Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2355

By: Caldwell (Chad) of the House and David of the Senate

Title: Motor vehicle sales; definition; adjustment to exemption from sales tax on motor vehicle sales; excise tax on certain vehicles in lieu of sales and use taxes.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That Conferees are unable to agree.

Respectfully submitted,
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House Action _______ Date _______ Senate Action _______ Date _______
ENGROSSED SENATE AMENDMENTS
TO ENGROSSED HOUSE BILL NO. 2355

By: Caldwell (Chad) of the House
and
David of the Senate

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

AMENDMENT NO. 1. Page 1, strike the enacting clause

AMENDMENT NO. 2. Pages 1 through 20, delete Section 1 and renumber subsequent Sections and when the title is restored, amend the title to conform
Passed the Senate the 25th day of April, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the ___ day of __________, 2019.

Presiding Officer of the House of Representatives
ENGR. H. B. NO. 2355

By: Caldwell (Chad) of the House

and

David of the Senate

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

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

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

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

a. "distinct and identifiable products" does not include:
   
   (1) packaging such as containers, boxes, sacks, bags, and bottles, or other materials such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof, including but not limited to, grocery sacks, shoeboxes, dry cleaning garment bags and express delivery envelopes and boxes,
   
   (2) a product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge, or
   
   (3) items included in the definition of gross receipts or sales price, pursuant to this section,

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

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

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

(2) the retail sale of services where one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service,

(3) a transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis. For purposes of this subdivision, "de
"de minimis" means the seller's purchase price or sales price of taxable products is ten percent (10%) or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers may not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis, or

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

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

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

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

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

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

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

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

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

8. "Drug" means a compound, substance or preparation, and any component of a compound, substance or preparation:
   a. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them,
   b. intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease, or
   c. intended to affect the structure or any function of the body;

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

10. "Established place of business" means the location at which any person regularly engages in, conducts, or operates a business in a continuous manner for any length of time, that is open to the public during the hours customary to such business, in which a stock of merchandise for resale is maintained, and which is not exempted by law from attachment, execution, or other species of forced sale barring any satisfaction of any delinquent tax liability accrued under the Oklahoma Sales Tax Code;
11. "Fair authority" means:
   a. any county, municipality, school district, public
      trust or any other political subdivision of this
      state, or
   b. any not-for-profit corporation acting pursuant to an
      agency, operating or management agreement which has
      been approved or authorized by the governing body of
      any of the entities specified in subparagraph a of
      this paragraph which conduct, operate or produce a
      fair commonly understood to be a county, district or
      state fair;

12. a. "Gross receipts", "gross proceeds" or "sales price"
    means the total amount of consideration, including
    cash, credit, property and services, for which
    personal property or services are sold, leased or
    rented, valued in money, whether received in money or
    otherwise, without any deduction for the following:
    (1) the seller's cost of the property sold,
    (2) the cost of materials used, labor or service
        cost,
    (3) interest, losses, all costs of transportation to
        the seller, all taxes imposed on the seller, and
        any other expense of the seller,
(4) charges by the seller for any services necessary
to complete the sale, other than delivery and
installation charges, and

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

(6) credit for any trade-in.

b. Such term shall not include:

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

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

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

c. Such term shall include consideration received by the
seller from third parties if:
(1) the seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale,

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

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

(4) one of the following criteria is met:

   (a) the purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented,

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

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

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

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

(b) having agents operating in this state, whether the place of business or agent is within this state temporarily or permanently or whether the person or agent is authorized to do business within this state, and
(2) the presence of any person, other than a common
carrier acting in its capacity as such, that has
substantial nexus in this state and that:

(a) sells a similar line of products as the
vendor and does so under the same or a
similar business name,
(b) uses trademarks, service marks or trade
names in this state that are the same
or substantially similar to those used
by the vendor,
(c) delivers, installs, assembles or
performs maintenance services for the
vendor,
(d) facilitates the vendor's delivery of
property to customers in the state by
allowing the vendor's customers to pick
up property sold by the vendor at an
office, distribution facility,
warehouse, storage place or similar
place of business maintained by the
person in this state, or
(e) conducts any other activities in this state
that are significantly associated with the
vendor's ability to establish and maintain a market in this state for the vendor's sale.

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

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

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

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

16. "Manufacturing site" means a location where a manufacturing
operation is conducted, including a location consisting of one or
more buildings or structures in an area owned, leased, or controlled
by a manufacturer;
17. "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R., Section 201.66. The over-the-counter-drug label includes:

   a. a "Drug Facts" panel, or

   b. a statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation;

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

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

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

Prewritten software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser.

Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software;

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

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

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

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

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

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

e. any use of motor fuel or diesel fuel by a supplier, as
   defined in Section 500.3 of this title, upon which
   sales tax has not previously been paid, for purposes
   other than to propel motor vehicles over the public
   highways of this state. Motor fuel or diesel fuel
   purchased outside the state and used for purposes
   other than to propel motor vehicles over the public
highways of this state shall not constitute a sale within the meaning of this paragraph;

23. "Sale for resale" means:
   
   a. a sale of tangible personal property to any purchaser who is purchasing tangible personal property for the purpose of reselling it within the geographical limits of the United States of America or its territories or possessions, in the normal course of business either in the form or condition in which it is purchased or as an attachment to or integral part of other tangible personal property,
   
   b. a sale of tangible personal property to a purchaser for the sole purpose of the renting or leasing, within the geographical limits of the United States of America or its territories or possessions, of the tangible personal property to another person by the purchaser, but not if incidental to the renting or leasing of real estate,
   
   c. a sale of tangible goods and products within this state if, simultaneously with the sale, the vendor issues an export bill of lading, or other documentation that the point of delivery of such goods for use and consumption is in a foreign country and not within the territorial confines of the United
States. If the vendor is not in the business of shipping the tangible goods and products that are purchased from the vendor, the buyer or purchaser of the tangible goods and products is responsible for providing an export bill of lading or other documentation to the vendor from whom the tangible goods and products were purchased showing that the point of delivery of such goods for use and consumption is a foreign country and not within the territorial confines of the United States, or d. a sales of any carrier access services, right of access services, telecommunications services to be resold, or telecommunications used in the subsequent provision of, use as a component part of, or integrated into, end-to-end telecommunications service;

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

25. "Taxpayer" means any person liable to pay a tax imposed by the Oklahoma Sales Tax Code;
26. "Tax period" or "taxable period" means the calendar period or the taxpayer's fiscal period for which a taxpayer has obtained a permit from the Tax Commission to use a fiscal period in lieu of a calendar period;

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

28. "Vendor" means:

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

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

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

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

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

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

1. Sale of gasoline, motor fuel, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special Fuels Tax levied in Section 500.1 et seq., Section 601 et seq. or Section 701 et seq. of this title has been, or will be paid;
2. For the sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Section 2101 et seq. of this title has been, or will be paid, all but a portion of the levy provided under Section 1354 of this title, equal to one and twenty-five-hundredths percent (1.25%) of the gross receipts less the amount of credit for any trade-in of such sales. Provided, the sale of motor vehicles shall not be subject to any sales and use taxes levied by cities, counties or other jurisdictions of the state;

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

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

5. Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1512 of this title has been paid;
6. Leases of twelve (12) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of this title;

7. Sales of charity game equipment on which a tax is levied pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of Title 3A of the Oklahoma Statutes, or which is sold to an organization that is:
   a. a veterans' organization exempt from taxation pursuant to the provisions of paragraph (4), (7), (8), (10) or (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq.,
   b. a group home for mentally disabled individuals exempt from taxation pursuant to the provisions of paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq., or
   c. a charitable healthcare organization which is exempt from taxation pursuant to the provisions of paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq.;

8. Sales of cigarettes or tobacco products to:
a. a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346 of this title or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid, or

b. a federally recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 349.1 or Section 426 of this title has been paid;

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

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

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

SECTION 3. AMENDATORY 68 O.S. 2011, Section 2103, as amended by Section 4, Chapter 316, O.S.L. 2012 (68 O.S. Supp. 2018, Section 2103), is amended to read as follows:
Section 2103.  A.  1.  Except as otherwise provided in Sections 2101 through 2108 of this title, there shall be levied an excise tax upon the transfer of legal ownership of any vehicle registered in this state and upon the use of any vehicle registered in this state and upon the use of any vehicle registered for the first time in this state.  Except for persons that possess an agricultural exemption pursuant to Section 1358.1 of this title, the excise tax shall be levied upon transfers of legal ownership of all-terrain vehicles and motorcycles used exclusively off roads and highways which occur on or after July 1, 2005, and upon transfers of legal ownership of utility vehicles used exclusively off roads and highways which occur on or after July 1, 2008.  The excise tax for new and used all-terrain vehicles, utility vehicles and motorcycles used exclusively off roads and highways shall be levied at four and one-half percent (4 1/2%) of the actual sales price of each new and used all-terrain vehicle and motorcycle used exclusively off roads and highways before any discounts or credits are given for a trade-in.  Provided, the minimum excise tax assessment for such all-terrain vehicles, utility vehicles and motorcycles used exclusively off roads and highways shall be Five Dollars ($5.00).  The excise tax for new vehicles shall be levied at three and one-fourth percent (3 1/4%) of the value of each new vehicle.  The excise tax for used vehicles shall be as follows:
a. from October 1, 2000, until June 30, 2001, Twenty Dollars ($20.00) on the first One Thousand Dollars ($1,000.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle, 

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

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

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

a. truck or truck-tractor registered under the provisions of subsection A of Section 1133 of Title 47 of the Oklahoma Statutes, for a laden weight or combined laden weight of fifty-five thousand (55,000) pounds or more,
b. trailer or semitrailer registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes, which is primarily designed to transport cargo over the highways of this state and generally recognized as such, and

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

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

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

a. twenty-five cents ($0.25) shall be apportioned as
   provided in Section 1104 of this title; and

b. twenty-five cents ($0.25) shall be retained by the
   motor license agent and

c. fifty cents ($0.50) shall be deposited in the General
   Revenue Fund for the fiscal year beginning on July 1, 2011, and for all subsequent fiscal years, shall be deposited in the State Highway Construction and
   Maintenance Fund.
B. The excise tax levied in subsection A of this section assessed on all commercial vehicles registered pursuant to Section 1120 of Title 47 of the Oklahoma Statutes, trucks and truck-tractors registered under subsection A of Section 1133 of Title 47 of the Oklahoma Statutes for a laden weight or combined laden weight of fifty-five thousand (55,000) pounds or more, trailers and semitrailers registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes to transport cargo over the highways of this state and frac tanks registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes shall be in lieu of all sales and use taxes levied pursuant to the Sales Tax Code or the Use Tax Code. The transfer of legal ownership of any motor vehicle as used in this section and the Sales Tax Code and the Use Tax Code shall include the lease, lease purchase or lease finance agreement involving any truck in excess of eight thousand (8,000) pounds combined laden weight or any truck-tractor provided the vehicle is registered in Oklahoma pursuant to Section 1120 of Title 47 of the Oklahoma Statutes or any frac tank, trailer, semitrailer or open commercial vehicle registered pursuant to Section 1133 of Title 47 of the Oklahoma Statutes. The excise tax levied pursuant to this section shall not be subsequently collected at the end of the lease period if the lessee acquires complete legal title of the vehicle.

C. The provisions of this section shall not apply to transfers made without consideration between:
1. Husband and wife;
2. Parent and child; or
3. An individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

D. 1. There shall be a credit allowed with respect to the excise tax paid for a new vehicle which is a replacement for:
   a. a new original vehicle which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vehicle as certified by a police report or other documentation as required by the Tax Commission, or
   b. a defective new original vehicle returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original vehicle as certified by the manufacturer.

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

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

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

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

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

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

Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of __________, 2019.

Presiding Officer of the Senate