

ENGROSSED HOUSE
BILL NO. 2038

BY: APPLE and HAMILTON
(Jeff)

AN ACT RELATING TO MOTOR VEHICLES; AMENDING 47 O.S.
1991, SECTION 1102, WHICH RELATES TO THE OKLAHOMA
VEHICLE LICENSE AND REGISTRATION ACT; MODIFYING AND
ADDING DEFINITIONS; AMENDING 47 O.S. 1991, SECTION
1133.1, WHICH RELATES TO REGISTRATION OF CERTAIN
COMMERCIAL VEHICLES; PROVIDING FOR CERTAIN VEHICLES
TO BE REGISTERED AS COMMERCIAL VEHICLES; AMENDING
47 O.S. 1991, SECTION 6-206.1, WHICH RELATES TO
DRIVER IMPROVEMENT OR DEFENSIVE DRIVING COURSES;
MODIFYING QUALIFICATIONS TO BE A QUALIFIED
INSTRUCTOR FOR SUCH COURSES; AND PROVIDING AN
EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 1102, is
amended to read as follows:

Section 1102. As used in this act:

1. "Carrying capacity" means the carrying capacity of a vehicle
as determined or declared in tons of cargo or payload by the owner,
provided, that such declared capacity shall not be less than the
minimum tonnage capacity fixed, listed or advertised by the
manufacturer of any vehicle;

2. "Certificate of title" means a document which is proof of legal ownership of a motor vehicle as described and provided for in Section 1105 of this title;

3. "Chips and oil" or the term "road oil and crushed rock" means, with respect to materials authorized for use in the surfacing of roads or highways in this title or in any equivalent statute pertaining to road or highway surfacing in the State of Oklahoma, any asphaltic materials. Wherever chips and oil or road oil and crushed rock are authorized for use in the surfacing of roads or highways in this state, whether by the Department of Transportation, or by the county commissioners, or other road building authority subject to this act, asphaltic materials are also authorized for use in such surfacing and construction;

4. "Combined laden weight" means the weight of a ~~truck~~ vehicle and its cargo or payload transported thereon, or the weight of a truck or truck-tractor plus the weight of any trailers or semitrailers together with the cargo or payload transported thereon;

5. "Commercial vehicle" means any vehicle over eight thousand (8,000) pounds combined laden weight used primarily for business or commercial purposes. Each motor vehicle being registered pursuant to the provisions of this section shall have the name of the commercial establishment or the words "Commercial Vehicle" permanently and prominently displayed upon the outside of the vehicle in letters not less than two (2) inches high and two (2) inches wide. Such letters shall be in sharp contrast to the background and shall be of sufficient shape and color as to be readily legible during daylight hours, from a distance of fifty (50) feet while the vehicle is not in motion. The Commission or its motor license agents shall make physical inspections of commercial vehicles as provided for in Section 1133.1 of this title, if by law said vehicles are required to be inspected to verify that said lettering is permanently displayed as required by this paragraph. A

fee of fifty cents (\$0.50) shall be charged for making such inspection. Any commercial vehicle with a combined laden weight of over twenty-six thousand (26,000) pounds registered pursuant to the provisions of Section 1133 of this title shall not be subject to physical inspection by the Commission or its motor license agents. Any commercial vehicle with a combined laden weight of twenty-six thousand (26,000) pounds or less registered pursuant to Section 1133 or 1133.1 of this title shall be subject to physical inspection by the Commission or its motor license agent only at the time the vehicle is first registered in this state and upon the transfer of ownership of such vehicle;

6. "Commission" means the Oklahoma Tax Commission;

7. "Dealer" means any person, firm, association, corporation or trust who sells, solicits or advertises the sale of new and unused motor vehicles and holds a bona fide contract or franchise in effect with a manufacturer or distributor of a particular make of new or unused motor vehicle or vehicles for the sale of same;

8. "Interstate commerce" means any commerce moving between any place in a state and any place in another state or between places in the same state through another state;

9. "Laden weight" means the combined weight of a vehicle when fully equipped for use and the cargo or payload transported thereon; provided that in no event shall the laden weight be less than the unladen weight of the vehicle fully equipped for use, plus the manufacturer's rated carrying capacity;

10. "Local authorities" means every county, municipality or local board or body having authority to adopt police regulations under the Constitution and laws of this state;

11. "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square

feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained thereon. The term manufactured home shall not include any manufactured home which is owned by a religious corporation or society and is used exclusively for religious purposes. "Mobile home" means a manufactured home transportable in one section. "Sectional home" means a manufactured home transportable in two or more sections. Said terms shall not include any travel trailer or any self-propelled vehicles used as living quarters, whether referred to as motor homes or by any other name. Provided, that trailers or semitrailers used for the transportation of goods or property, other than the personal belongings of the owner of such vehicle, shall not be included in this definition;

12. "Manufactured home dealer" means any person, firm or corporation engaged in the business of selling any new and unused, or used, or both new and used manufactured homes. Such information and a valid franchise letter as proof of authorization to sell any such new manufactured home product line or lines shall be attached to said application for a dealer license to sell manufactured homes. "Manufactured home dealer" shall not include any person, firm or corporation who sells or contracts for the sale of his own personally titled manufactured home or homes. No person, firm or corporation shall be considered a manufactured home dealer as to any manufactured home purchased or acquired by such person, firm or corporation for purposes other than resale; provided, that the restriction set forth in this sentence shall not prevent an otherwise qualified person, firm or corporation from utilizing a single manufactured home as a sales office;

13. "Motor license agent" means any person appointed, designated or authorized by the Oklahoma Tax Commission to collect the fees and to enforce the provisions provided for in this act;

14. "New vehicle" or "unused vehicle" means a vehicle which has been in the possession of the manufacturer, distributor or wholesaler or has been sold only by the manufacturer, distributor or wholesaler to a dealer;

15. "Nonresident" means any person who is not a resident of this state;

16. "Owner" means any person owning, operating or possessing any vehicle herein defined;

17. "Person" means any individual, copartner, joint venture, association, corporation, estate, trust, business trust, syndicate, the State of Oklahoma, or any county, city, municipality, school district or other political subdivision thereof, or any group or combination acting as a unit, or any receiver appointed by the state or federal court;

18. "Recreational vehicle" means every vehicle which is built on or permanently attached to a self-propelled motor chassis or chassis cab which becomes an integral part of the completed vehicle and is capable of being operated on the highways. In order to qualify as a recreational vehicle pursuant to this paragraph such vehicle shall be permanently constructed and equipped for human habitation, having its own sleeping and kitchen facilities, including permanently affixed cooking facilities, water tanks and holding tank with permanent toilet facilities. Recreational vehicle shall not include manufactured homes or any vehicle with portable sleeping, toilet and kitchen facilities which are designed to be removed from such vehicle;

19. "Rental trailer" means all small or utility trailers or semitrailers constructed and suitable for towing by a passenger automobile and designed only for carrying property, when said

trailers or semitrailers are owned by, or are in the possession of, any person engaged in renting or leasing such trailers or semitrailers for intrastate or interstate use or combined intrastate and interstate use;

20. "Special mobilized machinery" means special purpose machines, either self-propelled or drawn as trailers or semitrailers, which derive no revenue from the transportation of persons or property, whose use of the highway is only incidental, and whose useful revenue producing service is performed at destinations in an area away from the traveled surface of an established open highway;

21. "State" means the State of Oklahoma;

22. "Station wagon" means any passenger vehicle which does not have a separate luggage compartment or trunk and which does not have open beds, and has one or more rear seats readily lifted out or folded, whether same is called a station wagon or ranch wagon;

23. "Travel trailer" means any vehicular portable structure built on a chassis, used as a temporary dwelling for travel, recreational or vacation use, and, when factory-equipped for the road, it shall have a body width not exceeding eight (8) feet and an overall length not exceeding forty (40) feet, including the hitch or coupling;

~~23.~~ 24. "Travel trailer dealer" means any person, firm or corporation engaged in the business of selling any new and unused, or used, or both new and used travel trailers. Such information and a valid franchise letter as proof of authorization to sell any such new travel trailer product line or lines shall be attached to said application for a dealer license to sell travel trailers. "Travel trailer dealer" shall not include any person, firm or corporation who sells or contracts for the sale of his own personally titled travel trailer or trailers. No person, firm or corporation shall be considered as a travel trailer dealer as to any travel trailer

purchased or acquired by such person, firm or corporation for purposes other than resale;

~~24.~~ 25. "Used motor vehicle dealer" means "used motor vehicle dealer" as defined in Section 581 of this title;

~~25.~~ 26. "Used vehicle" means any vehicle which has been sold, bargained, exchanged or given away, or used to the extent that it has become what is commonly known, and generally recognized, as a "secondhand" vehicle. This shall also include any vehicle, regardless of age, owned by any person who is not a dealer; and

~~26.~~ 27. "Vehicle" means any type of conveyance or device in, upon or by which a person or property is or may be transported from one location to another upon the avenues of public access within the state. "Vehicle" does not include bicycles, trailers except travel trailers and rental trailers, or implements of husbandry as defined in Section 1-125 of this title. All implements of husbandry used as conveyances shall be required to display the owner's driver's license number or social security number on the rear of the implement in numbers not less than two (2) inches in height.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 1133.1, is amended to read as follows:

Section 1133.1 A. Any vehicle, including a station wagon as defined in paragraph 22 of Section 1 of this act, which has a combined laden weight of eight thousand (8,000) pounds or less and is used primarily for business or commercial purposes may be registered, pursuant to Section 1133 of Title 47 of the Oklahoma Statutes, as a commercial vehicle having a combined laden weight over eight thousand (8,000) pounds and less than fifteen thousand and one (15,001) pounds. Said registration application shall state that such vehicle or station wagon is used for business or commercial purposes. Such vehicles or station wagons registered pursuant to this section shall be assessed the license fees for such

commercial vehicle pursuant to Section 1133 of Title 47 of the Oklahoma Statutes.

B. Any person claiming the right to register a vehicle or station wagon pursuant to subsection A of this section shall sign an affidavit attesting to the fact that such person conducts a business or commercial enterprise or is employed by a person conducting a business or commercial enterprise that uses said vehicle or station wagon primarily for the use of that business or commercial enterprise. Any person who signs said affidavit as required by this subsection when such person does not believe the information in said affidavit is true or knows that it is not true, upon conviction, shall be guilty of perjury and shall be punished as provided for by law.

C. Upon initial registration by a person of a vehicle or station wagon pursuant to the provisions of this section, and upon transfer of ownership of any such vehicle or station wagon, any person claiming the right to register a vehicle or station wagon pursuant to subsection A of this section shall make further proof that the person does in fact conduct a business or commercial enterprise or is employed by a person conducting a business or commercial enterprise that uses said vehicle or station wagon primarily for the use of that business or commercial enterprise by presenting a permit to do business pursuant to Section 1364 of Title 68 of the Oklahoma Statutes or a Federal Employers Identification Number or, if a sole proprietor, a copy of Schedule C from their most recent federal income tax return. Any person claiming the right to re-register a vehicle or station wagon identified by the words "Commercial Vehicle" pursuant to subsection D of this section shall offer the same proof required by this subsection for initial registration or transfer of ownership. Such proof shall not be necessary if the name of the business or commercial enterprise is

permanently and prominently displayed upon the outside of said vehicle or station wagon.

D. Upon initial registration by a person of a vehicle or station wagon pursuant to the provisions of this section, and upon transfer of ownership of any such vehicle or station wagon the Commission or its motor license agents shall physically inspect such vehicles or station wagons to verify that the name of the business or commercial enterprise is permanently and prominently displayed upon the outside of said vehicle or station wagon or said vehicle or station wagon is identified by the words "Commerical Vehicle" permanently and prominently displayed upon the outside of the vehicle or station wagon in letters not less than two (2) inches high and two (2) inches wide. Such letters shall be in sharp contrast to the background and shall be of sufficient shape and color as to be readily legible during daylight hours from a distance of fifty (50) feet while the vehicle or station wagon is not in motion. The Commission or its motor license agent shall receive the fee provided for in paragraph 5 of Section 1102 of Title 47 of the Oklahoma Statutes for making such inspection.

E. The failure of any owner of a vehicle or station wagon to properly label the vehicle or station wagon or to properly utilize the vehicle or station wagon for the purposes required by this section shall result in the issuance of a new license plate at the rate specified in Section 1132 of Title 47 of the Oklahoma Statutes and in addition a penalty of fifty percent (50%) of the cost of such license shall be assessed against the owner.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 6-206.1, is amended to read as follows:

Section 6-206.1 A. Driver improvement or defensive driving course is a course which offers an educational setting, provides for driving concepts which encourage attitude or behavioral changes in

the responsibility of operating a motor vehicle in a safe and responsible manner.

B. It shall be the responsibility of the institution or organization to provide:

1. Adequate facilities which meet or exceed state and local fire, health and safety codes;

2. Adequate equipment, in good working order, and instructional materials for such courses;

3. Qualified instructors who shall:

a. possess an undergraduate degree and have nine (9) college or university credit hours in traffic safety education, unless said instructor has instructed a complete course of instruction within the preceding twelve (12) months prior to the effective date of this section for an organization or institution previously recognized for point credits by the Department of Public Safety, or is a peace officer certified by the Council on Law Enforcement Education and Training (CLEET) who is employed by a municipality and who has also been certified as an instructor by the Oklahoma Safety Council or the National Safety Council,

b. have no alcohol or drug related convictions or revocations in the past five (5) years,

c. have no more than five (5) points accumulated on the driving record in the past three (3) years in accordance with the Oklahoma Mandatory Point System,

d. have a valid Oklahoma driver's license, and

e. complete a course of training through the approved organization or institution;

4. A course of study designed to inform the participant of driver improvement and defensive driving concepts while encouraging attitude or behavioral changes in the responsibility of operating a

motor vehicle in a safe and responsible manner. The curriculum, which means the complete lesson plans which include instructional strategy, presentation methods and resources utilized to incorporate the concepts of traffic safety, must provide for but not be limited to the following:

- a. driver personality traits - behavioral attitudes,
- b. driver qualifications and limitations,
- c. effects of alcohol and other drugs,
- d. current accident prevention and defensive driving techniques: speed control, perception, reactions, lane positioning, safe turning and passing, occupant restraints, following distance and rules of the road; and

5. Provide at least eight (8) hours of classroom instruction.

C. Organizations or institutions desirous of making application shall submit the following to the Department of Public Safety:

1. evidence of organizational or institutional status which meet statutory requirements;

2. copy of proposed course curriculum which includes lesson objectives, presentation materials, instructional strategy and resources utilized;

3. certification that instructors meet statutory requirements; and

4. upon Department of Public Safety approval said organization or institution shall be considered for point credits as set forth in this section.

D. The Department of Public Safety is authorized to grant a two point credit towards the Oklahoma Point System Regulations to any person who successfully completes a course pursuant to this section provided only one such course shall be acknowledged once every twenty-four (24) months.

E. The Department upon giving of notice and hearing may decline to grant credit points to any organization or institution for:

1. Unethical conduct of an instructor or official of an institution or organization;
2. Failure to satisfactorily resolve citizens complaints;
3. Falsifying or misrepresenting any document or information to the Department or student;
4. Failure of organization or instructor to meet statutory requirements;
5. Conflict of interest by the organization or institution and/or its personnel; or
6. Failure of organization, institution or instructor to continue to meet statutory requirements as provided for in this section.

F. Course enrollment will be limited to not more than thirty (30) students with an enrollment fee of Twenty-five Dollars (\$25.00) per student.

G. Enrollment in the course shall not be limited to persons ordered to enroll, attend and successfully complete the course.

H. The organization or institution shall within fifteen (15) days of the completion certify to the Department of Public Safety all persons who successfully complete the course on a form approved or furnished by the Department. This shall include the persons full name, address, date of birth and driver's license number.

I. Department personnel shall be admitted to any course without charge, upon request and display of proper credentials.

J. Each organization or institution shall develop auditing procedures which could be utilized to show compliance with this section.

K. Any point credit allowed must comply with the Department's Point System Regulations.

SECTION 4. This act shall become effective September 1, 1992.

Passed the House of Representatives the 27th day of February,
1992.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1992.

President of the Senate