amended by Section 1, Chapter 191, O.S.L. 2013 (47 O.S. Supp. 2018,
4 Section 562), is amended to read as follows:

5 Section 562. The following words, terms and phrases, when used
6 in Sections 561 through 567, 572, 578.1, 579 and 579.1 of this
7 title, shall have the meanings respectively ascribed to them in this
8 section, except where the context clearly indicates a different
9 meaning:

10 1. "Motor vehicle" means any motor-driven vehicle required to
11 be registered under the Oklahoma Vehicle License and Registration
12 Act. The term "motor vehicle" does not include:

- 13 a. recreational vehicles, as defined in the Recreational
14 Vehicle Franchise Act, or
15 b. all-terrain vehicles, utility vehicles, and
16 motorcycles used exclusively for off-road use which
17 are sold by a retail implement dealer;

18 2. "New motor vehicle dealer" means any person, firm,
19 association, corporation or trust not excluded by this paragraph
20 who:

- 21 a. sells, offers for sale, advertises to sell, leases or
22 displays new motor vehicles, and
23 b. either:

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1 (1) holds a bona fide contract or franchise in effect
2 with a manufacturer or distributor authorized by
3 the manufacturer to make predelivery preparation
4 of such vehicles sold to purchasers and to
5 perform post-sale work pursuant to the
6 manufacturer's or distributor's warranty, or
7 (2) is a direct-sale manufacturer.

8 As used in division (1) herein, "authorized predelivery
9 preparation" means the rendition by the dealer of services and
10 safety adjustments on each new motor vehicle in accordance with the
11 procedure and safety standards required by the manufacturer of the
12 vehicle to be made before its delivery to the purchaser.
13 ~~"Performance of authorized, and "perform~~ post-sale work pursuant to
14 the manufacturer's or distributor's warranty", ~~as used herein,~~ means
15 the rendition of services which are required by the terms of the
16 warranty that stands extended to the vehicle at the time of its sale
17 and are to be made in accordance with the safety standards
18 prescribed by the manufacturer. The term includes premises or
19 facilities at which a person engages only in the repair of motor
20 vehicles if repairs are performed pursuant to the terms of a
21 franchise and motor vehicle manufacturer's warranty. However, the
22 term shall not include premises or facilities at which a new motor
23 vehicle dealer or dealers within the area of responsibility of such
24 dealer or dealers as defined in the manufacturer's franchise

1 agreement of such dealer or dealers performs motor vehicle repairs
2 pursuant to the terms of a franchise and motor vehicle
3 manufacturer's warranty. For the purpose of Sections 561 through
4 567, 572, 578.1, 579 and 579.1 of this title, the terms "new motor
5 vehicle dealer" and "new motor vehicle dealership" shall be
6 synonymous. The term "new motor vehicle dealer" does not include:

- 7 a. receivers, trustees, administrators, executors,
8 guardians or other persons appointed by or acting
9 under judgment or order of any court,
- 10 b. public officers while performing or in operation of
11 their duties, or
- 12 c. employees of persons, corporations or associations
13 enumerated in subparagraph a of this paragraph when
14 engaged in the specific performance of their duties as
15 such employees;

16 3. "Motor vehicle salesperson" means any person who, for gain
17 or compensation of any kind, either directly or indirectly,
18 regularly or occasionally, by any form of agreement or arrangement,
19 sells or negotiates for the sale of any new motor vehicle for any
20 new motor vehicle dealer to any one or more third parties;

21 4. "Commission" means the Oklahoma Motor Vehicle Commission;

22 5. "Manufacturer" means any person, firm, association,
23 corporation or trust, resident or nonresident, who manufactures or
24 assembles new and unused motor vehicles or who engages in the
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1 fabrication or assembly of motorized vehicles of a type required to
2 be registered in the State of Oklahoma;

3 6. "Distributor" means any person, firm, association,
4 corporation or trust, resident or nonresident, who, being authorized
5 by the original manufacturer, in whole or in part sells or
6 distributes new and unused motor vehicles to motor vehicle dealers,
7 or who maintains distributor representatives;

8 7. "Factory branch" means any branch office maintained by a
9 person, firm, association, corporation or trust who manufactures or
10 assembles motor vehicles for the sale of motor vehicles to
11 distributors, or for the sale of motor vehicles to motor vehicle
12 dealers, or for directing or supervising, in whole or in part, its
13 representatives;

14 8. "Distributor branch" means any branch office similarly
15 maintained by a distributor for the same purposes a factory branch
16 is maintained;

17 9. "Factory representative" means any officer or agent engaged
18 as a representative of a manufacturer of motor vehicles or by a
19 factory branch, for the purpose of making or promoting the sale of
20 its motor vehicles, or for supervising or contacting its dealers or
21 prospective dealers;

22 10. "Distributor representative" means any person, firm,
23 association, corporation or trust and each officer and employee
24 thereof engaged as a representative of a distributor or distributor
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1 branch of motor vehicles, for the purpose of making or promoting the
2 sale of its motor vehicles, or for supervising or contacting its
3 dealers or prospective dealers;

4 11. "Franchise" means any contract or agreement between a motor
5 vehicle dealer and a manufacturer of a new motor vehicle or its
6 distributor or factory branch by which the dealer is authorized to
7 engage in the business of selling any specified make or makes of new
8 motor vehicles;

9 12. "New or unused motor vehicle" means a vehicle which is in
10 the possession of the manufacturer or distributor or has been sold
11 only to the holder of a valid selling agreement, franchise or
12 contract, granted by the manufacturer or distributor for the sale of
13 that make of new vehicle so long as the manufacturer's statement of
14 origin has not been assigned to anyone other than a licensed
15 franchised new motor vehicle dealer of the same line-make;

16 13. "Area of responsibility" means the geographical area, as
17 designated by the manufacturer, factory branch, factory
18 representative, distributor, distributor branch or distributor
19 representative, in which the new motor vehicle dealer is held
20 responsible for the promotion and development of sales and rendering
21 of service for the make of motor vehicle for which the motor vehicle
22 dealer holds a franchise or selling agreement;

23 14. "Off premises" means at a location other than the address
24 designated on the new motor vehicle dealer's license;

1 15. "Sponsoring entity" means any person, firm, association,
2 corporation or trust which has control, either permanently or
3 temporarily, over the real property upon which the off-premise sale
4 or display is conducted;

5 16. "Product" means new motor vehicles and new motor vehicle
6 parts;

7 17. "Service" means motor vehicle warranty repairs including
8 both parts and labor;

9 18. "Lead" means a consumer contact in response to a factory
10 program designed to generate interest in purchasing or leasing a new
11 motor vehicle;

12 19. "Sell or sale" means to sell or lease;

13 20. "Factory" means a manufacturer, distributor, factory
14 branch, distributor branch, factory representative or distributor
15 representative, which manufactures or distributes vehicle products;

16 21. "Powersports vehicle" means motorcycles, scooters, mopeds,
17 all-terrain vehicles, and utility vehicles;

18 22. "Powersports vehicle dealer" means any person, firm, or
19 corporation who is in the business of selling any new powersports
20 vehicles except for retail implement dealers; ~~and~~

21 23. "Retail implement dealer" means a business engaged
22 primarily in the sale of farm tractors as defined in Section 1-118
23 of this title or implements of husbandry as defined in Section 1-125
24 of this title or a combination thereof; and

1 24. "Direct-sale manufacturer" means a manufacturer that does
2 not have and has never had any independent franchise new motor
3 vehicle dealers in the State of Oklahoma.

4 SECTION 2. AMENDATORY 47 O.S. 2011, Section 565, as
5 amended by Section 1, Chapter 402, O.S.L. 2014 (47 O.S. Supp. 2018,
6 Section 565), is amended to read as follows:

7 Section 565. A. The Oklahoma Motor Vehicle Commission may deny
8 an application for a license, or revoke or suspend a license or
9 impose a fine not to exceed Ten Thousand Dollars (\$10,000.00)
10 against a manufacturer or distributor or a fine not to exceed One
11 Thousand Dollars (\$1,000.00) against a dealer per occurrence that
12 any provision of Sections 561 through 567, 572, 578.1, 579 and 579.1
13 of this title is violated or for any of the following reasons:

14 1. On satisfactory proof of unfitness of the applicant in any
15 application for any license under the provisions of Section 561 et
16 seq. of this title;

17 2. For any material misstatement made by an applicant in any
18 application for any license under the provisions of Section 561 et
19 seq. of this title;

20 3. For any failure to comply with any provision of Section 561
21 et seq. of this title or any rule promulgated by the Commission
22 under authority vested in it by Section 561 et seq. of this title;

23 4. A change of condition after license is granted resulting in
24 failure to maintain the qualifications for license;

1 5. Being a new motor vehicle dealer or new motor vehicle
2 salesperson who:

- 3 a. has required a purchaser of a new motor vehicle, as a
4 condition of sale and delivery thereof, to also
5 purchase special features, appliances, accessories or
6 equipment not desired or requested by the purchaser
7 and installed by the dealer,
- 8 b. uses any false or misleading advertising in connection
9 with business as a new motor vehicle dealer or vehicle
10 salesperson,
- 11 c. has committed any unlawful act which resulted in the
12 revocation of any similar license in another state,
- 13 d. has failed or refused to perform any written agreement
14 with any retail buyer involving the sale of a motor
15 vehicle,
- 16 e. has been convicted of a crime involving moral
17 turpitude,
- 18 f. has committed a fraudulent act in selling, purchasing
19 or otherwise dealing in new motor vehicles or has
20 misrepresented the terms and conditions of a sale,
21 purchase or contract for sale or purchase of a new
22 motor vehicle or any interest therein including an
23 option to purchase such vehicle,
- 24

1 g. has failed to meet or maintain the conditions and
2 requirements necessary to qualify for the issuance of
3 a license; or

4 h. completes any sale or transaction of an extended
5 service contract, extended maintenance plan, or
6 similar product using contract forms that do not
7 conspicuously disclose the identity of the service
8 contract provider;

9 6. Being a new motor vehicle salesperson who is not employed as
10 such by a licensed new motor vehicle dealer;

11 7. Being a new motor vehicle dealer who:

12 a. does not have an established place of business,

13 b. does not provide for a suitable repair shop separate
14 from the display room with ample space to repair or
15 recondition one or more vehicles at the same time, and
16 which is equipped with such parts, tools and equipment
17 as may be requisite for the servicing of motor
18 vehicles in such a manner as to make them comply with
19 the safety laws of this state and to properly fulfill
20 the dealer's or manufacturer's warranty obligation,

21 c. is not a direct-sale manufacturer or does not hold a
22 franchise in effect with a manufacturer or distributor
23 of new or unused motor vehicles for the sale of the
24 same and is not authorized by the manufacturer or

1 distributor to render predelivery preparation of such
2 vehicles sold to purchasers and to perform any
3 authorized post-sale work pursuant to the
4 manufacturer's or distributor's warranty,

5 d. employs unlicensed salespersons, or employs or
6 utilizes the services of used motor vehicle lots or
7 dealers or other unlicensed persons in connection with
8 the sale of new motor vehicles,

9 e. does not properly service a new motor vehicle before
10 delivery of same to the original purchaser thereof, or

11 f. fails to order and stock a reasonable number of new
12 motor vehicles necessary to meet customer demand for
13 each of the new motor vehicles included in the new
14 motor vehicle dealer's franchise agreement, unless the
15 new motor vehicles are not readily available from the
16 manufacturer or distributor due to limited production;

17 8. Being a factory that has:

18 a. either induced or attempted to induce by means of
19 coercion or intimidation, any new motor vehicle
20 dealer:

21 (1) to accept delivery of any motor vehicle or
22 vehicles, parts or accessories therefor, or any
23 other commodities including advertising material
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1 which shall not have been ordered by the new
2 motor vehicle dealer,

3 (2) to order or accept delivery of any motor vehicle
4 with special features, appliances, accessories or
5 equipment not included in the list price of the
6 motor vehicles as publicly advertised by the
7 manufacturer thereof, or

8 (3) to order or accept delivery of any parts,
9 accessories, equipment, machinery, tools,
10 appliances or any commodity whatsoever, or

11 b. induced under threat or discrimination by the
12 withholding from delivery to a motor vehicle dealer
13 certain models of motor vehicles, changing or amending
14 unilaterally the dealer's allotment of motor vehicles
15 and/or withholding and delaying delivery of such
16 vehicles out of the ordinary course of business, in
17 order to induce by such coercion any such dealer to
18 participate or contribute to any local or national
19 advertising fund controlled directly or indirectly by
20 the factory or for any other purposes such as contest,
21 "give-aways" or other so-called sales promotional
22 devices and/or change of quotas in any sales contest;
23 or has required motor vehicle dealers, as a condition
24 to receiving their vehicle allotment, to order a

1 certain percentage of the vehicles with optional
2 equipment not specified by the new motor vehicle
3 dealer; however, nothing in this section shall
4 prohibit a factory from supporting an advertising
5 association which is open to all dealers on the same
6 basis;

7 9. Being a factory that:

- 8 a. has attempted to coerce or has coerced any new motor
9 vehicle dealer to enter into any agreement or to
10 cancel any agreement, or fails to act in good faith
11 and in a fair, equitable and nondiscriminatory manner;
12 or has directly or indirectly coerced, intimidated,
13 threatened or restrained any motor vehicle dealer; or
14 has acted dishonestly, or has failed to act in
15 accordance with the reasonable standards of fair
16 dealing,
- 17 b. has failed to compensate its dealers for the work and
18 services they are required to perform in connection
19 with the dealer's delivery and preparation obligations
20 according to the agreements on file with the
21 Commission which must be found by the Commission to be
22 reasonable, or fail to adequately and fairly
23 compensate its dealers for labor, parts and other
24 expenses incurred by such dealer to perform under and

1 comply with manufacturer's warranty agreements.
2 Adequate and fair compensation for parts shall be
3 established by the dealer submitting to the
4 manufacturer or distributor one hundred sequential
5 nonwarranty customer-paid service repair orders which
6 contain warranty-like parts, or ninety (90)
7 consecutive days of nonwarranty customer-paid service
8 repair orders which contain warranty-like parts,
9 whichever is less, covering repairs made no more than
10 one hundred eighty (180) days before the submission
11 and declaring the average percentage markup. Adequate
12 and fair compensation for labor shall be established
13 by the dealer submitting to the manufacturer or
14 distributor one hundred sequential customer-paid
15 service repair orders which contain labor charges, or
16 ninety (90) consecutive days of customer-paid service
17 repair orders which contain labor charges, whichever
18 is less. When submitting repair orders to calculate a
19 labor rate, a dealer need not include repair orders
20 for routine maintenance. A manufacturer or
21 distributor may, not later than thirty (30) days after
22 submission, rebut that declared rate in writing by
23 reasonably substantiating that the rate is inaccurate
24 or unreasonable in light of the practices of all other

1 franchised motor vehicle dealers in an economically
2 similar part of the state offering the same line-make
3 vehicles. The retail rate shall go into effect thirty
4 (30) days following the approval by the manufacturer,
5 subject to audit of the submitted repair orders by the
6 franchisor and a rebuttal of the declared rate as
7 described above. If the declared rate is rebutted,
8 the manufacturer or distributor shall propose an
9 adjustment in writing of the average percentage markup
10 based on that rebuttal not later than thirty (30) days
11 after submission. If the dealer does not agree with
12 the proposed average percentage markup, the dealer may
13 file a protest with the Commission not later than
14 thirty (30) days after receipt of that proposal by the
15 manufacturer or distributor. In the event a protest
16 is filed, the manufacturer or distributor shall
17 have the burden of proof to establish the new motor
18 vehicle dealer's submitted rate was inaccurate or
19 unreasonable in light of the practices of all other
20 franchised motor vehicle dealers in an economically
21 similar part of the state. A manufacturer or
22 distributor may not retaliate against any new
23 motor vehicle dealer seeking to exercise its
24 rights under this provision. A manufacturer or

1 distributor may require a dealer to submit repair
2 orders in accordance with this section in order to
3 validate a dealer's retail rate for parts or labor
4 not more often than once every twelve (12) months.
5 All claims made by dealers for compensation for
6 delivery, preparation and warranty work shall be paid
7 within thirty (30) days after approval and shall be
8 approved or disapproved within thirty (30) days after
9 receipt. When any claim is disapproved, the dealer
10 shall be notified in writing of the grounds for
11 disapproval. The dealer's delivery, preparation and
12 warranty obligations as filed with the Commission
13 shall constitute the dealer's sole responsibility for
14 product liability as between the dealer and
15 manufacturer. A factory may reasonably and
16 periodically audit a new motor vehicle dealer to
17 determine the validity of paid claims for dealer
18 compensation or any charge-backs for warranty parts or
19 service compensation. Except in cases of suspected
20 fraud, audits of warranty payments shall only be for
21 the one-year period immediately following the date of
22 the payment. A manufacturer shall reserve the right
23 to reasonable, periodic audits to determine the
24 validity of paid claims for dealer compensation or any

1 charge-backs for consumer or dealer incentives.
2 Except in cases of suspected fraud, audits of
3 incentive payments shall only be for a one-year period
4 immediately following the date of the payment. A
5 factory shall not deny a claim or charge a new motor
6 vehicle dealer back subsequent to the payment of the
7 claim unless the factory can show that the claim was
8 false or fraudulent or that the new motor vehicle
9 dealer failed to reasonably substantiate the claim by
10 the written reasonable procedures of the factory. The
11 factory shall provide written notice to a dealer
12 of a proposed charge-back that is the result of an
13 audit along with the specific audit results and
14 proposed charge-back amount. A dealer that
15 receives notice of a proposed charge-back pursuant
16 to a factory's audit has the right to file a protest
17 with the Commission within thirty (30) days after
18 receipt of the notice of the charge-back or audit
19 results, whichever is later. The factory is
20 prohibited from implementing the charge-back or
21 debiting the dealer's account until either the time
22 frame for filing a protest has passed or a final
23 adjudication is rendered by the Commission,
24

1 whichever is later, unless the dealer has agreed
2 to the charge-back or charge-backs,

3 c. unreasonably fails or refuses to offer to its same
4 line-make franchised dealers all models manufactured
5 for that line-make, or unreasonably requires a dealer
6 to pay any extra fee, purchase unreasonable
7 advertising displays or other materials, or remodel,
8 renovate, or recondition the dealer's existing
9 facilities as a prerequisite to receiving a model or
10 series of vehicles. The failure to deliver any such
11 new motor vehicle shall not be considered a violation
12 of the section if the failure is not arbitrary or is
13 due to lack of manufacturing capacity or to a strike
14 or labor difficulty, a shortage of materials, a
15 freight embargo or other cause over which the
16 manufacturer has no control. However, this
17 subparagraph shall not apply to recreational vehicles
18 or limited production model vehicles,

19 d. except as necessary to comply with a health or
20 safety law, or to comply with a technology
21 requirement which is necessary to sell or service
22 a motor vehicle that the franchised motor vehicle
23 dealer is authorized or licensed by the franchisor
24 to sell or service, requires a new motor vehicle

1 dealer to construct a new facility or
2 substantially renovate the new motor vehicle
3 dealer's existing facility unless the facility
4 construction or renovation is justified by the
5 economic conditions existing at the time, as well
6 as the reasonably foreseeable projections, in the
7 automotive industry. However, this subparagraph
8 shall not apply if the factory provides money,
9 credit, allowance, reimbursement, or additional
10 vehicle allocation to a dealer to compensate the
11 dealer for the cost of, or a portion of the cost
12 of, the facility construction or renovation,

13 e. requires a new motor vehicle dealer to establish
14 an exclusive facility, unless supported by
15 reasonable business, market and economic
16 considerations; provided, that this provision
17 shall not restrict the terms of any agreement for
18 such exclusive facility voluntarily entered into
19 and supported by valuable consideration separate
20 from the new motor vehicle dealer's right to sell
21 and service motor vehicles for the franchisor,

22 f. requires a new motor vehicle dealer to enter into
23 a site-control agreement covering any or all of
24 the new motor vehicle dealer's facilities or

1 premises; provided, that this provision shall not
2 restrict the terms of any site-control agreement
3 voluntarily entered into and supported by valuable
4 consideration separate from the new motor vehicle
5 dealer's right to sell and service motor vehicles
6 for the franchisor. Notwithstanding the foregoing or
7 the terms of any site-control agreement, a site-
8 control agreement automatically extinguishes if all of
9 the factory's franchises that operated from the
10 location that are the subject of the site-control
11 agreement are terminated by the factory as part of the
12 discontinuance of a product line, or

13 g. requires a new motor vehicle dealer to purchase
14 goods or services for the construction,
15 renovation, or improvement of the dealer's
16 facility from a vendor chosen by the factory if
17 goods or services available from other sources are
18 of substantially similar quality and design and
19 comply with all applicable laws; provided,
20 however, that such goods are not subject to the
21 factory's intellectual property or trademark
22 rights and the new motor vehicle dealer has
23 received the factory's approval, which approval
24 may not be unreasonably withheld. Nothing in this

1 subparagraph may be construed to allow a new motor
2 vehicle dealer to impair or eliminate a factory's
3 intellectual property, trademark rights or trade
4 dress usage guidelines. Nothing in this section
5 prohibits the enforcement of a voluntary agreement
6 between the factory and the new motor vehicle
7 dealer where separate and valuable consideration
8 has been offered and accepted;

9 10. Being a factory that establishes a system of motor vehicle
10 allocation or distribution which is unfair, inequitable or
11 unreasonably discriminatory. Upon the request of any dealer
12 franchised by it, a factory shall disclose in writing to the dealer
13 the basis upon which new motor vehicles are allocated, scheduled and
14 delivered among the dealers of the same line-make for that factory;

15 11. Being a factory that sells directly or indirectly new motor
16 vehicles to any retail consumer in the state except through a new
17 motor vehicle dealer holding a franchise for the line-make that
18 includes the new motor vehicle. This paragraph does not apply to a
19 direct-sale manufacturer, factory sales of new motor vehicles to its
20 employees, family members of employees, retirees and family members
21 of retirees, not-for-profit organizations or the federal, state or
22 local governments. The provisions of this paragraph shall not
23 preclude a factory from providing information to a consumer for the
24 purpose of marketing or facilitating a sale of a new motor vehicle

1 or from establishing a program to sell or offer to sell new motor
2 vehicles through participating dealers;

3 12. a. Being a factory which directly or indirectly:

4 (1) owns any ownership interest or has any financial
5 interest in a new motor vehicle dealer or any
6 person who sells products or services to the
7 public,

8 (2) operates or controls a new motor vehicle dealer,
9 or

10 (3) acts in the capacity of a new motor vehicle
11 dealer.

12 b. (1) This paragraph does not prohibit a factory from
13 owning or controlling a new motor vehicle dealer
14 while in a bona fide relationship with a dealer
15 development candidate who has made a substantial
16 initial investment in the franchise and whose
17 initial investment is subject to potential loss.
18 The dealer development candidate can reasonably
19 expect to acquire full ownership of a new motor
20 vehicle dealer within a reasonable period of time
21 not to exceed ten (10) years and on reasonable
22 terms and conditions. The ten-year acquisition
23 period may be expanded for good cause shown.
24

1 (2) This paragraph does not prohibit a factory from
2 owning, operating, controlling or acting in the
3 capacity of a motor vehicle dealer for a period
4 not to exceed twelve (12) months during the
5 transition from one dealer to another dealer if
6 the dealership is for sale at a reasonable price
7 and on reasonable terms and conditions to an
8 independent qualified buyer. On showing by a
9 factory of good cause, the Oklahoma Motor Vehicle
10 Commission may extend the time limit set forth
11 above; extensions may be granted for periods not
12 to exceed twelve (12) months.

13 (3) This paragraph does not prohibit a factory from
14 owning, operating or controlling or acting in the
15 capacity of a motor vehicle dealer which was in
16 operation prior to January 1, 2000.

17 (4) This paragraph does not prohibit a factory from
18 owning, directly or indirectly, a minority
19 interest in an entity that owns, operates or
20 controls motor vehicle dealerships of the same
21 line-make franchised by the manufacturer,
22 provided that each of the following conditions
23 are met:
24

- 1 (a) all of the motor vehicle dealerships selling
2 the motor vehicles of that manufacturer in
3 this state trade exclusively in the line-
4 make of that manufacturer,
- 5 (b) all of the franchise agreements of the
6 manufacturer confer rights on the dealer of
7 the line-make to develop and operate, within
8 a defined geographic territory or area, as
9 many dealership facilities as the dealer and
10 manufacturer shall agree are appropriate,
- 11 (c) at the time the manufacturer first acquires
12 an ownership interest or assumes operation,
13 the distance between any dealership thus
14 owned or operated and the nearest
15 unaffiliated motor vehicle dealership
16 trading in the same line-make is not less
17 than seventy (70) miles,
- 18 (d) during any period in which the manufacturer
19 has such an ownership interest, the
20 manufacturer has no more than three
21 franchise agreements with new motor vehicle
22 dealers licensed by the Oklahoma Motor
23 Vehicle Commission to do business within the
24 state, and

1 (e) prior to January 1, 2000, the factory shall
2 have furnished or made available to
3 prospective motor vehicle dealers an
4 offering-circular in accordance with the
5 Trade Regulation Rule on Franchising of the
6 Federal Trade Commission, and any guidelines
7 and exemptions issued thereunder, which
8 disclose the possibility that the factory
9 may from time to time seek to own or
10 acquire, directly or indirectly, ownership
11 interests in retail dealerships.

12 (5) This paragraph does not prohibit a direct-sale
13 manufacturer from directly or indirectly owning,
14 operating or controlling or acting in the
15 capacity of a motor vehicle dealer;

16 13. Being a factory which directly or indirectly makes
17 available for public disclosure any proprietary information provided
18 to the factory by a new motor vehicle dealer, other than in
19 composite form to dealers in the same line-make or in response to a
20 subpoena or order of the Commission or a court. Proprietary
21 information includes, but is not limited to, information based on:

- 22 a. any information derived from monthly financial
23 statements provided to the factory, and
24

1 b. any information regarding any aspect of the
2 profitability of a particular new motor vehicle
3 dealer;

4 14. Being a factory which does not provide or direct leads in a
5 fair, equitable and timely manner. Nothing in this paragraph shall
6 be construed to require a factory to disregard the preference of a
7 consumer in providing or directing a lead;

8 15. Being a factory which used the customer list of a new motor
9 vehicle dealer for the purpose of unfairly competing with dealers;

10 16. Being a factory which prohibits a new motor vehicle dealer
11 from relocating after a written request by such new motor vehicle
12 dealer if:

13 a. the facility and the proposed new location satisfies
14 or meets the written reasonable guidelines of the
15 factory. Reasonable guidelines do not include site
16 control unless agreed to as set forth in subparagraphs
17 e and f of paragraph 9 of this subsection,

18 b. the proposed new location is within the area of
19 responsibility of the new motor vehicle dealer
20 pursuant to Section 578.1 of this title, and

21 c. the factory has sixty (60) days from receipt of the
22 new motor vehicle dealer's relocation request to
23 approve or deny the request. The failure to approve
24

1 or deny the request within the sixty-day time frame
2 shall constitute approval of the request;

3 17. Being a factory which prohibits a new motor vehicle dealer
4 from adding additional line-makes to its existing facility, if,
5 after adding the additional line-makes, the facility satisfies the
6 written reasonable capitalization standards and facility guidelines
7 of each factory. Reasonable facility guidelines do not include a
8 requirement to maintain site control unless agreed to by the dealer
9 as set forth in subparagraphs e and f of paragraph 9 of this
10 subsection;

11 18. Being a factory that increases prices of new motor vehicles
12 which the new motor vehicle dealer had ordered for retail consumers
13 and notified the factory prior to the dealer's receipt of the
14 written official price increase notification. A sales contract
15 signed by a retail consumer accompanied with proof of order
16 submission to the factory shall constitute evidence of each such
17 order, provided that the vehicle is in fact delivered to the
18 customer. Price differences applicable to new models or series
19 motor vehicles at the time of the introduction of new models or
20 series shall not be considered a price increase for purposes of this
21 paragraph. Price changes caused by any of the following shall not
22 be subject to the provisions of this paragraph:

- 23 a. the addition to a motor vehicle of required or
24 optional equipment pursuant to state or federal law,

- 1 b. revaluation of the United States dollar in the case of
2 foreign-made vehicles or components, or
3 c. an increase in transportation charges due to increased
4 rates imposed by common or contract carriers;

5 19. Being a factory that requires a new motor vehicle dealer to
6 participate monetarily in an advertising campaign or contest, or
7 purchase any promotional materials, showroom or other display
8 decoration or materials at the expense of the new motor vehicle
9 dealer without consent of the dealer, which consent shall not be
10 unreasonably withheld;

11 20. Being a factory that denies any new motor vehicle dealer
12 the right of free association with any other new motor vehicle
13 dealer for any lawful purpose, unless otherwise permitted by this
14 chapter; or

15 21. Being a factory that requires a new motor vehicle dealer to
16 sell, offer to sell or sell exclusively an extended service contact,
17 extended maintenance plan or similar product, such as gap products
18 offered, endorsed or sponsored by the factory by the following
19 means:

- 20 a. by an act or statement from the factory that will in
21 any manner adversely impact the dealer,
22 b. by measuring the dealer's performance under the
23 franchise based on the sale of extended service
24 contracts, extended maintenance plans or similar

1 products offered, endorsed or sponsored by the
2 manufacturer or distributor.

3 B. Notwithstanding the terms of any franchise agreement, in the
4 event of a proposed sale or transfer of a dealership, the
5 manufacturer or distributor shall be permitted to exercise a right
6 of first refusal to acquire the assets or ownership interest of the
7 dealer of the new vehicle dealership, if such sale or transfer is
8 conditioned upon the manufacturer or dealer entering into a dealer
9 agreement with the proposed new owner or transferee, only if all the
10 following requirements are met:

11 1. To exercise its right of first refusal, the factory must
12 notify the dealer in writing within sixty (60) days of receipt of
13 the completed proposal for the proposed sale transfer;

14 2. The exercise of the right of first refusal will result in
15 the dealer and the owner of the dealership receiving the same or
16 greater consideration as they have contracted to receive in
17 connection with the proposed change of ownership or transfer;

18 3. The proposed sale or transfer of the assets of the
19 dealership does not involve the transfer or sale to a member or
20 members of the family of one or more dealer owners, or to a
21 qualified manager or a partnership or corporation controlled by such
22 persons; and

23 4. The factory agrees to pay the reasonable expenses, including
24 attorney fees which do not exceed the usual, customary and
25

1 reasonable fees charged for similar work done for other clients
2 incurred by the proposed new owner and transferee prior to the
3 exercise by the factory of its right of first refusal in negotiating
4 and implementing the contract for the proposed sale or transfer of
5 the dealership or dealership assets. Notwithstanding the foregoing,
6 no payment of expenses and attorney fees shall be required if the
7 proposed new dealer or transferee has not submitted or caused to be
8 submitted an accounting of those expenses within thirty (30) days of
9 receipt of the written request of the factory for such an
10 accounting. The accounting may be requested by a factory before
11 exercising its right of first refusal.

12 C. Nothing in this section shall prohibit, limit, restrict or
13 impose conditions on:

14 1. Business activities, including without limitation the
15 dealings with motor vehicle manufacturers and the representatives
16 and affiliates of motor vehicle manufacturers, of any person that is
17 primarily engaged in the business of short-term, not to exceed
18 twelve (12) months, rental of motor vehicles and industrial and
19 construction equipment and activities incidental to that business,
20 provided that:

21 a. any motor vehicle sold by that person is limited to
22 used motor vehicles that have been previously used
23 exclusively and regularly by that person in the
24

1 conduct of business and used motor vehicles traded in
2 on motor vehicles sold by that person,

3 b. warranty repairs performed by that person on motor
4 vehicles are limited to those motor vehicles that it
5 owns, previously owned or takes in trade, and

6 c. motor vehicle financing provided by that person to
7 retail consumers for motor vehicles is limited to used
8 vehicles sold by that person in the conduct of
9 business; or

10 2. The direct or indirect ownership, affiliation or control of
11 a person described in paragraph 1 of this subsection.

12 SECTION 3. AMENDATORY 68 O.S. 2011, Section 1361, as
13 last amended by Section 3, Chapter 356, O.S.L. 2017 (68 O.S. Supp.
14 2018, Section 1361), is amended to read as follows:

15 Section 1361. A. 1. Except as otherwise provided by
16 subsection C of this section, the tax levied by Section 1350 et seq.
17 of this title shall be paid by the consumer or user to the vendor as
18 trustee for and on account of this state. Except as otherwise
19 provided by subsection C of this section, each and every vendor in
20 this state shall collect from the consumer or user the full amount
21 of the tax levied by Section 1350 et seq. of this title, or an
22 amount equal as nearly as possible or practicable to the average
23 equivalent thereof. Every person required to collect any tax
24

1 imposed by Section 1350 et seq. of this title shall be personally
2 liable for the tax.

3 2. However, the Oklahoma Tax Commission shall relieve sellers
4 or certified service providers that follow the requirements of this
5 section from the tax otherwise applicable if it is determined that
6 the purchaser improperly claimed an exemption and to hold the
7 purchaser liable for the nonpayment of tax. This relief from
8 liability does not apply to:

- 9 a. a seller or certified service provider (CSP) who
10 fraudulently fails to collect tax,
11 b. a seller who solicits purchasers to participate in the
12 unlawful claim of an exemption, or
13 c. a seller who accepts an exemption certificate when the
14 purchaser claims an entity-based exemption when:
15 (1) the subject of the transaction sought to be
16 covered by the exemption certificate is actually
17 received by the purchaser at a location operated
18 by the seller, and
19 (2) the Tax Commission provides an exemption
20 certificate that clearly and affirmatively
21 indicates that the claimed exemption is not
22 available in this state.

23 3. The Tax Commission shall relieve a seller or CSP of the tax
24 otherwise applicable if the seller obtains a fully completed

1 exemption certificate or captures the relevant data elements
2 required by the Tax Commission within ninety (90) days subsequent to
3 the date of sale.

4 If the seller or CSP has not obtained an exemption certificate
5 or all relevant data elements as provided by the Tax Commission, the
6 seller may, within one hundred twenty (120) days subsequent to a
7 request for substantiation, either prove that the transaction was
8 not subject to tax by other means or obtain a fully completed
9 exemption certificate from the purchaser, taken in good faith.

10 The Tax Commission shall relieve a seller or CSP of the tax
11 otherwise applicable if it obtains a blanket exemption certificate
12 for a purchaser with which the seller has a recurring business
13 relationship. The Tax Commission shall not request from the seller
14 or CSP renewal of blanket certificates or updates of exemption
15 certificate information or data elements when there is a recurring
16 business relationship between the buyer and seller. For purposes of
17 this section, a recurring business relationship exists when a period
18 of no more than twelve (12) months elapses between sales
19 transactions.

20 4. Upon the granting of relief from liability to the vendor as
21 provided in this section, the purchaser shall be liable for the
22 remittance of the tax, interest and penalty due thereon and the Tax
23 Commission shall pursue collection thereof from the purchaser in any
24 manner in which sales tax may be collected from a vendor.

1 B. Except as otherwise provided by subsection C of this
2 section, vendors shall add the tax imposed by Section 1350 et seq.
3 of this title, or the average equivalent thereof, to the sales
4 price, charge, consideration, gross receipts or gross proceeds of
5 the sale of tangible personal property or services taxed by Section
6 1350 et seq. of this title, and when added such tax shall constitute
7 a part of such price or charge, shall be a debt from the consumer or
8 user to vendor until paid, and shall be recoverable at law in the
9 same manner as other debts.

10 C. A person who has obtained a direct payment permit as
11 provided in Section 1364.1 of this title shall accrue all taxes
12 imposed pursuant to Section 1354 or 1402 of this title on all
13 purchases made by the person pursuant to the permit at the time the
14 purchased items are first used or consumed in a taxable manner and
15 pay the accrued tax directly to the Oklahoma Tax Commission on
16 reports as required by Section 1365 of this title.

17 D. Except as otherwise provided by subsection C of this
18 section, a vendor who willfully or intentionally fails, neglects or
19 refuses to collect the full amount of the tax levied by Section 1350
20 et seq. of this title, or willfully or intentionally fails, neglects
21 or refuses to comply with the provisions of Section 1350 et seq. of
22 this title, or remits or rebates to a consumer or user, either
23 directly or indirectly, and by whatsoever means, all or any part of
24 the tax levied by Section 1350 et seq. of this title, or makes in

1 any form of advertising, verbally or otherwise, any statement which
2 implies that the vendor is absorbing the tax, or paying the tax for
3 the consumer or user by an adjustment of prices or at a price
4 including the tax, or in any manner whatsoever, shall be deemed
5 guilty of a misdemeanor, and upon conviction thereof shall be fined
6 not more than Five Hundred Dollars (\$500.00), and upon conviction
7 for a second or other subsequent offense shall be fined not more
8 than One Thousand Dollars (\$1,000.00), or incarcerated for not more
9 than sixty (60) days, or both. Provided, sales by vending machines
10 may be made at a stated price which includes state and any municipal
11 sales tax.

12 E. A consumer or user who willfully or intentionally fails,
13 neglects or refuses to pay the full amount of tax levied by Section
14 1350 et seq. of this title or willfully or intentionally uses a
15 sales tax permit or direct payment permit which is invalid, expired,
16 revoked, canceled or otherwise limited to a specific line of
17 business or willfully or intentionally issues a resale certificate
18 to a vendor to evade the tax levied by Section 1350 et seq. of this
19 title shall be subject to a penalty in the amount of Five Hundred
20 Dollars (\$500.00) per reporting period upon determination thereof,
21 which shall be apportioned as provided for the apportionment of the
22 tax.

23 F. Any sum or sums collected or accrued or required to be
24 collected or accrued in Section 1350 et seq. of this title shall be

1 deemed to be held in trust for the State of Oklahoma, and, as
2 trustee, the collecting vendor or holder of a direct payment permit
3 as provided for in Section 1364.1 of this title shall have a
4 fiduciary duty to the State of Oklahoma in regards to such sums and
5 shall be subject to the trust laws of this state.

6 G. Notwithstanding the provisions of this section and the
7 exception provided in this subsection, the sales tax associated with
8 the purchase of a motor vehicle shall be paid by the consumer in the
9 same manner and time as the motor vehicle excise tax for ~~said~~ the
10 motor vehicle is due. Provided, for sales by a direct-sale
11 manufacturer as defined in Section 562 of Title 47 of the Oklahoma
12 Statutes, both the sales tax and motor vehicle excise tax associated
13 with a purchase shall be collected from the consumer and remitted to
14 the Oklahoma Tax Commission by the direct-sale manufacturer.

15 SECTION 4. AMENDATORY 68 O.S. 2011, Section 1402, as
16 amended by Section 4, Chapter 356, O.S.L. 2017 (68 O.S. Supp. 2018,
17 Section 1402), is amended to read as follows:

18 Section 1402. There is hereby levied and there shall be paid by
19 every person storing, using, or otherwise consuming within this
20 state, tangible personal property purchased or brought into this
21 state, an excise tax on the storage, use, or other consumption in
22 this state of such property at the rate of four and one-half percent
23 (4.5%) of the purchase price of such property. ~~Said~~ The tax shall
24 not be levied on tangible personal property intended solely for use

1 in other states, but which is stored in Oklahoma pending shipment to
2 such other states or which is temporarily retained in Oklahoma for
3 the purpose of fabrication, repair, testing, alteration,
4 maintenance, or other service. The tax in such instances shall be
5 paid at the time of importation or storage of the property within
6 the state and a subsequent credit shall be taken by the taxpayer for
7 the amount so paid upon removal of the property from the state.

8 Such tax is hereby levied and shall be paid in an amount equal to
9 four and one-half percent (4.5%) of the purchase price of such
10 tangible personal property. Notwithstanding the provisions of this
11 section and the exception provided herein, the sales tax associated
12 with the purchase of a motor vehicle shall be paid by the consumer
13 in the same manner and time as the motor vehicle excise tax for ~~said~~
14 the motor vehicle is due. Provided, for motor vehicle sales by a
15 direct-sale manufacturer as defined in Section 562 of Title 47 of
16 the Oklahoma Statutes, both the use tax and motor vehicle excise tax
17 associated with a purchase shall be collected from the consumer and
18 remitted to the Oklahoma Tax Commission by the direct-sale
19 manufacturer.

20 SECTION 5. AMENDATORY 68 O.S. 2011, Section 2103, as
21 amended by Section 4, Chapter 316, O.S.L. 2012 (68 O.S. Supp. 2018,
22 Section 2103), is amended to read as follows:

23 Section 2103. A. 1. Except as otherwise provided in Sections
24 2101 through 2108 of this title, there shall be levied an excise tax

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

- 22 a. from October 1, 2000, until June 30, 2001, Twenty
23 Dollars (\$20.00) on the first One Thousand Dollars
24 (\$1,000.00) or less of value of such vehicle, and

1 three and one-fourth percent (3 1/4%) of the remaining
2 value of such vehicle,

3 b. for the year beginning July 1, 2001, and ending June
4 30, 2002, Twenty Dollars (\$20.00) on the first One
5 Thousand Two Hundred Fifty Dollars (\$1,250.00) or less
6 of value of such vehicle, and three and one-fourth
7 percent (3 1/4%) of the remaining value of such
8 vehicle, and

9 c. for the year beginning July 1, 2002, and all
10 subsequent years, Twenty Dollars (\$20.00) on the first
11 One Thousand Five Hundred Dollars (\$1,500.00) or less
12 of value of such vehicle, and three and one-fourth
13 percent (3 1/4%) of the remaining value of such
14 vehicle.

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

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

22 b. trailer or semitrailer registered under subsection C
23 of Section 1133 of Title 47 of the Oklahoma Statutes,
24 which is primarily designed to transport cargo over
25

1 the highways of this state and generally recognized as
2 such, and

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

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

13 3. ~~The~~ Except as provided in paragraph 4 of this subsection,
14 the tax levied pursuant to this section shall be due at the time of
15 the transfer of legal ownership or first registration in this state
16 of such vehicle; provided, the tax shall not be due at the time of
17 the issuance of a certificate of title for an all-terrain vehicle,
18 utility vehicle or motorcycle used exclusively off roads and
19 highways which is not required to be registered but which the owner
20 chooses to register pursuant to the provisions of subsection B of
21 Section 1115.3 of Title 47 of the Oklahoma Statutes, and shall be
22 collected by the Oklahoma Tax Commission or Corporation Commission,
23 as applicable, or an appointed motor license agent, at the time of
24 the issuance of a certificate of title for any such vehicle. In the

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

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

23 4. For motor vehicle sales by a direct-sale manufacturer as
24 defined in Section 562 of Title 47 of the Oklahoma Statutes, the

1 motor vehicle excise tax associated with a purchase, along with any
2 sales or use tax due, shall be collected from the consumer and
3 remitted to the Oklahoma Tax Commission by the direct-sale
4 manufacturer.

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

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

- 22 1. Husband and wife;
 - 23 2. Parent and child; or
- 24
25

1 3. An individual and an express trust which that individual or
2 the spouse, child or parent of that individual has a right to
3 revoke.

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

6 a. a new original vehicle which is stolen from the
7 purchaser/registrant within ninety (90) days of the
8 date of purchase of the original vehicle as certified
9 by a police report or other documentation as required
10 by the Tax Commission, or

11 b. a defective new original vehicle returned by the
12 purchaser/registrant to the seller within six (6)
13 months of the date of purchase of the defective new
14 original vehicle as certified by the manufacturer.

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

20 E. Despite any other definitions of the terms "new vehicle" and
21 "used vehicle", to the contrary, contained in any other law, the
22 term "new vehicle" as used in this section shall also include any
23 vehicle of the latest manufactured model which is owned or acquired
24 by a licensed used motor vehicle dealer which has not previously

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

7 F. The provisions of this section shall not apply to state
8 government entities.

9 SECTION 6. AMENDATORY 68 O.S. 2011, Section 2105, as
10 last amended by Section 1, Chapter 312, O.S.L. 2016 (68 O.S. Supp.
11 2018, Section 2105), is amended to read as follows:

12 Section 2105. An original or a transfer certificate of title
13 shall be issued without the payment of the excise tax levied by
14 Section 2101 et seq. of this title for:

15 1. ~~Any vehicle owned by a nonresident person who operates~~
16 ~~principally in some other state but who is in Oklahoma only~~
17 ~~occasionally;~~

18 2. Any vehicle brought into this state by a person formerly
19 living in another state, who has owned and registered the vehicle in
20 such other state of residence at least sixty (60) days prior to the
21 time it is required to be registered in this state; provided,
22 however, this paragraph shall not apply to businesses engaged in
23 renting cars without a driver;

1 ~~3.~~ 2. Any vehicle registered by the State of Oklahoma, by any
2 of the political subdivisions thereof, or by a fire department
3 organized pursuant to Section 592 of Title 18 of the Oklahoma
4 Statutes to be used for the purposes of the fire department, or a
5 vehicle which is the subject of a lease or lease-purchase agreement
6 executed between the person seeking an original or transfer
7 certificate of title for the vehicle and a municipality, county,
8 school district, or fire protection district. The person seeking an
9 original or transfer certificate of title shall provide adequate
10 proof that the vehicle is subject to a lease or lease-purchase
11 agreement with a municipality, county, school district, or fire
12 protection district at the time the excise tax levied would
13 otherwise be payable. The Oklahoma Tax Commission shall have the
14 authority to determine what constitutes adequate proof as required
15 by this section;

16 ~~4.~~ 3. Any vehicle, the legal ownership of which is obtained by
17 the applicant for a certificate of title by inheritance;

18 ~~5.~~ 4. Any used motor vehicle, travel trailer, or commercial
19 trailer which is owned and being offered for sale by a person
20 licensed as a dealer to sell the same, under the provisions of the
21 Oklahoma Vehicle License and Registration Act:

- 22 a. if such vehicle, travel trailer, or commercial trailer
23 has been registered in Oklahoma and the excise tax
24 paid thereon, or

1 b. when such vehicle, travel trailer, or commercial
2 trailer has been registered in some other state but is
3 not the latest manufactured model.

4 Provided, the provisions of this paragraph shall not be
5 construed as allowing an exemption to any person not licensed as a
6 dealer of used motor vehicles, travel trailers, or commercial
7 trailers, or as an automotive dismantler and parts recycler in this
8 state;

9 ~~6.~~ 5. Any vehicle which was purchased by a person licensed to
10 sell new or used motor vehicles in another state:

11 a. if such vehicle is not purchased for operation or
12 resale in this state, and

13 b. the state from which the dealer is licensed offers
14 reciprocal privileges to a dealer licensed in this
15 state, pursuant to a reciprocal agreement between the
16 duly authorized agent of the Tax Commission and the
17 licensing state;

18 ~~7.~~ 6. Any vehicle, the ownership of which was obtained by the
19 lienholder or mortgagee under or by foreclosure of a lien or
20 mortgage in the manner provided by law or to the insurer under
21 subrogated rights arising by reason of loss under an insurance
22 contract;

23 ~~8.~~ 7. Any vehicle which is taxed on an ad valorem basis;

1 ~~9.~~ 8. Any vehicle or motor vehicle, the legal ownership of
2 which is obtained by transfers:

3 a. from one corporation to another corporation pursuant
4 to a reorganization. As used in this subsection the
5 term "reorganization" means:

6 (1) a statutory merger or consolidation, or

7 (2) the acquisition by a corporation of substantially
8 all of the properties of another corporation when
9 the consideration is solely all or a part of the
10 voting stock of the acquiring corporation, or of
11 its parent or subsidiary corporation,

12 b. in connection with the winding up, dissolution, or
13 liquidation of a corporation only when there is a
14 distribution in kind to the shareholders of the
15 property of such corporation,

16 c. to a corporation where the former owners of the
17 vehicle or motor vehicle transferred are, immediately
18 after the transfer, in control of the corporation, and
19 the stock or securities received by each is
20 substantially in proportion to the interest in the
21 vehicle or motor vehicle prior to the transfer,

22 d. to a partnership if the former owners of the vehicle
23 or motor vehicle transferred are, immediately after
24 the transfer, members of such partnership and the

- 1 interest in the partnership received by each is
2 substantially in proportion to the interest in the
3 vehicle or motor vehicle prior to the transfer,
4 e. from a partnership to the members thereof when made in
5 the dissolution of such partnership,
6 f. to a limited liability company if the former owners of
7 the vehicle or motor vehicle transferred are,
8 immediately after the transfer, members of the limited
9 liability company and the interest in the limited
10 liability company received by each is substantially in
11 proportion to the interest in the vehicle or motor
12 vehicle prior to the transfer, or
13 g. from a limited liability company to the members
14 thereof when made in the dissolution of such
15 partnership;

16 ~~10.~~ 9. Any vehicle which is purchased by a person to be used by
17 a business engaged in renting motor vehicles without a driver,
18 provided:

- 19 a. the vehicle shall not be rented to the same person for
20 a period exceeding ninety (90) days,
21 b. any such vehicle exempted from the excise tax by these
22 provisions shall not be placed under any type of lease
23 agreement,
24

1 c. on any such vehicle exempted from the excise tax by
2 this subsection that is reregistered in this state,
3 without a prior sale or transfer to the persons
4 specified in divisions (1) and (2) of this
5 subparagraph, at any time prior to the expiration of
6 twelve (12) months from the date of issuance of the
7 original title, the seller shall pay immediately the
8 amount of excise tax which would have been due had
9 this exemption not been granted plus a penalty of
10 twenty percent (20%). No such excise tax or penalty
11 shall become due and payable if the vehicle is sold or
12 transferred in a condition either physical or
13 mechanical which would render it eligible for a
14 salvage title pursuant to law or if the vehicle is
15 sold and transferred in this state at any time prior
16 to the expiration of twelve (12) months:

17 (1) to the manufacturer of the vehicle or its
18 controlled financing arm, or

19 (2) to a factory authorized franchised new motor
20 vehicle dealer which holds a franchise of the
21 same line-make of the vehicle being purchased, or

22 d. when this exemption is claimed, the Tax Commission
23 shall issue a special title which shall restrict the
24

1 transfer of the title only within this state prior to
2 the expiration of twelve (12) months unless:

3 (1) payment of the excise tax plus penalty as
4 provided in this section is made,

5 (2) the sale is made to a person specified in
6 division (1) or (2) of subparagraph c of this
7 paragraph, or

8 (3) the vehicle is eligible for a salvage title.

9 For all other tax purposes vehicles herein exempted shall be
10 treated as though the excise tax has been paid;

11 ~~11.~~ 10. Any vehicle of the latest manufactured model,
12 registered from a title in the name of the original manufacturer or
13 assigned to the original manufacturer and issued by any state and
14 transferred to a licensed, franchised Oklahoma motor vehicle dealer,
15 as defined by Section 1102 of Title 47 of the Oklahoma Statutes,
16 which holds a franchise of the same line-make as the vehicle being
17 registered;

18 ~~12.~~ 11. Any new motor vehicle, registered in the name of a
19 manufacturer or dealer of new motor vehicles, for which a license
20 plate has been issued pursuant to Section 1116.1 of Title 47 of the
21 Oklahoma Statutes, if such vehicle is authorized by the manufacturer
22 or dealer for personal use by an individual. The authorization for
23 such use shall not exceed four (4) months which shall not be renewed
24 or the exemption provided by this subsection shall not be

1 applicable. The exemption provided by this subsection shall not be
2 applicable to a transfer of ownership or registration subsequent to
3 the first registration of the vehicle by a manufacturer or dealer;

4 ~~13.~~ 12. Any vehicle, travel trailer, or commercial trailer of
5 the latest manufacturer model purchased by a franchised Oklahoma
6 dealer licensed to sell the same which holds a franchise of the same
7 line-make as the vehicle, travel trailer, or commercial trailer
8 being registered;

9 ~~14.~~ 13. Any vehicle which is the subject of a lease or lease-
10 purchase agreement and which the ownership of such vehicle is being
11 obtained by the lessee, if the vehicle excise tax was paid at the
12 time of the initial lease or lease-purchase agreement;

13 ~~15.~~ 14. Any vehicle which:

- 14 a. is purchased by a private, nonprofit organization
15 which is exempt from taxation pursuant to the
16 provisions of Section 501(c)(3) of the Internal
17 Revenue Code, 26 U.S.C., Section 501(c)(3), and which
18 is primarily funded by a fraternal or civic service
19 organization with at least one hundred local chapters
20 or clubs, and
21 b. is designed and used to provide mobile health
22 screening services to the general public at no cost to
23 the recipient, and for which no reimbursement of any
24 kind is received from any health insurance provider,

1 health maintenance organization, or governmental
2 program;

3 ~~16.~~ 15. Any vehicle which is purchased by an individual who has
4 been honorably discharged from active service in any branch of the
5 Armed Forces of the United States or Oklahoma National Guard and who
6 has been certified by the United States Department of Veterans
7 Affairs, its successor, or the Armed Forces of the United States to
8 be a disabled veteran in receipt of compensation at the one-hundred-
9 percent rate for a permanent disability sustained through military
10 action or accident resulting from disease contracted while in such
11 active service. This exemption may not be claimed by an individual
12 for more than one vehicle in a consecutive three-year period, unless
13 the vehicle is a replacement for a vehicle which was destroyed and
14 declared by the insurer to be a total loss claim; or

15 ~~17.~~ 16. Any vehicle on which ownership is transferred by a
16 reposessor directly back to the owner or owners from whom the
17 vehicle was repossessed; provided, ownership shall be assigned by
18 the reposessor within thirty (30) days of issuance of the
19 repossession title and shall be identical to that reflected in the
20 vehicle title record immediately prior to the repossession.

21 SECTION 7. AMENDATORY 68 O.S. 2011, Section 2105, as
22 last amended by Section 11, Chapter 229, O.S.L. 2017 (68 O.S. Supp.
23 2018, Section 2105), is amended to read as follows:
24

1 Section 2105. An original or a transfer certificate of title
2 shall be issued without the payment of the excise tax levied by
3 Section 2101 et seq. of this title for:

4 1. ~~Any vehicle owned by a nonresident person who operates~~
5 ~~principally in some other state but who is in Oklahoma only~~
6 ~~occasionally;~~

7 ~~2.~~ Any vehicle brought into this state by a person formerly
8 living in another state, who has owned and registered the vehicle in
9 such other state of residence at least sixty (60) days prior to the
10 time it is required to be registered in this state; provided,
11 however, this paragraph shall not apply to businesses engaged in
12 renting cars without a driver;

13 ~~3.~~ 2. Any vehicle registered by the State of Oklahoma, by any
14 of the political subdivisions thereof, or by a fire department
15 organized pursuant to Section 592 of Title 18 of the Oklahoma
16 Statutes to be used for the purposes of the fire department, or a
17 vehicle which is the subject of a lease or lease-purchase agreement
18 executed between the person seeking an original or transfer
19 certificate of title for the vehicle and a municipality, county,
20 school district, or fire protection district. The person seeking an
21 original or transfer certificate of title shall provide adequate
22 proof that the vehicle is subject to a lease or lease-purchase
23 agreement with a municipality, county, school district, or fire
24 protection district at the time the excise tax levied would

1 otherwise be payable. The Oklahoma Tax Commission shall have the
2 authority to determine what constitutes adequate proof as required
3 by this section;

4 ~~4.~~ 3. Any vehicle, the legal ownership of which is obtained by
5 the applicant for a certificate of title by inheritance;

6 ~~5.~~ 4. Any used motor vehicle, travel trailer, or commercial
7 trailer which is owned and being offered for sale by a person
8 licensed as a dealer to sell the same, under the provisions of the
9 Oklahoma Vehicle License and Registration Act:

- 10 a. if such vehicle, travel trailer, or commercial trailer
11 has been registered in Oklahoma and the excise tax
12 paid thereon, or
13 b. when such vehicle, travel trailer, or commercial
14 trailer has been registered in some other state but is
15 not the latest manufactured model.

16 Provided, the provisions of this paragraph shall not be
17 construed as allowing an exemption to any person not licensed as a
18 dealer of used motor vehicles, travel trailers, or commercial
19 trailers, or as an automotive dismantler and parts recycler in this
20 state;

21 ~~6.~~ 5. Any vehicle which was purchased by a person licensed to
22 sell new or used motor vehicles in another state:

- 23 a. if such vehicle is not purchased for operation or
24 resale in this state, and
25

1 b. the state from which the dealer is licensed offers
2 reciprocal privileges to a dealer licensed in this
3 state, pursuant to a reciprocal agreement between the
4 duly authorized agent of the Tax Commission and the
5 licensing state;

6 ~~7.~~ 6. Any vehicle, the ownership of which was obtained by the
7 lienholder or mortgagee under or by foreclosure of a lien or
8 mortgage in the manner provided by law or to the insurer under
9 subrogated rights arising by reason of loss under an insurance
10 contract;

11 ~~8.~~ 7. Any vehicle which is taxed on an ad valorem basis;

12 ~~9.~~ 8. Any vehicle or motor vehicle, the legal ownership of
13 which is obtained by transfers:

14 a. from one corporation to another corporation pursuant
15 to a reorganization. As used in this subsection the
16 term "reorganization" means:

17 (1) a statutory merger or consolidation, or

18 (2) the acquisition by a corporation of substantially
19 all of the properties of another corporation when
20 the consideration is solely all or a part of the
21 voting stock of the acquiring corporation, or of
22 its parent or subsidiary corporation,

23 b. in connection with the winding up, dissolution, or
24 liquidation of a corporation only when there is a

1 distribution in kind to the shareholders of the
2 property of such corporation,

3 c. to a corporation where the former owners of the
4 vehicle or motor vehicle transferred are, immediately
5 after the transfer, in control of the corporation, and
6 the stock or securities received by each is
7 substantially in proportion to the interest in the
8 vehicle or motor vehicle prior to the transfer,

9 d. to a partnership if the former owners of the vehicle
10 or motor vehicle transferred are, immediately after
11 the transfer, members of such partnership and the
12 interest in the partnership received by each is
13 substantially in proportion to the interest in the
14 vehicle or motor vehicle prior to the transfer,

15 e. from a partnership to the members thereof when made in
16 the dissolution of such partnership,

17 f. to a limited liability company if the former owners of
18 the vehicle or motor vehicle transferred are,
19 immediately after the transfer, members of the limited
20 liability company and the interest in the limited
21 liability company received by each is substantially in
22 proportion to the interest in the vehicle or motor
23 vehicle prior to the transfer, or

1 g. from a limited liability company to the members
2 thereof when made in the dissolution of such
3 partnership;

4 ~~10.~~ 9. Any vehicle which is purchased by a person to be used by
5 a business engaged in renting motor vehicles without a driver,
6 provided:

7 a. the vehicle shall not be rented to the same person for
8 a period exceeding ninety (90) days,

9 b. any such vehicle exempted from the excise tax by these
10 provisions shall not be placed under any type of lease
11 agreement,

12 c. on any such vehicle exempted from the excise tax by
13 this subsection that is reregistered in this state,
14 without a prior sale or transfer to the persons
15 specified in divisions (1) and (2) of this
16 subparagraph, at any time prior to the expiration of
17 twelve (12) months from the date of issuance of the
18 original title, the seller shall pay immediately the
19 amount of excise tax which would have been due had
20 this exemption not been granted plus a penalty of
21 twenty percent (20%). No such excise tax or penalty
22 shall become due and payable if the vehicle is sold or
23 transferred in a condition either physical or
24 mechanical which would render it eligible for a

1 salvage title pursuant to law or if the vehicle is
2 sold and transferred in this state at any time prior
3 to the expiration of twelve (12) months:

4 (1) to the manufacturer of the vehicle or its
5 controlled financing arm, or

6 (2) to a factory authorized franchised new motor
7 vehicle dealer which holds a franchise of the
8 same line-make of the vehicle being purchased, or

9 d. when this exemption is claimed, the Tax Commission
10 shall issue a special title which shall restrict the
11 transfer of the title only within this state prior to
12 the expiration of twelve (12) months unless:

13 (1) payment of the excise tax plus penalty as
14 provided in this section is made,

15 (2) the sale is made to a person specified in
16 division (1) or (2) of subparagraph c of this
17 paragraph, or

18 (3) the vehicle is eligible for a salvage title.

19 For all other tax purposes vehicles herein exempted shall be
20 treated as though the excise tax has been paid;

21 ~~11.~~ 10. Any vehicle of the latest manufactured model,
22 registered from a title in the name of the original manufacturer or
23 assigned to the original manufacturer and issued by any state and
24 transferred to a licensed, franchised Oklahoma motor vehicle dealer,

1 as defined by Section 1102 of Title 47 of the Oklahoma Statutes,
2 which holds a franchise of the same line-make as the vehicle being
3 registered;

4 ~~12.~~ 11. Any new motor vehicle, registered in the name of a
5 manufacturer or dealer of new motor vehicles, for which a license
6 plate has been issued pursuant to Section 1116.1 of Title 47 of the
7 Oklahoma Statutes, if such vehicle is authorized by the manufacturer
8 or dealer for personal use by an individual. The authorization for
9 such use shall not exceed four (4) months which shall not be renewed
10 or the exemption provided by this subsection shall not be
11 applicable. The exemption provided by this subsection shall not be
12 applicable to a transfer of ownership or registration subsequent to
13 the first registration of the vehicle by a manufacturer or dealer;

14 ~~13.~~ 12. Any vehicle, travel trailer, or commercial trailer of
15 the latest manufacturer model purchased by a franchised Oklahoma
16 dealer licensed to sell the same which holds a franchise of the same
17 line-make as the vehicle, travel trailer, or commercial trailer
18 being registered;

19 ~~14.~~ 13. Any vehicle which is the subject of a lease or lease-
20 purchase agreement and which the ownership of such vehicle is being
21 obtained by the lessee, if the vehicle excise tax was paid at the
22 time of the initial lease or lease-purchase agreement;

23 ~~15.~~ 14. Any vehicle which:
24
25

1 a. is purchased by a private, nonprofit organization
2 which is exempt from taxation pursuant to the
3 provisions of Section 501(c)(3) of the Internal
4 Revenue Code, 26 U.S.C., Section 501(c)(3), and which
5 is primarily funded by a fraternal or civic service
6 organization with at least one hundred local chapters
7 or clubs, and

8 b. is designed and used to provide mobile health
9 screening services to the general public at no cost to
10 the recipient, and for which no reimbursement of any
11 kind is received from any health insurance provider,
12 health maintenance organization, or governmental
13 program;

14 ~~16.~~ 15. Any vehicle which is purchased by an individual who has
15 been honorably discharged from active service in any branch of the
16 Armed Forces of the United States or Oklahoma National Guard and who
17 has been certified by the United States Department of Veterans
18 Affairs, its successor, or the Armed Forces of the United States to
19 be a disabled veteran in receipt of compensation at the one-hundred-
20 percent rate for a permanent disability sustained through military
21 action or accident resulting from disease contracted while in such
22 active service and registered with the veterans registry created by
23 the Oklahoma Department of Veterans Affairs; provided, that if the
24 veteran has previously received exemption pursuant to this

1 paragraph, no registration with the veterans registry shall be
2 required. This exemption may not be claimed by an individual for
3 more than one vehicle in a consecutive three-year period, unless the
4 vehicle is a replacement for a vehicle which was destroyed and
5 declared by the insurer to be a total loss claim. The Tax
6 Commission shall promulgate any rules necessary to implement the
7 provisions of this section; or

8 ~~17.~~ 16. Any vehicle on which ownership is transferred by a
9 reposessor directly back to the owner or owners from whom the
10 vehicle was repossessed; provided, ownership shall be assigned by
11 the reposessor within thirty (30) days of issuance of the
12 repossession title and shall be identical to that reflected in the
13 vehicle title record immediately prior to the repossession.

14 SECTION 8. This act shall become effective November 1, 2019.

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