

1 **SENATE FLOOR VERSION**

2 February 19, 2013

3 **AS AMENDED**

4 SENATE BILL NO. 660

5 By: Mazzei and Paddack of the
6 Senate

7 and

8 Sears of the House

9 **[sales tax - modifying duties and entities relating
10 to application process - effective date]**

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

12 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1352, is
13 amended to read as follows:

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

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

23 a. "distinct and identifiable products" does not include:
24

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

9 (2) a product provided free of charge with the
10 required purchase of another product. A product
11 is provided free of charge if the sales price of
12 the product purchased does not vary depending on
13 the inclusion of the product provided free of
14 charge, or

15 (3) items included in the definition of gross
16 receipts or sales price, pursuant to this
17 section,

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

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

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

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

17 (3) a transaction that includes taxable products and
18 nontaxable products and the purchase price or
19 sales price of the taxable products is de
20 minimis. For purposes of this subdivision, "de
21 minimis" means the seller's purchase price or
22 sales price of taxable products is ten percent
23 (10%) or less of the total purchase price or
24 sales price of the bundled products. Sellers

1 shall use either the purchase price or the sales
2 price of the products to determine if the taxable
3 products are de minimis. Sellers may not use a
4 combination of the purchase price and sales price
5 of the products to determine if the taxable
6 products are de minimis. Sellers shall use the
7 full term of a service contract to determine if
8 the taxable products are de minimis, or

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

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

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

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

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

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

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

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

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

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

3 a. recognized in the official United States

4 Pharmacopoeia, official Homeopathic Pharmacopoeia of
5 the United States, or official National Formulary, and
6 supplement to any of them,

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

9 c. intended to affect the structure or any function of
10 the body;

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

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

22 11. "Fair authority" means:
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- 1 a. any county, municipality, school district, public
2 trust or any other political subdivision of this
3 state, or
- 4 b. any not-for-profit corporation acting pursuant to an
5 agency, operating or management agreement which has
6 been approved or authorized by the governing body of
7 any of the entities specified in subparagraph a of
8 this paragraph which conduct, operate or produce a
9 fair commonly understood to be a county, district or
10 state fair;

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

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

7 (6) credit for any trade-in.

8 b. Such term shall not include:

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

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

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

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

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

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

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

10 13. "Maintaining a place of business in this state" means and
11 includes having or maintaining in this state, directly or by
12 subsidiary, an office, distribution house, sales house, warehouse,
13 or other physical place of business, or having agents operating in
14 this state, whether the place of business or agent is within this
15 state temporarily or permanently or whether the person or subsidiary
16 is authorized to do business within this state;

17 14. "Manufacturing" means and includes the activity of
18 converting or conditioning tangible personal property by changing
19 the form, composition, or quality of character of some existing
20 material or materials, including natural resources, by procedures
21 commonly regarded by the average person as manufacturing,
22 compounding, processing or assembling, into a material or materials
23 with a different form or use. "Manufacturing" includes custom-order
24 manufacturing, excluding artisan or craft products produced in

1 quantities of less than ten. "Manufacturing" does not include
2 extractive industrial activities such as mining, quarrying, logging,
3 and drilling for oil, gas and water, nor oil and gas field
4 processes, such as natural pressure reduction, mechanical
5 separation, heating, cooling, dehydration and compression;

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

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

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

24 a. a "Drug Facts" panel, or

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

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

12 19. "Prescription" means an order, formula or recipe issued in
13 any form of oral, written, electronic, or other means of
14 transmission by a duly licensed "practitioner" as defined in Section
15 1357.6 of this title;

16 20. "Prewritten computer software" means "computer software",
17 including prewritten upgrades, which is not designed and developed
18 by the author or other creator to the specifications of a specific
19 purchaser. The combining of two or more prewritten computer
20 software programs or prewritten portions thereof does not cause the
21 combination to be other than prewritten computer software.
22 Prewritten software includes software designed and developed by the
23 author or other creator to the specifications of a specific
24 purchaser when it is sold to a person other than the purchaser.

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

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

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

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- 1 a. the exchange, barter, lease, or rental of tangible
2 personal property resulting in the transfer of the
3 title to or possession of the property,
- 4 b. the disposition for consumption or use in any business
5 or by any person of all goods, wares, merchandise, or
6 property which has been purchased for resale,
7 manufacturing, or further processing,
- 8 c. the sale, gift, exchange, or other disposition of
9 admission, dues, or fees to clubs, places of
10 amusement, or recreational or athletic events or for
11 the privilege of having access to or the use of
12 amusement, recreational, athletic or entertainment
13 facilities,
- 14 d. the furnishing or rendering of services taxable under
15 the Oklahoma Sales Tax Code, and
- 16 e. any use of motor fuel or diesel fuel by a supplier, as
17 defined in Section 500.3 of this title, upon which
18 sales tax has not previously been paid, for purposes
19 other than to propel motor vehicles over the public
20 highways of this state. Motor fuel or diesel fuel
21 purchased outside the state and used for purposes
22 other than to propel motor vehicles over the public
23 highways of this state shall not constitute a sale
24 within the meaning of this paragraph;

1 23. "Sale for resale" means:

2 a. a sale of tangible personal property to any purchaser
3 who is purchasing tangible personal property for the
4 purpose of reselling it within the geographical limits
5 of the United States of America or its territories or
6 possessions, in the normal course of business either
7 in the form or condition in which it is purchased or
8 as an attachment to or integral part of other tangible
9 personal property,

10 b. a sale of tangible personal property to a purchaser
11 for the sole purpose of the renting or leasing, within
12 the geographical limits of the United States of
13 America or its territories or possessions, of the
14 tangible personal property to another person by the
15 purchaser, but not if incidental to the renting or
16 leasing of real estate,

17 c. a sale of tangible goods and products within this
18 state if, simultaneously with the sale, the vendor
19 issues an export bill of lading, or other
20 documentation that the point of delivery of such goods
21 for use and consumption is in a foreign country and
22 not within the territorial confines of the United
23 States. If the vendor is not in the business of
24 shipping the tangible goods and products that are

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

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

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

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

23 26. "Tax period" or "taxable period" means the calendar period
24 or the taxpayer's fiscal period for which a taxpayer has obtained a

1 permit from the Tax Commission to use a fiscal period in lieu of a
2 calendar period;

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

9 28. "Vendor" means:

- 10 a. any person making sales of tangible personal property
11 or services in this state, the gross receipts or gross
12 proceeds from which are taxed by the Oklahoma Sales
13 Tax Code,
14 b. any person maintaining a place of business in this
15 state and making sales of tangible personal property
16 or services, whether at the place of business or
17 elsewhere, to persons within this state, the gross
18 receipts or gross proceeds from which are taxed by the
19 Oklahoma Sales Tax Code,
20 c. any person who solicits business by employees,
21 independent contractors, agents, or other
22 representatives or by distribution of catalogs or
23 other advertising matter, and thereby makes sales to
24 persons within this state of tangible personal

1 property or services, the gross receipts or gross
2 proceeds from which are taxed by the Oklahoma Sales
3 Tax Code, or

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

11 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1359, is
12 amended to read as follows:

13 Section 1359. Exemptions - Manufacturing.

14 There are hereby specifically exempted from the tax levied by
15 Section 1350 et seq. of this title:

16 1. Sales of goods, wares, merchandise, tangible personal
17 property, machinery and equipment to a manufacturer for use in a
18 manufacturing operation, including sales to a general or custom
19 manufacturer. Goods, wares, merchandise, property, machinery and
20 equipment used in a nonmanufacturing activity or process as set
21 forth in paragraph 9 14 of Section 1352 of this title shall not be
22 eligible for the exemption provided for in this subsection by virtue
23 of the activity or process being performed in conjunction with or
24 integrated into a manufacturing operation.

1 For the purposes of this paragraph, sales made to any person,
2 firm or entity that has entered into a contractual relationship for
3 the construction and improvement of manufacturing goods, wares,
4 merchandise, property, machinery and equipment for use in a
5 manufacturing operation shall be considered sales made to a
6 manufacturer which is defined or classified in the North American
7 Classification System (NAICS) Manual under Industry Group No.
8 324110. Such purchase shall be evidenced by a copy of the sales
9 ticket or invoice to be retained by the vendor indicating that the
10 purchases are made for and on behalf of such manufacturer and set
11 out the name of such manufacturer as well as include a copy of the
12 Manufacturing Exemption Permit of the manufacturer. Any person who
13 wrongfully or erroneously certifies that purchases are being made on
14 behalf of such manufacturer or who otherwise violates this paragraph
15 shall be guilty of a misdemeanor and upon conviction thereof shall
16 be fined an amount equal to double the amount of sales tax involved
17 or incarcerated for not more than sixty (60) days or both;

18 2. Ethyl alcohol when sold and used for the purpose of blending
19 same with motor fuel on which motor fuel tax is levied by Section
20 500.4 of this title;

21 3. Sales of containers when sold to a person regularly engaged
22 in the business of reselling empty or filled containers or when
23 purchased for the purpose of packaging raw products of farm, garden,
24 or orchard for resale to the consumer or processor. This exemption

1 shall not apply to the sale of any containers used more than once
2 and which are ordinarily known as returnable containers, except
3 returnable soft drink bottles and the cartons, crates, pallets, and
4 containers used to transport returnable soft drink bottles. Each
5 and every transfer of title or possession of such returnable
6 containers in this state to any person who is not regularly engaged
7 in the business of selling, reselling or otherwise transferring
8 empty or filled containers shall be taxable under this Code.

9 Additionally, this exemption shall not apply to the sale of labels
10 or other materials delivered along with items sold but which are not
11 necessary or absolutely essential to the sale of the sold
12 merchandise;

13 4. Sales of or transfers of title to or possession of any
14 containers, after June 30, 1987, used or to be used more than once
15 and which are ordinarily known as returnable containers and which do
16 or will contain beverages defined by paragraphs 4 and 14 of Section
17 506 of Title 37 of the Oklahoma Statutes, or water for human
18 consumption and the cartons, crates, pallets, and containers used to
19 transport such returnable containers;

20 5. Sale of tangible personal property when sold by the
21 manufacturer to a person who transports it to a state other than
22 Oklahoma for immediate and exclusive use in a state other than
23 Oklahoma. Provided, no sales at a retail outlet shall qualify for
24 the exemption under this paragraph;

1 6. Machinery, equipment, fuels and chemicals or other materials
2 incorporated into and directly used or consumed in the process of
3 treatment to substantially reduce the volume or harmful properties
4 of hazardous waste at treatment facilities specifically permitted
5 pursuant to the Oklahoma Hazardous Waste Management Act and operated
6 at the place of waste generation, or facilities approved by the
7 Department of Environmental Quality for the cleanup of a site of
8 contamination. The term "hazardous" waste may include low-level
9 radioactive waste for the purpose of this paragraph;

10 7. Except as otherwise provided by subsection I of Section 3658
11 of this title pursuant to which the exemption authorized by this
12 paragraph may not be claimed, sales of tangible personal property to
13 a qualified manufacturer or distributor to be consumed or
14 incorporated in a new manufacturing or distribution facility or to
15 expand an existing manufacturing or distribution facility. For
16 purposes of this paragraph, sales made to a contractor or
17 subcontractor that has previously entered into a contractual
18 relationship with a qualified manufacturer or distributor for
19 construction or expansion of a manufacturing or distribution
20 facility shall be considered sales made to a qualified manufacturer
21 or distributor. For the purposes of this paragraph, "qualified
22 manufacturer or distributor" means:

23 a. any manufacturing enterprise whose total cost of
24 construction of a new or expanded facility exceeds the

1 sum of Five Million Dollars (\$5,000,000.00) and in
2 which at least one hundred (100) new full-time-
3 equivalent employees, as certified by the Oklahoma
4 Employment Security Commission, are added and
5 maintained for a period of at least thirty-six (36)
6 months as a direct result of the new or expanded
7 facility,

8 b. any manufacturing enterprise whose total cost of
9 construction of a new or expanded facility exceeds the
10 sum of Ten Million Dollars (\$10,000,000.00) and the
11 combined cost of construction material, machinery,
12 equipment and other tangible personal property exempt
13 from sales tax under the provisions of this paragraph
14 exceeds the sum of Fifty Million Dollars
15 (\$50,000,000.00) and in which at least seventy-five
16 (75) new full-time-equivalent employees, as certified
17 by the Oklahoma Employment Security Commission, are
18 added and maintained for a period of at least thirty-
19 six (36) months as a direct result of the new or
20 expanded facility,

21 c. any manufacturing enterprise whose total cost of
22 construction of an expanded facility exceeds the sum
23 of Three Hundred Million Dollars (\$300,000,000.00) and
24 in which the manufacturer has and maintains an average

1 employment level of at least one thousand seven
2 hundred fifty (1,750) full-time-equivalent employees,
3 as certified by the Employment Security Commission, or
4 d. any enterprise primarily engaged in the general
5 wholesale distribution of groceries defined or
6 classified in the North American Industry
7 Classification System (NAICS) Manual under Industry
8 Groups No. 4244 and 4245 and which has at least
9 seventy-five percent (75%) of its total sales to in-
10 state customers or buyers and whose total cost of
11 construction of a new or expanded facility exceeds the
12 sum of Forty Million Dollars (\$40,000,000.00) with
13 such construction commencing on or after July 1, 2005,
14 and before December 31, 2005, and which at least fifty
15 new full-time-equivalent employees, as certified by
16 the Oklahoma Employment Security Commission, are added
17 and maintained for a period of at least thirty-six
18 (36) months as a direct result of the new or expanded
19 facility.

20 For purposes of this paragraph, the total cost of construction
21 shall include building and construction material and engineering and
22 architectural fees or charges directly associated with the
23 construction of a new or expanded facility. The total cost of
24 construction shall not include attorney fees. For purposes of

1 subparagraph c of this paragraph, the total cost of construction
2 shall also include the cost of qualified depreciable property as
3 defined in Section 2357.4 of this title and labor services performed
4 in the construction of an expanded facility. For the purpose of
5 subparagraph d of this paragraph, the total cost of construction
6 shall also include the cost of all parking, security and dock
7 structures or facilities necessary to manage, process or secure
8 vehicles used to receive and/or distribute groceries through such a
9 facility. The employment requirement of this paragraph can be
10 satisfied by the employment of a portion of the required number of
11 new full-time-equivalent employees at a manufacturing or
12 distribution facility that is related to or supported by the new or
13 expanded manufacturing or distribution facility as long as both
14 facilities are owned by one person or business entity. For purposes
15 of this section, "manufacturing facility" shall mean building and
16 land improvements used in manufacturing as defined in Section 1352
17 of this title and shall also mean building and land improvements
18 used for the purpose of packing, repackaging, labeling or assembling
19 for distribution to market, products at least seventy percent (70%)
20 of which are made in Oklahoma by the same company but at an off-
21 site, in-state manufacturing or distribution facility or facilities.
22 It shall not include a retail outlet unless the retail outlet is
23 operated in conjunction with and on the same site or premises as the
24 manufacturing facility. Up to ten percent (10%) of the square feet

1 of a manufacturing or distribution facility building may be devoted
2 to office space used to provide clerical support for the
3 manufacturing operation. Such ten percent (10%) may be in a
4 separate building as long as it is part of the same contiguous tract
5 of property on which the manufacturing or distribution facility is
6 located. Only sales of tangible personal property made after June
7 1, 1988, shall be eligible for the exemption provided by this
8 paragraph. The exemption authorized pursuant to subparagraph d of
9 this paragraph shall only become effective when the governing body
10 of the municipality in which the enterprise is located approves a
11 resolution expressing the municipality's support for the
12 construction for such new or expanded facility. Upon approval by
13 the municipality, the municipality shall forward a copy of such
14 resolution to the Oklahoma Tax Commission;

15 8. Sales of tangible personal property purchased and used by a
16 licensed radio or television station in broadcasting. This
17 exemption shall not apply unless such machinery and equipment is
18 used directly in the manufacturing process, is necessary for the
19 proper production of a broadcast signal or is such that the failure
20 of the machinery or equipment to operate would cause broadcasting to
21 cease. This exemption begins with the equipment used in producing
22 live programming or the electronic equipment directly behind the
23 satellite receiving dish or antenna, and ends with the transmission
24 of the broadcast signal from the broadcast antenna system. For

1 purposes of this paragraph, "proper production" shall include, but
2 not be limited to, machinery or equipment required by Federal
3 Communications Commission rules and regulations;

4 9. Sales of tangible personal property purchased or used by a
5 licensed cable television operator in cablecasting. This exemption
6 shall not apply unless such machinery and equipment is used directly
7 in the manufacturing process, is necessary for the proper production
8 of a cablecast signal or is such that the failure of the machinery
9 or equipment to operate would cause cablecasting to cease. This
10 exemption begins with the equipment used in producing local
11 programming or the electronic equipment behind the satellite
12 receiving dish, microwave tower or antenna, and ends with the
13 transmission of the signal from the cablecast head-end system. For
14 purposes of this paragraph, "proper production" shall include, but
15 not be limited to, machinery or equipment required by Federal
16 Communications Commission rules and regulations;

17 10. Sales of packaging materials for use in packing, shipping
18 or delivering tangible personal property for sale when sold to a
19 producer of agricultural products. This exemption shall not apply
20 to the sale of any packaging material which is ordinarily known as a
21 returnable container;

22 11. Sales of any pattern used in the process of manufacturing
23 iron, steel or other metal castings. The exemption provided by this
24 paragraph shall be applicable irrespective of ownership of the

1 pattern provided that such pattern is used in the commercial
2 production of metal castings;

3 12. Deposits or other charges made and which are subsequently
4 refunded for returnable cartons, crates, pallets, and containers
5 used to transport cement and cement products;

6 13. Beginning January 1, 1998, machinery, electricity, fuels,
7 explosives and materials, excluding chemicals, used in the mining of
8 coal in this state;

9 14. Deposits, rent or other charges made for returnable
10 cartons, crates, pallets, and containers used to transport mushrooms
11 or mushroom products from a farm for resale to the consumer or
12 processor; and

13 15. Sales of tangible personal property and services used or
14 consumed in all phases of the extraction and manufacturing of
15 crushed stone and sand, including but not limited to site
16 preparation, dredging, overburden removal, explosive placement and
17 detonation, onsite material hauling and/or transfer, material
18 washing, screening and/or crushing, product weighing and site
19 reclamation.

20 SECTION 3. AMENDATORY 68 O.S. 2011, Section 1359.2, is
21 amended to read as follows:

22 Section 1359.2. A. In order to qualify for the exemption
23 authorized in paragraph 1 of Section 1359 of ~~Title 68 of the~~
24 ~~Oklahoma Statutes~~ this title, at the time of sale, the person to

1 whom the sale is made, provided the purchaser is a resident of this
2 state, shall be required to furnish the vendor proof of eligibility
3 for the exemption as required by this section. All vendors shall
4 honor the proof of eligibility for sales tax exemption as authorized
5 under this section, and sales to a person providing such proof shall
6 be exempt from the tax levied by Section 1350 et seq. of ~~Title 68 of~~
7 ~~the Oklahoma Statutes~~ this title.

8 B. Each resident manufacturer wishing to claim the exemption
9 authorized in paragraph 1 of Section 1359 of ~~Title 68 of the~~
10 ~~Oklahoma Statutes~~ this title shall be required to secure from the
11 Oklahoma Tax Commission a manufacturer exemption permit, the size
12 and design of which shall be prescribed by the Tax Commission. This
13 permit shall constitute proof of eligibility for the exemption
14 provided in paragraph 1 of Section 1359 of ~~Title 68 of the Oklahoma~~
15 ~~Statutes~~ this title. Each such manufacturer shall file with the ~~Tax~~
16 ~~Commission~~ Oklahoma Department of Commerce an application for an
17 exemption permit, setting forth such information as the ~~Tax~~
18 ~~Commission~~ Oklahoma Department of Commerce may require. The
19 application shall be signed by the owner of the business or
20 representative of the business entity and as a natural person, and,
21 in the case of a corporation, as a legally constituted officer
22 thereof. Once the Oklahoma Department of Commerce determines that
23 an applicant is eligible as a manufacturer for purposes of the
24 exemption, the Tax Commission shall issue an exemption permit.

1 C. Each manufacturer exemption permit issued shall be valid for
2 a period of three (3) years from the date of issuance. If a
3 manufacturer applying for a manufacturer exemption permit is already
4 the holder of a manufacturer's sales tax permit issued under Section
5 1364 of ~~Title 68 of the Oklahoma Statutes~~ this title at the time of
6 initial application, the manufacturer exemption permit shall be
7 issued with an expiration date which corresponds with the expiration
8 date of the manufacturer's sales tax permit. Thereafter, the Tax
9 Commission shall issue the exemption permits at the same time of
10 issuance or renewal of the manufacturer's sales tax permit issued
11 under Section 1364 of ~~Title 68 of the Oklahoma Statutes~~ this title.

12 D. The Tax Commission shall honor all manufacturer's limited
13 exemption certificates issued prior to the effective date of this
14 act. However, holders of such certificates shall apply for a
15 manufacturer exemption permit pursuant to the provisions of this
16 section at the same time they apply for issuance or renewal of a
17 manufacturer's sales tax permit.

18 SECTION 4. This act shall become effective November 1, 2013.

19 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
20 February 19, 2013 - DO PASS AS AMENDED
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