

ENROLLED HOUSE
BILL NO. 2401

BY: McCORKELL of the HOUSE

and

FISHER of the SENATE

AN ACT RELATING TO STATE GOVERNMENT; AMENDING 47 O.S. 1991, SECTION 1162, WHICH RELATES TO THE TRUCKING INDUSTRY SELF-FUNDED RESEARCH AND DEVELOPMENT COMMITTEE; PROVIDING FOR THE EXECUTIVE DIRECTOR OF DEPARTMENT OF COMMERCE TO APPOINT A DESIGNEE; AMENDING 74 O.S. 1991, SECTIONS 2103, 2104, 2106, 2107 AND 2109, WHICH RELATE TO THE EXPORT TRADING COMPANY ACT; ADDING DEFINITIONS; DELETING DUTY OF DIRECTOR TO REVIEW AND APPROVE CERTAIN APPLICATIONS; PROVIDING FOR OKLAHOMA TAX COMMISSION TO CERTIFY THAT CERTAIN COMPANIES QUALIFY AS EXPORT TRADING COMPANY; PROVIDING FOR CERTAIN CORPORATIONS TO FILE CERTAIN INFORMATION WITH THE OKLAHOMA TAX COMMISSION; PROVIDING THAT THE OKLAHOMA TAX COMMISSION SHALL CONSIDER CERTAIN CRITERIA; PROVIDING THAT THE OKLAHOMA TAX COMMISSION SHALL PROMULGATE CERTAIN RULES AND REGULATIONS; PROVIDING THAT THE OKLAHOMA TAX COMMISSION MAY ISSUE CERTAIN ORDERS; REQUIRING THE OKLAHOMA TAX COMMISSION TO PROVIDE A REPORT TO THE LEGISLATURE; PROVIDING FOR RECODIFICATION; REPEALING 74 O.S. 1991, SECTIONS 2050, 2051, 2052, 2053, 2054, 2055, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067 AND 2068, RELATING TO THE OKLAHOMA WORLD TRADE DEVELOPMENT ACT; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 1162, is amended to read as follows:

Section 1162. There is hereby created the Trucking Industry Self-Funded Research and Development Committee, hereinafter referred to as TISRAD Committee, consisting of the Lieutenant Governor of the State of Oklahoma, who shall serve as Chairman of the Committee, a member of the Oklahoma Corporation Commission to be determined by the Corporation Commission, a member of the Oklahoma Tax Commission to be determined by the Tax Commission, the Secretary of the Department of Transportation, the executive director of the Department of Commerce or his designee, and the Commissioner of the Department of Public Safety. Ex officio members of the TISRAD Committee shall be the Chairman of the Transportation Committee of the Oklahoma State Senate and the Chairman of the Transportation Committee of the Oklahoma House of Representatives. The TISRAD Committee shall, in conjunction with the Associated Motor Carriers and the Motor Transportation Safety, Education and Economic Development Research Foundation, develop safety, education and

economic development research programs for motor transportation including, but not limited to:

1. Share the Road Safety programs;
2. Heavy Truck Accident Analysis programs;
3. Trucking Industry Taxation and Development programs;
4. Economic Regulatory Research programs;
5. Highway and Bridge Use and Research programs; and
6. Vo-Tech Commercial Driver Training and Motor Transport Professional Skills Program.

All data and analysis developed in the programs shall be made available in report form on an annual basis to the Governor, the Legislature and the various agencies of government concerned at no charge.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 2103, is amended to read as follows:

Section 2103. As used in the Export Trading Company Act:

1. "Export trade" means trade or commerce in goods or services produced in the United States which are exported, or in the course of being exported, from the United States to any other country;
2. "Goods" include, but are not limited to, manufactured products, natural resources, and agricultural products;
3. "Services" include, but are not limited to, accounting, amusement, architectural, automatic data processing, business, communications, construction, franchising and licensing, consulting, engineering, financial, insurance, legal, management, repair, tourism, training, and transportation services;
4. The term "export trade services" includes, but is not limited to, consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, and financing, when provided in order to facilitate the export of goods or services produced in the United States;
5. "Export trading company" means a corporation, whether operated for profit or as a nonprofit organization, which does business under the laws of this state and which is organized and operated principally for purposes of facilitating the export of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services. Any company with a significant portion of their business involving domestic sales or services shall not be construed to be an export trading company within the provisions of the Export Trading Company Act;
6. "Bank" means any bank authorized by the laws of this state to engage in the banking business; ~~and~~
7. "Director" means the Director of the Oklahoma Department of Commerce; and
8. "Commission" means the Oklahoma Tax Commission.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 2104, is amended to read as follows:

Section 2104. The Director may:

1. establish a network of contacts among those public and private organizations which provide information, technical assistance and financial support for exporting;
2. assemble, publish and disseminate information to exporters, located within this state, regarding export opportunities, techniques of exporting, sources of public and private export assistance and sources of export related financing;
3. organize, host and participate in seminars and other forums designed to disseminate information and technical assistance

regarding exporting and export related financing to exporters located within this state; and

4. provide individual firms and agricultural enterprises with information and technical assistance related to exporting and export financing; ~~and~~

~~5. review and approve applications from export trading companies which seek to qualify for exemption from state corporate income and franchise taxes pursuant to Sections 6 and 7 of this act.~~

SECTION 4. AMENDATORY 74 O.S. 1991, Section 2106, is amended to read as follows:

Section 2106. A. An export trading company, with a registered office or other office in this state, shall be exempt from state corporate income tax and franchise tax for a period of two (2) years from the date the ~~Director~~ Commission certifies the export trading company as a qualified export trading company. A copy of such certificate shall be filed with the Oklahoma Tax Commission which shall verify compliance with this act prior to allowing the tax exemption provided for herein. For purposes of the Export Trading Company Act, an export trading company shall be deemed to have an office in Oklahoma if it performs export trade services in this state.

B. Export trading companies shall not qualify for the tax exemptions of this section for sales made within the United States.

C. A subsidiary or affiliate of a qualified export trading company shall not be entitled to the tax exemptions provided for in this section unless such subsidiary or affiliate is certified as a qualified export trading company pursuant to Section 7 2107 of this ~~act~~ title.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 2107, is amended to read as follows:

Section 2107. A. Any corporation proposing to qualify as an export trading company pursuant to the provisions of the Export Trading Company Act shall file an application for approval with the ~~Director~~ Commission. The application shall contain the names of the shareholders and principal officers of the applicant and such other information as the ~~Director~~ Commission may by regulation require, and shall specifically acknowledge the applicant's agreement to be bound by the conditions set forth in the rules and regulations issued pursuant to this section.

B. 1. In determining whether to approve an application for qualification as an export trading company and to certify such export trading company as a qualified export trading company, the ~~Director~~ Commission shall consider whether:

- a. the stated purposes of the corporation satisfy the basic aim of encouraging and expanding export trade;
- b. the activities undertaken in this state will be a significant factor in, or contribute significantly to encouraging export trade;
- c. the tax exemptions provided for in Section 6 of this act will serve as a significant incentive and aid to encouraging export trade; and
- d. export trade opportunities will be improved and initiated, particularly for small and medium-sized producers, by creation of an export trading company.

2. No successor corporation of a qualified export trading company shall be certified as a qualified export trading company if the names of the shareholders and the principal officers of such successor corporation are the same as those of the qualified export trading company.

C. 1. The Oklahoma ~~Department of Commerce~~ Tax Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of the Export Trading Company Act and to safeguard against abuses of the Export Trading Company Act. Such rules and regulations shall include a prohibition against the stacking of tax exemptions provided for in Section ~~6~~ 2106 of this ~~act~~ title.

2. The ~~Director~~ Commission may issue orders pursuant to the provisions of the Export Trading Company Act in order to:

- a. prescribe information or forms required in connection with an application; and
- b. establish procedures in connection with approvals and the filing of required reports.

D. The ~~Director~~ Commission, upon the determination that any export trading company is in violation of any provisions of the Export Trading Company Act or regulations, rules, or orders issued pursuant to the Export Trading Company Act, may order the export trading company to take steps to remedy such violation or disqualify said company as an export trading company.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 2109, is amended to read as follows:

Section 2109. On or before March 1 of each year, the ~~Director~~ Commission shall provide a report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate which shall include, but not be limited to:

1. the number of applications for export trading companies submitted;
2. the number of applications for export trading companies approved; and
3. the number of jobs created by each export trading company and the dollar value of export trade generated by each export trading company.

SECTION 7. RECODIFICATION 74 O.S. 1991, Sections 2056, 2056.1 and 2118 shall be recodified as Sections 5008.1, 5008.2 and 5008.3 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 8. REPEALER 74 O.S. 1991, Sections 2050, 2051, 2052, 2053, 2054, 2055, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067 and 2068, are hereby repealed.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and 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 21st day of May, 1992.

Speaker of the House of
Representatives

Passed the Senate the 22nd day of May, 1992.

President of the Senate