1	ENGROSSED SENATE AMENDMENT TO
2	ENGROSSED HOUSE
З	BILL NO. 2303 By: Tadlock, Roberts (Dustin) and McBride of the House
4	and
5	Bullard of the Senate
6	
7	
8	[ revenue and taxation - sales tax exemption for
9	forestry equipment - effective date ]
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12	AMENDMENT NO. 1. Page 1, strike the enacting clause
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14	Passed the Senate the 16th day of April, 2019.
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16	Presiding Officer of the Senate
17	Presiding Officer of the Senate
18	Passed the House of Representatives the day of,
19	2019.
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21	Dresiding Officer of the Neuro
22	Presiding Officer of the House of Representatives
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1	ENGROSSED HOUSE BILL NO. 2303 By: Tadlock, Roberts (Dustin)
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3	and
4	Bullard of the Senate
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8	[ revenue and taxation - sales tax exemption for
9	forestry equipment - effective date ]
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12	BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
13	SECTION 1. AMENDATORY 68 O.S. 2011, Section 1357, as
14	last amended by Section 10, Chapter 229, O.S.L. 2017 (68 O.S. Supp.
15	2018, Section 1357), is amended to read as follows:
16	Section 1357. Exemptions - General.
17	There are hereby specifically exempted from the tax levied by
18	the Oklahoma Sales Tax Code:
19	1. Transportation of school pupils to and from elementary
20	schools or high schools in motor or other vehicles;
21	2. Transportation of persons where the fare of each person does
22	not exceed One Dollar (\$1.00), or local transportation of persons
23	within the corporate limits of a municipality except by taxicabs;
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1 3. Sales for resale to persons engaged in the business of 2 reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made 3 4 to persons to whom sales tax permits have been issued as provided in 5 the Oklahoma Sales Tax Code. This exemption shall not apply to the sales of articles made to persons holding permits when such persons 6 7 purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption 8 9 apply to sales of tangible personal property to peddlers, solicitors 10 and other salespersons who do not have an established place of 11 business and a sales tax permit. The exemption provided by this 12 paragraph shall apply to sales of motor fuel or diesel fuel to a 13 Group Five vendor, but the use of such motor fuel or diesel fuel by 14 the Group Five vendor shall not be exempt from the tax levied by the 15 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel 16 is exempt from sales tax when the motor fuel is for shipment outside 17 this state and consumed by a common carrier by rail in the conduct 18 of its business. The sales tax shall apply to the purchase of motor 19 fuel or diesel fuel in Oklahoma by a common carrier by rail when 20 such motor fuel is purchased for fueling, within this state, of any 21 locomotive or other motorized flanged wheel equipment; 22 4. Sales of advertising space in newspapers and periodicals;

23 5. Sales of programs relating to sporting and entertainment
24 events, and sales of advertising on billboards (including signage,

posters, panels, marquees, or on other similar surfaces, whether indoors or outdoors) or in programs relating to sporting and entertainment events, and sales of any advertising, to be displayed at or in connection with a sporting event, via the Internet, electronic display devices, or through public address or broadcast systems. The exemption authorized by this paragraph shall be effective for all sales made on or after January 1, 2001;

6. Sales of any advertising, other than the advertising
9 described by paragraph 5 of this section, via the Internet,
10 electronic display devices, or through the electronic media,
11 including radio, public address or broadcast systems, television
12 (whether through closed circuit broadcasting systems or otherwise),
13 and cable and satellite television, and the servicing of any
14 advertising devices;

15 7. Eggs, feed, supplies, machinery and equipment purchased by 16 persons regularly engaged in the business of raising worms, fish, 17 any insect or any other form of terrestrial or aquatic animal life 18 and used for the purpose of raising same for marketing. This 19 exemption shall only be granted and extended to the purchaser when 20 the items are to be used and in fact are used in the raising of 21 animal life as set out above. Each purchaser shall certify, in 22 writing, on the invoice or sales ticket retained by the vendor that 23 the purchaser is regularly engaged in the business of raising such 24 animal life and that the items purchased will be used only in such

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business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

5 8. Sale of natural or artificial gas and electricity, and 6 associated delivery or transmission services, when sold exclusively 7 for residential use. Provided, this exemption shall not apply to 8 any sales tax levied by a city or town, or a county, or any other 9 jurisdiction in this state;

In addition to the exemptions authorized by Section 1357.6
 of this title, sales of drugs sold pursuant to a prescription
 written for the treatment of human beings by a person licensed to
 prescribe the drugs, and sales of insulin and medical oxygen.
 Provided, this exemption shall not apply to over-the-counter drugs;

15 10. Transfers of title or possession of empty, partially 16 filled, or filled returnable oil and chemical drums to any person 17 who is not regularly engaged in the business of selling, reselling 18 or otherwise transferring empty, partially filled, or filled 19 returnable oil drums;

20 11. Sales of one-way utensils, paper napkins, paper cups, 21 disposable hot containers and other one-way carry out materials to a 22 vendor of meals or beverages;

23 12. Sales of food or food products for home consumption which24 are purchased in whole or in part with coupons issued pursuant to

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the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program;

8 13. Sales of food or food products, or any equipment or
9 supplies used in the preparation of the food or food products to or
10 by an organization which:

- 11a.is exempt from taxation pursuant to the provisions of12Section 501(c)(3) of the Internal Revenue Code, 2613U.S.C., Section 501(c)(3), and which provides and14delivers prepared meals for home consumption to15elderly or homebound persons as part of a program16commonly known as "Meals on Wheels" or "Mobile Meals",17or
- b. is exempt from taxation pursuant to the provisions of
  Section 501(c) (3) of the Internal Revenue Code, 26
  U.S.C., Section 501(c) (3), and which receives federal
  funding pursuant to the Older Americans Act of 1965,
  as amended, for the purpose of providing nutrition
  programs for the care and benefit of elderly persons;

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- 14. a. Sales of tangible personal property or services to or
   by organizations which are exempt from taxation
   pursuant to the provisions of Section 501(c)(3) of the
   Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
   and:
- 6 (1)are primarily involved in the collection and 7 distribution of food and other household products to other organizations that facilitate the 8 9 distribution of such products to the needy and 10 such distributee organizations are exempt from 11 taxation pursuant to the provisions of Section 12 501(c)(3) of the Internal Revenue Code, 26 13 U.S.C., Section 501(c)(3), or
- 14 (2) facilitate the distribution of such products to15 the needy.
- b. Sales made in the course of business for profit or
  savings, competing with other persons engaged in the
  same or similar business shall not be exempt under
  this paragraph;

20 15. Sales of tangible personal property or services to 21 children's homes which are located on church-owned property and are 22 operated by organizations exempt from taxation pursuant to the 23 provisions of the Internal Revenue Code, 26 U.S.C., Section 24 501(c)(3);

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1 16. Sales of computers, data processing equipment, related 2 peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or 3 4 manufacturing facility. For purposes of this paragraph, "qualified 5 aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or 6 rebuilding whether or not on a factory basis, whose total cost of 7 construction exceeds the sum of Five Million Dollars (\$5,000,000.00) 8 9 and which employs at least two hundred fifty (250) new full-time-10 equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to 11 12 qualify for the exemption provided for by this paragraph, the cost 13 of the items purchased by the qualified aircraft maintenance or 14 manufacturing facility shall equal or exceed the sum of Two Million 15 Dollars (\$2,000,000.00);

16 Sales of tangible personal property consumed or 17. 17 incorporated in the construction or expansion of a qualified 18 aircraft maintenance or manufacturing facility as defined in 19 paragraph 16 of this section. For purposes of this paragraph, sales 20 made to a contractor or subcontractor that has previously entered 21 into a contractual relationship with a qualified aircraft 22 maintenance or manufacturing facility for construction or expansion 23 of such a facility shall be considered sales made to a qualified 24 aircraft maintenance or manufacturing facility;

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1 18. Sales of the following telecommunications services: Interstate and International "800 service". "800 2 a. service" means a "telecommunications service" that 3 allows a caller to dial a toll-free number without 4 5 incurring a charge for the call. The service is typically marketed under the name "800", "855", "866", 6 7 "877", and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications 8 9 Commission, or

Interstate and International "900 service". "900 10 b. 11 service" means an inbound toll "telecommunications 12 service" purchased by a subscriber that allows the 13 subscriber's customers to call in to the subscriber's 14 prerecorded announcement or live service. "900 15 service" does not include the charge for: collection 16 services provided by the seller of the 17 "telecommunications services" to the subscriber, or 18 service or product sold by the subscriber to the 19 subscriber's customer. The service is typically 20 marketed under the name "900 service", and any 21 subsequent numbers designated by the Federal 22 Communications Commission,

c. Interstate and International "private communications
 service". "Private communications service" means a

"telecommunications service" that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels,

- 10d."Value-added nonvoice data service"."Value-added11nonvoice data service" means a service that otherwise12meets the definition of "telecommunications services"13in which computer processing applications are used to14act on the form, content, code, or protocol of the15information or data primarily for a purpose other than16transmission, conveyance or routing,
- e. Interstate and International telecommunicationsservice which is:
- (1) rendered by a company for private use within its
   organization, or
  - (2) used, allocated, or distributed by a company to its affiliated group,
- f. Regulatory assessments and charges, including charges
  to fund the Oklahoma Universal Service Fund, the

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Oklahoma Lifeline Fund and the Oklahoma High Cost Fund, and

3 g. Telecommunications nonrecurring charges, including but 4 not limited to the installation, connection, change or 5 initiation of telecommunications services which are 6 not associated with a retail consumer sale;

7 19. Sales of railroad track spikes manufactured and sold for
8 use in this state in the construction or repair of railroad tracks,
9 switches, sidings and turnouts;

10 20. Sales of aircraft and aircraft parts provided such sales 11 occur at a qualified aircraft maintenance facility. As used in this 12 paragraph, "qualified aircraft maintenance facility" means a 13 facility operated by an air common carrier, including one or more 14 component overhaul support buildings or structures in an area owned, 15 leased or controlled by the air common carrier, at which there were 16 employed at least two thousand (2,000) full-time-equivalent 17 employees in the preceding year as certified by the Oklahoma 18 Employment Security Commission and which is primarily related to the 19 fabrication, repair, alteration, modification, refurbishing, 20 maintenance, building or rebuilding of commercial aircraft or 21 aircraft parts used in air common carriage. For purposes of this 22 paragraph, "air common carrier" shall also include members of an 23 affiliated group as defined by Section 1504 of the Internal Revenue 24 Code, 26 U.S.C., Section 1504. Beginning July 1, 2012, sales of

1 machinery, tools, supplies, equipment and related tangible personal 2 property and services used or consumed in the repair, remodeling or 3 maintenance of aircraft, aircraft engines, or aircraft component 4 parts which occur at a qualified aircraft maintenance facility;

5 21. Sales of machinery and equipment purchased and used by 6 persons and establishments primarily engaged in computer services 7 and data processing:

a. as defined under Industrial Group Numbers 7372 and
7373 of the Standard Industrial Classification (SIC)
Manual, latest version, which derive at least fifty
percent (50%) of their annual gross revenues from the
sale of a product or service to an out-of-state buyer
or consumer, and

b. as defined under Industrial Group Number 7374 of the
SIC Manual, latest version, which derive at least
eighty percent (80%) of their annual gross revenues
from the sale of a product or service to an out-ofstate buyer or consumer.

Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers,

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1 all sales to the federal government shall be considered to be to an 2 out-of-state buyer or consumer;

22. Sales of prosthetic devices to an individual for use by
such individual. For purposes of this paragraph, "prosthetic
device" shall have the same meaning as provided in Section 1357.6 of
this title, but shall not include corrective eye glasses, contact
lenses or hearing aids;

Sales of tangible personal property or services to a motion 8 23. 9 picture or television production company to be used or consumed in 10 connection with an eligible production. For purposes of this 11 paragraph, "eligible production" means a documentary, special, music 12 video, or a television commercial or television program that will 13 serve as a pilot for or be a segment of an ongoing dramatic or 14 situation comedy series filmed or taped for network or national or 15 regional syndication or a feature-length motion picture intended for 16 theatrical release or for network or national or regional 17 syndication or broadcast. The provisions of this paragraph shall 18 apply to sales occurring on or after July 1, 1996. In order to 19 qualify for the exemption, the motion picture or television 20 production company shall file any documentation and information 21 required to be submitted pursuant to rules promulgated by the Tax 22 Commission;

23 24. Sales of diesel fuel sold for consumption by commercial
24 vessels, barges and other commercial watercraft;

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1 25. Sales of tangible personal property or services to tax-2 exempt independent nonprofit biomedical research foundations that 3 provide educational programs for Oklahoma science students and 4 teachers and to tax-exempt independent nonprofit community blood 5 banks headquartered in this state;

6 26. Effective May 6, 1992, sales of wireless telecommunications 7 equipment to a vendor who subsequently transfers the equipment at no 8 charge or for a discounted charge to a consumer as part of a 9 promotional package or as an inducement to commence or continue a 10 contract for wireless telecommunications services;

11 27. Effective January 1, 1991, leases of rail transportation 12 cars to haul coal to coal-fired plants located in this state which 13 generate electric power;

14 28. Beginning July 1, 2005, sales of aircraft engine repairs, 15 modification, and replacement parts, sales of aircraft frame repairs 16 and modification, aircraft interior modification, and paint, and 17 sales of services employed in the repair, modification and 18 replacement of parts of aircraft engines, aircraft frame and 19 interior repair and modification, and paint;

20 29. Sales of materials and supplies to the owner or operator of 21 a ship, motor vessel or barge that is used in interstate or 22 international commerce if the materials and supplies:

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- a. are loaded on the ship, motor vessel or barge and used
   in the maintenance and operation of the ship, motor
   vessel or barge, or
- 4 b. enter into and become component parts of the ship,
  5 motor vessel or barge;

6 30. Sales of tangible personal property made at estate sales at 7 which such property is offered for sale on the premises of the 8 former residence of the decedent by a person who is not required to 9 be licensed pursuant to the Transient Merchant Licensing Act, or who 10 is not otherwise required to obtain a sales tax permit for the sale 11 of such property pursuant to the provisions of Section 1364 of this 12 title; provided:

a. such sale or event may not be held for a period
exceeding three (3) consecutive days,

b. the sale must be conducted within six (6) months ofthe date of death of the decedent, and

c. the exemption allowed by this paragraph shall not be
allowed for property that was not part of the
decedent's estate;

31. Beginning January 1, 2004, sales of electricity and associated delivery and transmission services, when sold exclusively for use by an oil and gas operator for reservoir dewatering projects and associated operations commencing on or after July 1, 2003, in which the initial water-to-oil ratio is greater than or equal to

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1 five-to-one water-to-oil, and such oil and gas development projects
2 have been classified by the Corporation Commission as a reservoir
3 dewatering unit;

32. Sales of prewritten computer software that is delivered
electronically. For purposes of this paragraph, "delivered
electronically" means delivered to the purchaser by means other than
tangible storage media;

Sales of modular dwelling units when built at a production 8 33. 9 facility and moved in whole or in parts, to be assembled on-site, 10 and permanently affixed to the real property and used for 11 residential or commercial purposes. The exemption provided by this 12 paragraph shall equal forty-five percent (45%) of the total sales 13 price of the modular dwelling unit. For purposes of this paragraph, 14 "modular dwelling unit" means a structure that is not subject to the 15 motor vehicle excise tax imposed pursuant to Section 2103 of this 16 title;

17 34. Sales of tangible personal property or services to: 18 persons who are residents of Oklahoma and have been a. 19 honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma 20 21 National Guard and who have been certified by the 22 United States Department of Veterans Affairs or its 23 successor to be in receipt of disability compensation 24 at the one-hundred-percent rate and the disability

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shall be permanent and have been sustained through military action or accident or resulting from disease contracted while in such active service and registered with the veterans registry created by the Oklahoma Department of Veterans Affairs; provided, that if the veteran has previously received the sales tax exemption pursuant to this subparagraph, no registration with the veterans registry shall be required, or

10 b. the surviving spouse of the person in subparagraph a 11 of this paragraph if the person is deceased and the 12 spouse has not remarried. Sales for the benefit of an 13 eligible person to a spouse of the eligible person or 14 to a member of the household in which the eligible 15 person resides and who is authorized to make purchases 16 on the person's behalf, when such eligible person is 17 not present at the sale, shall also be exempt for 18 purposes of this paragraph. The Oklahoma Tax 19 Commission shall issue a separate exemption card to a 20 spouse of an eligible person or to a member of the 21 household in which the eligible person resides who is 22 authorized to make purchases on the person's behalf, 23 if requested by the eligible person. Sales qualifying 24 for the exemption authorized by this paragraph shall

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1 not exceed Twenty-five Thousand Dollars (\$25,000.00) 2 per year per individual while the disabled veteran is 3 living. Sales qualifying for the exemption authorized 4 by this paragraph shall not exceed One Thousand 5 Dollars (\$1,000.00) per year for an unremarried surviving spouse. Upon request of the Tax Commission, 6 7 a person asserting or claiming the exemption authorized by this paragraph shall provide a 8 9 statement, executed under oath, that the total sales 10 amounts for which the exemption is applicable have not 11 exceeded Twenty-five Thousand Dollars (\$25,000.00) per 12 year per living disabled veteran or One Thousand 13 Dollars (\$1,000.00) per year for an unremarried 14 surviving spouse. If the amount of such exempt sales 15 exceeds such amount, the sales tax in excess of the 16 authorized amount shall be treated as a direct sales 17 tax liability and may be recovered by the Tax 18 Commission in the same manner provided by law for 19 other taxes, including penalty and interest. The Tax 20 Commission shall promulgate any rules necessary to 21 implement the provisions of this section; 22 Sales of electricity to the operator, specifically 35. 23 designated by the Corporation Commission, of a spacing unit or lease 24 from which oil is produced or attempted to be produced using

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1 enhanced recovery methods, including, but not limited to, increased pressure in a producing formation through the use of water or 2 saltwater if the electrical usage is associated with and necessary 3 4 for the operation of equipment required to inject or circulate 5 fluids in a producing formation for the purpose of forcing oil or petroleum into a wellbore for eventual recovery and production from 6 the wellhead. In order to be eligible for the sales tax exemption 7 authorized by this paragraph, the total content of oil recovered 8 9 after the use of enhanced recovery methods shall not exceed one 10 percent (1%) by volume. The exemption authorized by this paragraph 11 shall be applicable only to the state sales tax rate and shall not 12 be applicable to any county or municipal sales tax rate;

13 36. Sales of intrastate charter and tour bus transportation. 14 As used in this paragraph, "intrastate charter and tour bus 15 transportation" means the transportation of persons from one 16 location in this state to another location in this state in a motor 17 vehicle which has been constructed in such a manner that it may 18 lawfully carry more than eighteen persons, and which is ordinarily 19 used or rented to carry persons for compensation. Provided, this 20 exemption shall not apply to regularly scheduled bus transportation 21 for the general public;

37. Sales of vitamins, minerals and dietary supplements by a
licensed chiropractor to a person who is the patient of such
chiropractor at the physical location where the chiropractor

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provides chiropractic care or services to such patient. The provisions of this paragraph shall not be applicable to any drug, medicine or substance for which a prescription by a licensed physician is required;

5 38. Sales of goods, wares, merchandise, tangible personal property, machinery and equipment to a web search portal located in 6 7 this state which derives at least eighty percent (80%) of its annual gross revenue from the sale of a product or service to an out-of-8 9 state buyer or consumer. For purposes of this paragraph, "web 10 search portal" means an establishment classified under NAICS code 11 519130 which operates websites that use a search engine to generate 12 and maintain extensive databases of Internet addresses and content 13 in an easily searchable format;

14 39. Sales of tangible personal property consumed or 15 incorporated in the construction or expansion of a facility for a 16 corporation organized under Section 437 et seq. of Title 18 of the 17 Oklahoma Statutes as a rural electric cooperative. For purposes of 18 this paragraph, sales made to a contractor or subcontractor that has 19 previously entered into a contractual relationship with a rural 20 electric cooperative for construction or expansion of a facility 21 shall be considered sales made to a rural electric cooperative; 22 Sales of tangible personal property or services to a 40.

business primarily engaged in the repair of consumer electronic goods, including, but not limited to, cell phones, compact disc

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1 players, personal computers, MP3 players, digital devices for the storage and retrieval of information through hard-wired or wireless 2 computer or Internet connections, if the devices are sold to the 3 4 business by the original manufacturer of such devices and the 5 devices are repaired, refitted or refurbished for sale by the entity qualifying for the exemption authorized by this paragraph directly 6 7 to retail consumers or if the devices are sold to another business entity for sale to retail consumers; 8

9 41. Before July 1, 2019, sales of rolling stock when sold or 10 leased by the manufacturer, regardless of whether the purchaser is a 11 public services corporation engaged in business as a common carrier 12 of property or passengers by railway, for use or consumption by a 13 common carrier directly in the rendition of public service. For 14 purposes of this paragraph, "rolling stock" means locomotives, 15 autocars and railroad cars; and

16 Sales of gold, silver, platinum, palladium or other bullion 42. 17 items such as coins and bars and legal tender of any nation, which 18 legal tender is sold according to its value as precious metal or as 19 an investment. As used in the paragraph, "bullion" means any 20 precious metal, including, but not limited to, gold, silver, 21 platinum and palladium, that is in such a state or condition that 22 its value depends upon its precious metal content and not its form. 23 The exemption authorized by this paragraph shall not apply to

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1	fabricated metals that have been processed or manufactured for
2	artistic use or as jewelry; and
3	43. Sales of commercial forestry service equipment, limited to
4	forwarders, fellers, bunchers, track skidders, wheeled skidders,
5	hydraulic excavators, delimbers, soil compactors and skid steer
6	loaders, to businesses engaged in logging, timber and tree farming.
7	SECTION 2. This act shall become effective January 1, 2020.
8	Passed the House of Representatives the 11th day of March, 2019.
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10	Presiding Officer of the House
11	of Representatives
12	Passed the Senate the day of, 2019.
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15	Presiding Officer of the Senate
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