

ENROLLED SENATE
BILL NO. 185

By: Stipe of the Senate

and

Adair, Bastin, Dunegan,
Glover, Hamilton (Jeff),
Monks, Rhoads (Karroll),
Rice and Seikel of the
House

An Act relating to motor vehicles; prohibiting drag racing on public roadway; providing for misdemeanor conviction for first offense; providing for felony conviction for second and subsequent offense; providing certain punishments; defining terms; providing short title; establishing the Trucking Commission; describing purpose; providing for membership, officers, removal and travel expense; authorizing appointment of Director; declaring public policy; authorizing certain powers; authorizing certain contracts; providing for legal counsel; creating certain revolving fund; authorizing assessment of certain fee; providing for application of certain refund; requiring annual report; authorizing deposit of revolving fund with State Treasurer for purpose of investment; abolishing the Trucking Industry Self-Funded Research and Development Committee; providing for oversight of certain outstanding contracts; transferring certain funds to General Revenue Fund; repealing 47 O.S. 1991, Sections 1161, 1162, as amended by Section 1, Chapter 313, O.S.L. 1992, 1163, 1164 and 1165, as amended by Section 4, Chapter 179, O.S.L. 1992 (47 O.S. Supp. 1992, Sections 1162 and 1165), which relate to the Trucking Industry Self-Funded Research and Development Act of 1987; providing for codification; providing effective dates; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-903.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. 1. Any person who drives any vehicle on any public roadway in any race, drag race, speed competition or contest involving an exhibition of speed, except as provided in Section 1148 of Title 47 of the Oklahoma Statutes, may be charged with a violation of the provisions of this subsection as follows:

a. any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a misdemeanor for the first offense and shall be

punished by imprisonment in the county jail up to ninety (90) days, and a fine of not more than Five Hundred Dollars (\$500.00), and

- b. any person who is convicted of a second or subsequent violation of the provisions of this subsection shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary for up to two (2) years, and a fine of not more than One Thousand Dollars (\$1,000.00).

2. As used in this subsection, "racing" or "drag racing" means the operation of two or more vehicles from a certain point, side by side at accelerating speeds in a competitive attempt to out-distance each other, or the operation of two or more vehicles at different times over a selected course for the purpose of comparing the speed, endurance or acceleration of such vehicles.

B. 1. Any person who causes an accident resulting in death or great bodily injury to any person other than himself while driving or operating a motor vehicle in this state and who is in violation of the provisions of subsection A of this section may be charged with a violation of the provisions of this subsection. Any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a felony punishable by imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, and a fine of not more than Five Thousand Dollars (\$5,000.00).

2. As used in this subsection, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1166 of Title 47, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Trucking Commission Hub Center Enhancement and Truck Safety Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1166.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

There is hereby created a Trucking Commission for the advancement of commercial truck safety and further development of the trucking industry and the State of Oklahoma as a regional, national and international marketing, warehousing and distribution network hub center for motor-transportation-sensitive industries.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1166.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Trucking Commission, hereafter referred to as the "Commission", shall employ, advise and direct the Director of the Commission.

B. The Trucking Commission shall be composed of six appointed voting members, five ex officio voting members and two ex officio nonvoting members.

C. Two voting members of the Commission shall be appointed by the Governor, two voting members shall be appointed by the President Pro Tempore of the Senate, and two voting members shall be appointed by the Speaker of the House of Representatives.

D. The ex officio voting members of the Commission shall be the Lieutenant Governor, the Secretary of Transportation, the Commissioner of Public Safety, a member of the Oklahoma Tax Commission and the Director of the Vocational and Technical Center for Transportation and Safety Education. Ex officio nonvoting

members of the Commission shall be the Chair of the Transportation Committee of the Oklahoma State Senate or his designee and the Chair of the Transportation Committee of the Oklahoma House of Representatives or his designee.

E. To qualify for appointment to the Commission, an appointee shall have the following minimum qualifications:

1. A citizen of the United States and a resident of this state;
2. A qualified elector of this state;
3. No felony convictions under the laws of the United States or this state; and

4. One appointee of the Governor, one appointee of the President Pro Tempore of the Senate and one appointee of the Speaker of the House of Representatives must be recommended to the appointing authority by a qualified state association. As used in this section, a qualified state association shall be an organization exempt from taxation pursuant to the provisions of Section 501(c)(6) of the Internal Revenue Code and which is in existence as of January 1, 1993, that is nationally recognized, organized and operating within this state on a statewide basis, and which organization represents the interests of the position for which it is making the recommendation.

F. The terms of office for the members first appointed to the Commission shall be as follows: one appointee of the Governor shall serve a term of two (2) years; one appointee of the Governor shall serve a term of four (4) years; one appointee of the President Pro Tempore of the Senate and one appointee of the Speaker of the House of Representatives shall serve a term of three (3) years; and the remaining two members, one appointed by the President Pro Tempore of the Senate and one appointed by the Speaker of the House of Representatives, shall serve a term of two (2) years. Thereafter, the term of office of each appointed member of the Commission shall be for four (4) years. An appointment shall be made by the appointing authority within ninety (90) days after the expiration of the term of any member due to resignation, death, removal or any cause resulting in an unexpired term. If a vacancy is not filled within ninety (90) days, the Commission may appoint a provisional member to serve in the interim until the appointing authority names a successor appointee. An appointed member may be reappointed for one additional term. The initial appointed members shall be named by September 15, 1993.

G. Appointed members of the Commission shall receive no salary but shall be entitled to be reimbursed for necessary travel expenses pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. The appointed members of the Commission may be removed by the appointing authority for cause.

H. Members of the Commission shall serve jointly on the Trucking Industry Self-Funded Research and Development (TISRAD) Committee, Section 1162 of Title 47 of the Oklahoma Statutes, as full voting members, until such time as the TISRAD Committee is abolished.

I. The Commission shall, in conjunction with the Associated Motor Carriers and the Motor Transportation Safety, Education and Economic Development Research Foundation, or any like entity or organization, develop safety, education and economic development research programs for motor transportation, for the advancement of commercial truck safety and for the further development of the trucking industry and this state as a regional, national and international marketing, warehousing and distribution network hub center for motor transportation-sensitive industries. 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 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1166.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Lieutenant Governor shall serve as Chair of the Commission. At the first meeting of each fiscal year, the Commission shall elect a Vice Chair and a Secretary-Treasurer from among its members. The Commission shall meet at least once every three (3) months and at such other times as called by the Chairman or by a majority of the Commission.

B. The Commission may appoint a full-time Director who shall implement the provisions of this act subject to the direction of the Trucking Commission.

C. No Acting Director or assistant director shall serve in a dual capacity while retaining membership as a Commission member.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1166.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

It is hereby declared to be the public policy of the State of Oklahoma to protect and foster the safety, health, prosperity and general economic welfare of its people by developing the state as a regional, national and international marketing, warehousing, and distribution network hub center for motor-transportation-sensitive industries. The Commission shall have the power to:

1. Establish an office, such establishment to be coordinated by the Department of Central Services, pursuant to Section 63 of Title 74 of the Oklahoma Statutes;

2. Formulate general policies and programs to develop the State of Oklahoma as a regional, national and international marketing, warehousing and distribution network hub center for motor-transportation-sensitive industries;

3. Develop and implement a program of safety education and public awareness;

4. Cooperate with state organizations and tax-exempt, nonprofit associations or foundations formed to promote and develop the interests of the motor transportation needs of the State of Oklahoma in its relations with the public and private sectors of the motor transportation industry;

5. Promulgate rules as are necessary to promptly and effectively administer the provisions of this act;

6. In addition to safety-related activities and the other enumerated items herein, provide grants or conduct any other programs for trucking industry promotion and for the research and development of the State of Oklahoma as a marketing, warehousing and distribution network hub center as outlined in this act;

7. Call and conduct such meetings as may be necessary in carrying out the provisions of this act;

8. Reimburse to the person incurring such expense the actual and necessary expenses of travel, lodging and subsistence in pursuing and developing the State of Oklahoma as a motor transport hub center incurred by the Commission, staff and such persons authorized by the Commission. No expense shall be paid except for work relating to this act;

9. Expend Commission funds for the purchase of safety materials, promotional materials, awards and projects relating to the purposes of this act;

10. Approve the annual operating budget of the Commission as prepared and submitted by the Director and to approve such other administrative direction as is necessary;

11. Cooperate with and enter into contracts, in the manner provided for in the Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes, with appropriate local, state or national organizations, public or private, in carrying out the purposes of this act; and

12. Budget up to One Hundred Thousand Dollars (\$100,000.00) annually for Commission matching grants to the Department of Commerce, Oklahoma Department of Transportation, the Oklahoma Tax Commission, the Department of Public Safety, the Corporation Commission, substate planning districts or other local subdivisions of government for purposes relative to transportation-sensitive economic development programs and activities. No such single annual grant shall exceed Forty Thousand Dollars (\$40,000.00).

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1166.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Office of the Attorney General shall serve as the general legal advisor to the Commission. The Attorney General may request funds from the Commission from time to time for additional legal assistance on matters pertaining to operations of the Commission.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1166.6 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Trucking Commission to be known as the Trucking Commission Revolving Fund. The Fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Commission pursuant to the provisions of this act. All monies accruing to the credit of said Fund are hereby appropriated and may be budgeted and expended by the Trucking Commission for the purposes specified in Section 6 of this act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. The books, records and accounts of the Commission shall be audited annually by the State Auditor and Inspector, with the costs of the respective audits to be paid from the funds of the Commission.

C. There is hereby assessed an annual proratable registration assessment fee upon all commercial trucks and truck-tractors registered under this act as follows:

<u>GVW</u>	<u>Monthly Rate</u>
From 30,001 pounds to 51,000 pounds	\$1.00
From 51,001 pounds to 72,000 pounds	\$1.25
Above 72,001 pounds	\$1.50

The fee shall be assessed and imposed as a part of but in addition to the regular registration fee as provided in Section 1133 of Title 47 of the Oklahoma Statutes, and shall be fully proratable accordingly. The fee shall be assessed and imposed at the time of registration and shall be collected and remitted by the Oklahoma Tax Commission directly to the Trucking Commission Revolving Fund, notwithstanding the provisions of Section 1104 of Title 47 of the Oklahoma Statutes. From the amount collected pursuant to this subsection, the Oklahoma Tax Commission shall retain a sum not to exceed One Hundred Thousand Dollars (\$100,000.00) to defer administrative expenses incurred in conducting its duties pursuant to this section and Section 9 of this act. Said sum shall be deposited in the Oklahoma Tax Commission Revolving Fund, Section 221 of Title 62 of the Oklahoma Statutes.

D. If for any reason dissolution of the Trucking Commission or the Trucking Commission Revolving Fund should occur, all assessments provided for in this section shall cease and all remaining funds shall be expended for the purposes outlined in this act.

E. The Commission will be responsible to pay for all printing and forms necessary to carry out the provisions of this act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1166.7 of Title 47, unless there is created a duplication in numbering, reads as follows:

Any person, firm or corporation subject to the assessment fee as provided for in Section 7 of this act who objects to the collection of the assessment, may, within sixty (60) days following the assessment and payment thereof, make application to the Trucking Commission for a refund of such fee. Provided however, no refund shall be allowed for amounts of Fifteen Dollars (\$15.00) or less. Application forms for such refund shall be available from the Oklahoma Tax Commission Motor Vehicle Division, as provided by the Trucking Commission.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1166.8 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Chair of the Trucking Commission shall make an annual report to the Governor within ninety (90) days after June 30 of each year showing in detail all income and expenditures and any other facts relevant to the act. Said annual report shall include a list of all officers and employees of the Commission showing in detail all income and expenditures and such other facts that may be of major relevance to this act.

B. The report shall be made available to the public. Copies of the report shall be available upon request to the Commission to each carrier who registers vehicles under this act.

C. All records of the Commission shall be kept at least three (3) years, pursuant to Section 590 of Title 21 of the Oklahoma Statutes.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1166.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

By order of the Director, with approval of the members of the Commission, any of the funds in the Trucking Commission Revolving Fund may be invested through the State Treasurer in securities of the state or federal government. The funds may also be deposited in certificates of deposit or in savings accounts or certificates of any bank, trust company or savings and loan association within the State of Oklahoma which are insured by a federal agency. These securities, certificates of deposit, savings accounts or savings certificates shall be placed in the care of the State Treasurer, who shall collect the principal and interest when due and pay both into the Trucking Commission Revolving Fund.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1165.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Trucking Industry Self-Funded Research and Development (TISRAD) Committee is hereby abolished, and all functions, powers and duties shall cease to exist.

B. The Lieutenant Governor shall retain oversight of any TISRAD contracts outstanding after the effective date of this section.

C. Any unobligated balance remaining in the Trucking Industry Self-Funded Research and Development (TISRAD) Revolving Fund on December 31, 1993, and unexpended funds remaining in said Trucking Industry Self-Funded Research and Development (TISRAD) Revolving

Fund after June 30, 1994, shall be transferred to the General Revenue Fund of the State Treasury for the then current fiscal year.

SECTION 13. REPEALER 47 O.S. 1991, Sections 1161, 1162, as amended by Section 1, Chapter 313, O.S.L. 1992, 1163, 1164 and 1165, as amended by Section 4, Chapter 179, O.S.L. 1992 (47 O.S. Supp. 1992, Sections 1162 and 1165), are hereby repealed.

SECTION 14. Sections 1 through 11 of this act shall become effective September 1, 1993.

SECTION 15. Sections 12 and 13 of this act shall become effective December 31, 1993.

SECTION 16. 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 Senate the 24th day of May, 1993.

President of the Senate

Passed the House of Representatives the 27th day of May, 1993.

Speaker of the House of Representatives