

ENROLLED SENATE
BILL NO. 379

BY: STIPE of the SENATE

and

ROBERTS (Walt) of the HOUSE

AN ACT RELATING TO MOTOR VEHICLES; AMENDING SECTION 7, CHAPTER 179, O.S.L. 1985, AS LAST AMENDED BY SECTION 26, CHAPTER 337, O.S.L. 1990, SECTION 12, CHAPTER 179, O.S.L. 1985, AS LAST AMENDED BY SECTION 1, CHAPTER 159, O.S.L. 1989, SECTION 29, CHAPTER 179, O.S.L. 1985 AND SECTION 49, CHAPTER 179, O.S.L. 1985, AS AMENDED BY SECTION 5, CHAPTER 158, O.S.L. 1987 (47 O.S. SUPP. 1990, SECTIONS 1104, 1109, 1126 AND 1146), WHICH RELATE TO THE VEHICLE LICENSE AND REGISTRATION ACT; DELETING LANGUAGE RELATED TO FEES RETAINED BY MOTOR LICENSE AGENTS; MODIFYING CIRCUMSTANCES UNDER WHICH MOTOR LICENSE AGENT MAY FURNISH CERTAIN INFORMATION; AUTHORIZING OKLAHOMA TAX COMMISSION TO PROVIDE CERTAIN INFORMATION TO CERTAIN PARTY; SPECIFYING LICENSE FEE FOR VEHICLE REPOSSESSED BY MORTGAGEE; PROVIDING THAT SUCH FEE IS IN LIEU OF VEHICLE EXCISE TAX AND REGISTRATION FEES; AUTHORIZING DEDUCTION OF CERTAIN AMOUNT OF SUCH FEE TO BE RETAINED BY MOTOR LICENSE AGENT; REQUIRING CERTAIN FINANCIAL STATEMENT TO BE ON CERTAIN FORM; REQUIRING SUCH STATEMENT TO BE FORWARDED TO STATE AUDITOR AND INSPECTOR; DELETING CERTAIN POSTING REQUIREMENT; MODIFYING MOTOR LICENSE AGENCIES SUBJECT TO CERTAIN REQUIREMENTS AND MODIFYING SUCH REQUIREMENTS; REQUIRING EVALUATION OF REVIEW

EXAMINATIONS; MODIFYING PURCHASING PROCEDURES FOR
CERTAIN MOTOR LICENSE AGENTS; SPECIFYING AMOUNTS TO
BE RETAINED BY MOTOR LICENSE AGENT; PROHIBITING
CERTAIN ACTS BY MOTOR LICENSE AGENT OR EMPLOYEE
THEREOF; PROVIDING PENALTY; PROVIDING FOR
CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY Section 7, Chapter 179, O.S.L. 1985, as last amended by Section 26, Chapter 337, O.S.L. 1990 (47 O.S. Supp. 1990, Section 1104), is amended to read as follows:

Section 1104. A. Unless otherwise provided by law, all fees, taxes and penalties collected or received pursuant to the Oklahoma Vehicle License and Registration Act or Section 1-101 et seq. of this title and the unapportioned monies in the Motor Vehicle Escrow Account after the July 1985 apportionment shall be apportioned and distributed monthly by the Oklahoma Tax Commission as follows:

1. a. Except as provided in subparagraph b of this paragraph, thirty-five percent (35%) of said monies shall be apportioned to the various school districts as follows:
 - (1) except as otherwise provided in this division, each district shall receive the same amount of funds as such district received from the taxes and fees provided in this title in the corresponding month of the preceding year. Any district eligible for funds pursuant to the provisions of this section that was not eligible the preceding year shall receive an amount equal to the average daily attendance of the applicable year times the average daily attendance apportionment within such county for each appropriate month, and
 - (2) any funds remaining unallocated following the allocation provided in division (1) of this subparagraph shall be apportioned to the various school districts so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under division (1) of this subparagraph and then an amount based upon the proportion that each district's average daily attendance bears to the total average daily attendance of those districts entitled to receive funds pursuant to this section as certified by the State Department of Education, and
 - (3) if, for any month, the funds available are insufficient to provide the total allocation required in division (1) of this subparagraph,

each district shall receive a proportionate share of the funds available based upon the proportion of the total revenues that such district received in the corresponding month of the preceding year.

Each district's allocation of funds shall be remitted to the county treasurer of the county wherein the administrative headquarters of the district are located.

No district shall be eligible for the funds herein provided unless said district makes an ad valorem tax levy of fifteen (15) mills and maintains nine (9) years of instruction and pursuant to the rules of the State Board of Education, are authorized to maintain ten (10) years of instruction; and

b. Beginning July 1, 1991, if the amendment to Section 12a of Article X of the Constitution of the State of Oklahoma contained in Enrolled House Joint Resolution No. 1005 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature is approved by the people, thirty-five percent (35%) of said monies shall be remitted to the State Treasurer to be deposited in the Common School Fund;

2. Forty-six and sixty-seven one-hundredths percent (46.67%) of said monies shall be remitted to the State Treasurer to be credited to the General Revenue Fund of the State Treasury;

3. Three-tenths of one percent (3/10 of 1%) of said monies shall be remitted to the State Treasurer to be credited to the State Transportation Fund;

4. Seven percent (7%) of said monies shall be apportioned to the various counties as follows: Forty percent (40%) of such sum shall be distributed to the various counties in that proportion which the county road mileage of each county bears to the entire state road mileage as certified by the Transportation Commission and the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Census or the most recent annual estimate provided by the United States Bureau of the Census. Said funds shall be used for the purpose of constructing and maintaining county highways, provided, however, the county treasurer may deposit so much of said funds in the sinking fund as may be necessary for the retirement of interest and annual accrual of indebtedness created by the issuance of county or township bonds for road purposes. Such deposits to the sinking fund shall not exceed forty percent (40%) of the funds allocated to a county pursuant to this paragraph;

5. Two and one-half percent (2.5%) of said monies shall be remitted to the county treasurers of the respective counties and by them deposited in a separate special revenue fund to be used by the county commissioners for the primary purpose of matching federal funds for the construction of federal aid projects on county roads, or constructing and maintaining county or township highways and permanent bridges of such counties. The distribution of monies apportioned by this paragraph shall be made upon the basis of the current formula based upon road mileage, area and population as related to county road improvement and maintenance costs. Provided, however, the Department of Transportation may update the formula factors from time to time as necessary to account for changing conditions.

Any unencumbered monies remaining in the County Road Fund on the effective date of this act shall be distributed to the various counties within thirty (30) days thereafter; provided, that the Department of Transportation is authorized to withhold from such distribution an amount not to exceed ten percent (10%) of the counties' share of the estimated construction cost of any

uncompleted federally aided project utilizing county road funds for the local match. Such funds shall be used to cover any approved overruns on such projects which remain uncompleted on the effective date of this act. Upon completion and acceptance of said projects, any monies due the counties will be returned to them by the Department of Transportation within thirty (30) days of completion of final audit. In the event additional county monies are required to complete such projects, the Department of Transportation shall submit an invoice for payment to the counties and the affected counties shall pay such additional amount to the Department of Transportation. All claims against nonfederally aided project resolutions accepted by the Department of Transportation prior to July 1, 1989, must be presented to the Department of Transportation for payment prior to September 1, 1989. Any County Road Fund monies encumbered for nonfederally aided projects which remain under control of the Department of Transportation on September 30, 1989, shall be returned to the county which encumbered said funds;

6. Three and one-half percent (3.5%) of said monies shall be transmitted by the Tax Commission to the various counties on the basis of a formula to be developed by the Department of Transportation. Such formula shall be similar to that currently used for the distribution of County Bridge Program Funds, but also taking into consideration the effect of terrain and traffic volume as related to county road improvement and maintenance costs. Provided, however, the Department of Transportation may update the formula factors from time to time as necessary to account for changing conditions. Said funds shall be transmitted to the various county treasurers to be deposited in the county highway fund of their respective counties;

7. Eight-tenths of one percent (8/10 of 1%) of said monies shall be apportioned to the various counties as follows:

- a. each county shall receive the same amount of funds as such county received from the taxes and fees provided for in the 1985 fiscal year,
- b. any funds remaining unallocated following the allocation provided in subparagraph a of this paragraph shall be apportioned to the various counties based upon the proportion that each county's population bears to the total state population, and
- c. if the funds available are insufficient to provide the total allocation required in subparagraph a of this paragraph, each county shall receive a proportionate share of the funds available based upon the proportion of the total revenues that each such county received in the 1985 fiscal year.

Each county's allocation of funds shall be remitted to the various county treasurers to be deposited in the general fund of the county and used for the support of county government;

8. Three percent (3%) of said monies shall be apportioned to the various cities and incorporated towns based upon the proportion that each city or incorporated town's population bears to the total population of all cities and incorporated towns in the state. Such funds shall be remitted to the various county treasurers for allocation to the various cities and incorporated towns. All such funds shall be used for the construction, maintenance, repair, improvement and lighting of streets and alleys. Provided, however, the governing board of any city or town may, with the approval of the county excise board, transfer any surplus funds to the general revenue fund of such city or town whenever an emergency requires such a transfer;

9. One and two-tenths percent (1.2%) of said monies shall be remitted to the State Treasurer to be credited to the Oklahoma Law Enforcement Retirement Fund; and

10. Three one-hundredths of one percent (3/100 of 1%) of said monies shall be remitted to the State Treasurer to be credited to the Wildlife Conservation Fund. Seventy-five percent (75%) of said funds shall be used for fish habitat restoration and twenty-five percent (25%) of said funds shall be used in the fish hatchery system for fish production.

B. Until July 1, 1991, if the amendment to Section 12a of Article X of the Constitution of the State of Oklahoma contained in Enrolled House Joint Resolution No. 1005 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature is approved by the people, school districts, in estimating the income for the succeeding fiscal year from funds provided by this section, may use as a basis for arriving at the amount to be estimated the actual income received from the same source the previous fiscal year plus ninety percent (90%) of any increase estimated by the Commission.

C. Monies allocated to counties by this section may be estimated by the county excise board in the budget for the county as anticipated revenue to the extent of ninety percent (90%) of the previous year's income from such source, provided, not more than fifteen percent (15%) can be encumbered during any month.

SECTION 2. AMENDATORY Section 12, Chapter 179, O.S.L. 1985, as last amended by Section 1, Chapter 159, O.S.L. 1989 (47 O.S. Supp. 1990, Section 1109), is amended to read as follows:

Section 1109. A. All information contained in certificates of title, applications therefor, or registration certificates is hereby declared to be confidential information and shall not be copied by anyone or disclosed to anyone other than employees of the Oklahoma Tax Commission in the regular course of their employment, except as follows:

1. To law enforcement officers in the regular course of their duties;

2. To other governmental agencies when required in their governmental functions;

3. To any motor vehicle manufacturer or his authorized representative for the purpose of meeting the requirements of the recall provisions of Title 15 U.S.C. 1974; provided that said manufacturer or his representative shall, when requesting information pertaining to motor vehicles, furnish the Commission with an affidavit stating the purpose for which the information is to be used, and that the confidentiality of the information shall be protected, as set out above, and used only for the purpose stated; provided, further, that the Commission shall be authorized to review the use of and the measures employed to safeguard said information; and provided, further, that the manufacturer or his representative shall bear the cost incurred by the Commission in the production of the information requested. If the confidentiality provisions, as set out above, are violated, the provisions of subsection (d) of Section 205 of Title 68 of the Oklahoma Statutes, shall apply and the privilege of obtaining information shall be terminated. Any manufacturer or his representative violating the provisions of this subsection, upon conviction, shall be punishable by a fine not to exceed Fifty Thousand Dollars (\$50,000.00); and

4. To any person compiling and publishing motor vehicle statistics, provided that such statistics do not disclose the names and addresses of individuals. Such information shall be provided upon payment of a fee as determined by the Oklahoma Tax Commission.

B. Notwithstanding the foregoing, the Commission may, when requested for a particular vehicle, furnish desired information for the sum of One Dollar (\$1.00) per vehicle or make copies of certificates of title, applications therefor and registration certificates and sell the same for the fee hereinafter prescribed. Certified copies of any and all records held by the Commission relative to certificates of title and registration certificates

issued under the laws of this state, duly certified by the Commission, may be received in evidence with the same effect as the original, when such original is not in the possession or under the control of the party desiring to use the same. For each certified copy furnished under this section, a fee of Two Dollars (\$2.00) per instrument shall be charged and collected by the Commission. All such funds shall be deposited in the Oklahoma Tax Commission Revolving Fund.

C. Notwithstanding the foregoing, the Commission may allow the release of information from its motor vehicle records upon magnetic tape consisting only of the following information:

1. The date of the certificate of title;
2. The certificate of title number;
3. The type of title issued for the vehicle;
4. The odometer reading from the certificate of title;
5. The year in which the vehicle was manufactured;
6. The vehicle identification number for the vehicle;
7. The make of the vehicle; and
8. The location in which the vehicle is registered.

The Commission shall allow the release of such information upon payment of a fee to be determined by the Commission. The information released as authorized by this subsection may only be used for purposes of detecting odometer rollback or odometer tampering, for determining the issuance in this state or any other state of salvage or rebuilt titles for vehicles or for determining whether a vehicle has been reported stolen in this state or any other state.

D. Notwithstanding the foregoing, any motor license agent, upon written request from a secured party for information contained in the certificate of title or registration certificate of a vehicle in which the secured party has an interest or upon written request from a vehicle owner for information contained in the certificate of title or registration certificate of such vehicle, may furnish such desired information for the sum of One Dollar (\$1.00) per vehicle.

E. Notwithstanding the provisions of this section or of Section 205 of Title 68 of the Oklahoma Statutes, the Commission may inform a secured party that taxes and fees are delinquent with respect to a vehicle upon which the secured party has a perfected lien.

F. The provisions of subsections A and B of this section shall not apply to vehicles in excess of twenty-six thousand (26,000) pounds, or to trailers or semitrailers which may be used in combination with such vehicles. The Oklahoma Tax Commission shall establish an appropriate fee to cover the cost of furnishing the requested data and shall issue specific rules and regulations for the dissemination of information that shall apply only to vehicles registered in Oklahoma with a gross vehicle weight in excess of twenty-six thousand (26,000) pounds, or the applicable trailers or semitrailers.

The release of such information shall be limited to Oklahoma incorporated and domiciled, nonprofit, tax exempt industry trade groups and organizations for the express purpose of making such data directly available to the heavy duty motor transportation industry.

SECTION 3. AMENDATORY Section 29, Chapter 179, O.S.L. 1985 (47 O.S. Supp. 1990, Section 1126), is amended to read as follows:

Section 1126. A. At any time that a mortgagee repossesses a vehicle on which the registration has become delinquent as of the date of such repossession, the mortgagee shall not be required, as a condition for registration of said vehicle, to pay the penalties which had accrued as of the date of such repossession otherwise prescribed in this act. Provided that said penalties shall not be waived unless such vehicle is registered by the mortgagee within five (5) days after it is repossessed. Provided further, that if

the mortgagor, or spouse, becomes the owner of the vehicle within ninety (90) days from the date of repossession, the penalty shall reattach and be paid when the new title is applied for.

B. Upon each vehicle repossessed by a mortgagee, a fee of Forty-six Dollars (\$46.00) shall be assessed. This fee shall be in lieu of any applicable vehicle excise tax and registration fees. Each motor license agent accepting applications for certificates of title for such vehicles shall receive Seven Dollars (\$7.00) to be deducted from the license fee specified in this subsection for each application accepted.

SECTION 4. AMENDATORY Section 49, Chapter 179, O.S.L. 1985, as amended by Section 5, Chapter 158, O.S.L. 1987 (47 O.S. Supp. 1990, Section 1146), is amended to read as follows:

Section 1146. A. Before October 1 of each year and as of the last day of operation of an agent, all motor license agents shall forward a complete financial statement on a form prescribed by the State Auditor and Inspector covering all expenses and disbursements out of all fees collected by such agents during the last completed fiscal year or during the current fiscal year through the last day of operation of the agent to the State Auditor and Inspector and to the Oklahoma Tax Commission. The Commission shall audit such motor license agents at least once during each fiscal year and shall have the power to require any changes it deems necessary in the operation of those motor license agents. The Commission shall issue such rules and regulations as it deems necessary for the proper control of all fiscal matters involving those motor license agents. No person employed in the office of a motor license agent performing duties imposed by law upon such office shall receive a salary that exceeds seventy percent (70%) of the maximum annual compensation designated by law for the motor license agent provided, however, any such employee who has been so employed in excess of five (5) years may be compensated by an additional five percent (5%) of such maximum annual compensation for each year in excess of five (5) years employment not exceeding a total of twenty-five percent (25%). The provisions of this section shall not apply to the Commission.

For motor license agencies that collect agency fees of less than Seventy-five Thousand Dollars (\$75,000.00) a year, the State Auditor and Inspector, annually, shall make a review of financial statements and inventory.

For motor license agencies that collect agency fees of Seventy-five Thousand Dollars (\$75,000.00) or more a year, a review examination of the fees received and expenditures made by an agency shall be made in accordance with auditing guidelines prepared by the State Auditor and Inspector and the standards established by the American Institute of Certified Public Accounting by a licensed public accountant or a certified public accountant holding a permit to practice in this state at least once each fiscal year, and as of the end of the day before a newly appointed motor license agent assumes office. A copy of the review examination shall be forwarded to the State Auditor and Inspector and the Tax Commission. The State Auditor and Inspector and the Tax Commission shall evaluate the review examinations and may conduct any further examinations as deemed necessary. Except as otherwise provided by law, the allowable expenses of a motor license agency shall be the ordinary and necessary expenses allowed small businesses pursuant to the Federal Internal Revenue Code, 26 U.S.C., Section 1 et seq. All review examinations required pursuant to this subsection shall be in compliance with all laws affecting the operation of motor license agencies and in accordance with an audit guide established by the State Auditor and Inspector. Any review examination or audit of a motor license agency performed by the Oklahoma Tax Commission or the State Auditor and Inspector or a licensed public accountant or a certified public accountant pursuant to the provisions of Sections

1140 through 1147 of this title shall be open record and shall be made available for public inspection at the Oklahoma Tax Commission, notwithstanding the provisions of Section 205 of Title 68 of the Oklahoma Statutes.

Any motor license agent whose budgeted compensation is the same as the maximum amount as provided for in this act, Section 1101 et seq. of this title, shall hold all real and personal property leased or purchased from the operating expense budget of the agency in trust as the property of the agency for use in the operation of the agency and for no other purpose and, upon the resignation, removal or death of such agent, such property shall be transferred to the successor agent. The Commission shall establish a beginning inventory and maintain records of all real and personal property leased or owned by each motor license agent and shall annually update its records as to any interest, whether partial or whole, held by the motor license agent in such real and personal property. Upon the appointment of a successor agent, the Commission shall have the power to provide for the equitable settlement of any issue arising from any partial interests involved in such real and personal property. Provided however, that the property may be transferred to the Commission to be held or used by the Commission until such time as a successor agent is appointed and qualified as provided in this act.

B. The following restrictions and requirements shall apply to all motor license agents:

1. All purchases in excess of One Thousand Dollars (\$1,000.00) made by a motor license agent who collects fees in excess of Seventy-five Thousand Dollars (\$75,000.00) per year shall be identified in each review examination and shall be accompanied by at least (3) quotes or bids showing that the purchase was at the lowest price available in the agent's local area;

2. No motor license agent shall enter into a lease or sublease, for use in a motor license agency or in the conduct of agency business for any furniture, equipment, machinery, vehicles or other items from any entity in which the agent or any person related to the agent within the third degree by consanguinity or affinity has a financial interest. Such motor license agent may, however, locate or continue to locate a motor license agency in a building owned by said agent or by a person related to the agent within the third degree by consanguinity or affinity. In such case, the Office of Public Affairs must appraise such office space to be leased and approve any leasing agreement; and

3. Any and all records, files, books or otherwise of a motor license agent relating to the operation of the motor license agency shall be public record which shall be open to public inspection at reasonable times, regardless of their location.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1141.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

Each motor license agent shall be entitled to retain the following amounts from the taxes and fees collected by such agent to be used to fund the operation of the office of such motor license agent subject to the provisions of Sections 1140 through 1147 of this title:

1. One Dollar and twenty-five cents (\$1.25) for each vehicle registered pursuant to the Oklahoma Vehicle License and Registration Act;

2. One Dollar and twenty-five cents (\$1.25) for each certificate of title issued for boats and motors pursuant to the Oklahoma Statutes;

3. One Dollar and twenty-five cents (\$1.25) for each certificate of registration issued for boats and motors pursuant to the Oklahoma Statutes;

4. One Dollar and twenty-five cents (\$1.25) for each certificate of title issued pursuant to the Oklahoma Vehicle License and Registration Act;

5. Four percent (4%) of the excise tax collected pursuant to Section 2102 of Title 68 of the Oklahoma Statutes;

6. Four percent (4%) of the excise tax collected on the transfer of boats and motors pursuant to the Oklahoma Statutes;

7. Two Dollars (\$2.00) for each drivers' license, endorsement, identification license, or renewal or duplicate issued pursuant to Section 6-101 et seq. of this title;

8. Two Dollars (\$2.00) for the recording of security interests as provided in Section 1110 of this title;

9. Two Dollars (\$2.00) for each inspection conducted pursuant to subsection L of Section 1105 of this title;

10. Fifty cents (\$0.50) for each inspection conducted pursuant to Section 1102 of this title;

11. Three Dollars (\$3.00) for each inspection conducted pursuant to subsection M of Section 1105 of this title;

12. One Dollar (\$1.00) for each certificate of ownership filed pursuant to subsection Q of Section 1105 of this title;

13. One Dollar (\$1.00) for each temporary permit issued pursuant to Section 1124 of this title;

14. One Dollar and fifty cents (\$1.50) for processing each proof of financial responsibility, driver's license information, insurance verification information, and other additional information as provided in Section 7-602 of this title;

15. The mailing fees provided in Sections 1131 and 1140 of this title;

16. The notary fee provided in Section 1143 of this title;

17. Three Dollars (\$3.00) for each lien entry form completed and recorded on a certificate of title pursuant to subsection G of Section 1105 of this title;

18. Seven Dollars (\$7.00) for each certificate of title or each certificate of registration issued for repossessed vehicles pursuant to Section 1126 of this title; and

19. Any amount specifically authorized by law to be retained by the motor license agent for the furnishing of a summary of a traffic record.

The balance of the funds collected shall be remitted to the Commission as provided in Section 1142 of this title to be apportioned pursuant to Section 1104 of this title.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1142.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any motor license agent or any employee of such motor license agent to carry on a messenger service, courier service or pick up and delivery service for the recording of a security interest or for the registration of a motor vehicle or boat or a motor, or obtaining license plates and decals, or for the issuance of a certificate of title for any motor vehicle or boat or motor. Provided, nothing in this subsection shall be construed to prevent a motor license agent or any employee of such motor license agent from performing such services for the motor license agent's depository bank, when the motor license agent or his employee goes to the agent's depository bank to deposit tax monies into the agent's designated Oklahoma Tax Commission Motor License Agent Account. After September 1, 1991, the Oklahoma Tax Commission shall not designate or assign a motor license agent more than one active Oklahoma Tax Commission Motor License Agent Account. Accounts designated prior to September 1, 1991, may remain active.

B. It shall be unlawful for any motor license agent to compensate in any manner a messenger service, courier service or pick up and delivery service or any one attempting to provide

messenger service, courier service or pick up and delivery service for recording a security interest or for the registration of a motor vehicle or boat or motor, or obtaining license plates and decals, or for the issuance of a certificate of title for any motor vehicle or boat or motor.

C. A motor license agent who violates the provisions of this section shall be subject to a fine of One Thousand Dollars (\$1,000.00) per occurrence and shall be removed immediately by the Oklahoma Tax Commission.

SECTION 7. This act shall become effective September 1, 1991.