ENGROSSED SENATE
BILL NO. 2

By: Roberts of the Senate

and

Settle of the House

[crimes and punishments - decriminalizing certain actions and designating civil infractions and administrative violations in the various titles other than Title 21 - repealing criminal acts and penalties in various titles other than Title 21 - codification - effective date]

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 2-28 of Title 2, unless there is created a duplication in numbering, reads as follows:

Any person, firm, association, or corporation who shall fail to comply with the provisions of Sections 2-14 through 2-17 of Title 2 of the Oklahoma Statutes shall be liable for an administrative violation and subject to a fine of not more than Five Hundred Dollars ($500.00). For each second or successive breach of this act, the fine shall be not more than One Thousand Dollars ($1,000.00).

SECTION 2. AMENDATORY 2 O.S. 1991, Section 3-18, is amended to read as follows:

Section 3-18. In case any authorized agent of the Board shall find present on any nursery or dealer's premises or in any packing

ground or in any cellar or building used for storage or sale of nursery stock, any injurious insect or plant disease, he shall notify the owner or person having charge of the premises in writing to that effect, and shall withhold his certificate hereinafter provided for until the premises are freed from such injurious insect or plant disease. It shall be ~~unlawful and a misdemeanor~~ an administrative violation for any person after receiving such notice to ship or deliver, or cause to be shipped or delivered, any nursery stock from such aforesaid premises. The violator shall be subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 3. AMENDATORY 2 O.S. 1991, Section 3-19, is amended to read as follows:

Section 3-19. (a) If an authorized agent of the Board shall find on examination any nursery, orchard, small fruit plantation, park, cemetery or any private or public premises infested with injurious insects or plant diseases, he shall notify the owner or person having charge of such premises to that effect, and the owner or person having charge of the premises shall within ten (10) days after such notice cause the removal and destruction of such trees, plants, shrubs or other plant material if incapable of successful treatment; otherwise cause them to be treated as the authorized agent may direct. No damages shall be awarded to the owner for the loss of infested or infected trees, plants, shrubs or other plant material under this section.

(b) If the owner, manager, operator or other person in charge of such premises shall refuse or neglect to carry out the orders and instructions of the authorized agent within ten (10) days after receiving such orders or instructions in written notice, he shall be deemed ~~guilty of violating this subarticle, and shall be punished as for a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Provided, that each separate day's failure to comply with such

orders and instructions shall constitute a separate offense and shall be punished accordingly.

SECTION 4. AMENDATORY 2 O.S. 1991, Section 3-31, is amended to read as follows:

Section 3-31. Any person ~~violating~~ breaching any of the provisions of this subarticle, or any rule or regulation promulgated thereunder, shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 5. AMENDATORY Section 11, Chapter 198, O.S.L. 1993 (2 O.S. Supp. 1994, Section 3-50.11), is amended to read as follows:

Section 3-50.11 A. The board of directors may request the Department to provide for the collection of the assessment and ~~of an administrative penalty from any person who fails to pay an assessment when due pursuant to the Boll Weevil Eradication Act~~ failure to pay the assessment when due shall constitute an administrative violation and subject the violator to a fine of not more than One Thousand Dollars ($1,000.00).

B. Any penalty collected pursuant to the provisions of this section shall be deposited in the Boll Weevil Eradication Fund, provided, the Department shall be reimbursed for any costs incurred by the Department in the enforcement of this section.

SECTION 6. AMENDATORY Section 17, Chapter 198, O.S.L. 1993 (2 O.S. Supp. 1994, Section 3-50.17), is amended to read as follows:

Section 3-50.17 A. The Department is authorized to promulgate rules, including but not limited to:

1. Quarantining this state, or any portion thereof;

2. Governing the storage or other handling in the quarantined areas of regulated articles and the movement of regulated articles into or from such areas, when the Department determines that such

action is necessary, or reasonably appears necessary, to prevent, eradicate, or retard the spread of boll weevils; and

3. Governing the movement of regulated articles from any other state or portion thereof into this state when such state is known to be infested with boll weevils. Before quarantining any area, the Department shall hold a public hearing, at which any interested party may appear and be heard either in person or by attorney. Provided however, the Department may promulgate rules, imposing a temporary quarantine for a period not to exceed sixty (60) days, during which time a public hearing, as herein provided, shall be held if it appears that a quarantine for more than sixty (60) days will be necessary to prevent, eradicate, or retard the spread of boll weevils~~; and~~

~~4. Establishing a reasonable schedule of administrative penalties for violations of the Boll Weevil Eradication Act~~.

B. Any rules promulgated pursuant to the Boll Weevil Eradication Act shall be promulgated in accordance with the Administrative Procedures Act.

SECTION 7. AMENDATORY Section 19, Chapter 198, O.S.L. 1993 (2 O.S. Supp. 1994, Section 3-50.19), is amended to read as follows:

Section 3-50.19 A. It shall be unlawful for any person to store or handle any regulated article in a quarantined area, or to move into or from a quarantined area any regulated article, except under such conditions as may be prescribed by the rules promulgated by the Commissioner.

B. Any person who, except in compliance with the rules of the Department, moves any regulated article into this state from any other state which the Department found in such rules is infested by boll weevils shall be ~~deemed guilty of a misdemeanor and, upon conviction thereof shall be~~ subject to the penalty provided in Section ~~20~~ 3-50.20 of this ~~act~~ title. In addition, such person may

be required to pay restitution for any damages caused by a violation of this section.

SECTION 8. AMENDATORY Section 20, Chapter 198, O.S.L. 1993 (2 O.S. Supp. 1994, Section 3-50.20), is amended to read as follows:

Section 3-50.20 A. Any person who violates any of the provisions of Boll Weevil Eradication Act or the rules promulgated thereto, or who shall ~~alter, forge, counterfeit, or~~ use without authority any certificate or permit or other document provided for in the Boll Weevil Eradication Act or in rules promulgated thereto shall, ~~upon conviction thereof, be guilty of a misdemeanor and shall be punished by~~ be liable for an administrative violation and subject to a fine of not ~~less than Fifty Dollars ($50.00) nor~~ more than One Thousand Dollars ($1,000.00).

B. Except as otherwise provided by the Boll Weevil Eradication Act any penalty collected by the Department pursuant to the provisions of this section shall be deposited in the Agriculture Revolving Fund.

SECTION 9. AMENDATORY 2 O.S. 1991, Section 3-52, is amended to read as follows:

Section 3-52. It shall be the duty of the sheriff and all peace officers of the county to enforce the provisions of this subarticle, and any person ~~violating~~ breaching any of the provisions of this subarticle, or who ~~violates~~ breaches, or fails or refuses to comply with, any quarantine boundary lines, or order, rule or regulation made by the Board concerning the same, shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 10. AMENDATORY 2 O.S. 1991, Section 3-65, is amended to read as follows:

Section 3-65. (a) Examinations of pesticides (or devices) shall be made under the direction of the State Board of Agriculture for

the purpose of determining whether there has been a compliance with the requirements of this subarticle. If it shall appear from such examination that a pesticide (or device) fails to comply with the provisions of this subarticle, and the Board contemplates instituting ~~criminal~~ administrative proceedings against any person, the Board shall cause notice by United States mail to be given to such person. Any person so notified shall be given an opportunity to present his views to the Board, either orally or in writing, with regard to such contemplated proceedings~~, and if thereafter in the opinion of the Board it shall appear that the provisions of this subarticle have been violated by such person, then the Board shall refer the facts to the district attorney of the county in which the violation shall have occurred, with a copy of the results of the analysis or the examination of such article; provided, however, that nothing in this subarticle shall be construed as requiring the Board to report for prosecution or for the institution of condemnation proceedings minor violations of this subarticle, whenever it believes that the public interest will be best served by a suitable notice of warning or~~. If the Board determines that a breach has occurred, it shall issue a stop-sale order in writing. Failure of any person to comply with the provisions of a stop-sale order shall be ~~a violation of this subarticle, and a misdemeanor~~ an administrative violation and the violator shall be subject to a fine of not more than One Thousand Dollars ($1,000.00).

(b) It shall be the duty of each district attorney, when any such violation is reported, to cause appropriate proceedings to be instituted and prosecuted in the proper court without delay.

(c) The Board may, by publication in such manner as it may prescribe, give notice of all judgments entered in actions, instituted under the authority of this subarticle.

SECTION 11. AMENDATORY 2 O.S. 1991, Section 3-67, is amended to read as follows:

Section 3-67. Any person ~~violating~~ breaching any of the provisions of this subarticle shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 12. AMENDATORY 2 O.S. 1991, Section 3-82, is amended to read as follows:

Section 3-82. A. It shall be ~~unlawful and a misdemeanor~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to act, operate, or do business or advertise as a commercial, noncommercial or private applicator unless such person has obtained a valid applicator's license issued by the Board for the category of pesticide application in which the person is engaged.

A license may be issued by the Board under the provisions of this act in any category of pesticide application, provided the applicant qualifies under the provisions of this act and the applicant is limited to the category of pesticide application named on the license. The Board shall establish such categories of pesticide application as it deems necessary. Licenses shall be issued only upon application therefor to the Board on a form of application prescribed by the Board, and the application shall contain information regarding the applicant's qualifications and proposed operations and such other information as may be specified by the Board. An aerial license shall not be issued or be valid unless the applicant possesses and has filed with the Board a copy of a valid document issued by the Federal Aviation Administration showing that the person is qualified to operate or supervise the operation of an aircraft conducting agricultural operations.

Each business location shall require a separate license and separate certified applicator.

The Board by regulation may require a certified applicator to be present at the location where designated pesticide applications are to be used in order to use or supervise the use of such pesticides.

B. 1. A license shall be issued only after satisfactory completion of the certification standards by the particular person who will be the certified applicator under the license. A failure to show proper qualification under the rules and regulations prescribed by the Board, or for violations of any of the provisions of this act shall make it the duty of the Board to deny the application for certification or recertification or deny the issuance or renewal of a certificate or license. A certificate in any category shall be valid for five (5) years unless suspended, canceled, or revoked by the Board or until recertification is deemed necessary for said category, and may be renewed after successful completion of recertification. The Board may require certified applicators to be recertified not to exceed one recertification in a five-year period.

2. A certified service technician identification shall be issued upon application and completion of such certification standards by the applicant as are determined by the Board. No person shall act, do business as, or advertise as a service technician unless such person has met all the qualifications and standards as determined necessary by the Board. The service technicians' identification shall be issued in the name of the licensed entity. The licensee shall ensure that the service technician identification is returned to the Board upon termination of the employee. A service technician identification shall be valid for a period of five (5) years unless suspended, canceled or revoked by the Board, or until recertification is deemed necessary by the Board or until the service technician leaves the employ of the licensed entity.

3. All licenses, except of private applicators, shall expire on the 31st day of December following their issuance or renewal, and may be renewed for the ensuing calendar year, without penalty or reexamination, if a properly completed application is filed with the Board not later than the 1st day of January of each year. If application is not received by such date a penalty of twice the amount of the renewal fee shall be charged for renewal of the license(s). After the 1st day of February, in addition to penalty, a reexamination shall be required.

All private applicator licenses are in effect for five (5) years and may be renewed by application after completion of a continuing education program or written exam approved by the Board.

C. The following fees shall be paid to the Board:

1. A fee of Fifty Dollars ($50.00) for each category of pesticide application shall be paid to the Board for the issuance or renewal of a commercial applicator business license, not more than Two Hundred Fifty Dollars ($250.00) total category fees shall be charged annually to any of business location of an applicator;

2. A fee of Twenty Dollars ($20.00) shall be paid to the Board for each written examination conducted by the Board;

3. A fee of Twenty Dollars ($20.00) shall be paid to the Board for each practical examination conducted by the Board;

4. A fee of Five Dollars ($5.00) shall be paid to the Board for the issuance or renewal of a private applicator's license;

5. A fee of Twenty Dollars ($20.00) shall be paid to the Board for the issuance or renewal of a noncommercial business license;

6. A fee of Ten Dollars ($10.00) shall be paid to the Board for the issuance or renewal of service technician identification;

7. A fee of Five Dollars ($5.00) shall be paid to the Board for the issuance of duplicate licenses or certificates or transfer of a service technician identification;

8. No fees shall be charged to governmental agencies or their employees in the discharge of their official duties;

9. A fee of Twenty Dollars ($20.00) shall be paid to the Board for each recertification procedure.

All such fees shall be deposited in the State Board of Agriculture Revolving Fund.

D. The Board shall not issue a commercial applicator's license until the applicant has furnished evidence of an insurance policy or certificate thereof by an insurer or broker authorized to do business in this state insuring the commercial applicator and any of his agents against liability resulting from the operations of the commercial applicator. Such insurance shall not be applied to damage or injury to agricultural crops, plants, or land being worked upon by the commercial applicator.

The amount of liability as provided for in this section shall not be less than that set by the Board for each property damage arising out of actual use of any pesticide. Such liability shall be maintained at not less than that sum at all times during the licensing period. The Board shall be notified fifteen (15) days prior to any reduction in liability.

Should the liability furnished become unsatisfactory, said applicant shall upon notice immediately execute new liability and should he fail to do so, the Board shall cancel his license and give him notice of said fact and it shall be unlawful thereafter for such person to engage in said business of applying pesticides until the liability is brought into compliance with the requirements of this section and his license reinstated.

No action for such alleged damages to growing annual crops or plants may be brought or maintained, however, unless the person claiming the damages shall have filed with the Board a written statement of alleged damages, on a form prescribed by the Board, within ninety (90) days after the date that the alleged damages

occurred, or prior to the time that twenty-five percent (25%) of a crop damaged shall have been harvested.

SECTION 13. AMENDATORY 2 O.S. 1991, Section 3-86, is amended to read as follows:

Section 3-86. Any license, certificate or identification issued hereunder may be suspended, canceled, revoked, refused issue, or reissue by the Board after a hearing and opportunity to be heard has been given to the holder of the license or certificate. Notice thereof shall be given to the holder of the license or certificate by registered or certified mail at least ten (10) days prior to the date of the hearing. Such suspension, cancellation, revocation, refusal to issue or reissue may be made if the Board finds:

1. that such person has made misrepresentations for the purpose of defrauding, or has not satisfactorily performed, without proper cause, any contract into which such person shall have entered;

2. such person has used methods or pesticides not suitable or safe for the purpose for which they shall have been employed, has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board;

3. failure or refusal to furnish the Board, upon request, true information regarding methods, pesticides, and safety measures used, work performed, or other information deemed essential by the Board, or for making any false statement or representation in such person's application for issuance or renewal of a permit;

4. any violation of state law or of regulations or standards prescribed by the Board;

5. the issuance of an inaccurate wood infestation report;

6. failure or refusal to maintain records as specified in this act;

7. advertising or in any way offering to perform in a category of pesticide application for which no license is held or under a name for which no license is held;

8. failure or refusal to pay by the specified date any fees penalties authorized under this act;

9. failure to explain in a contract signed by the property owner the ways that a pesticide application fails to comply with any minimum requirements authorized by this act;

10. failure to perform work according to minimum standards authorized by this act except as agreed in the contract;

11. falsely stating that a person is employed by or represents another person;

12. falsely stating that a person or his methods are recommended by any branch of government or that any specific work will be inspected by any branch of government;

13. any person to act, operate, do business, or advertise as an applicator unless such person has obtained a valid license issued by the Board for the category in which the person is engaged;

14. for any person to be employed or represent himself as a certified applicator or service technician unless such person has met the certification standards prescribed by the Board and has obtained a valid certificate or identification issued by the Board for the category for which the person is to be employed or supervise;

15. any person to act or operate as a private applicator unless such person has obtained a valid private applicator license issued by the Board;

16. conviction in any court of a violation of this act, pesticide laws of any other state or FIFRA;

17. failure to correct substandard work within twenty (20) days unless an extension has been granted by the Board; or

18. other proper cause. ~~Except as otherwise provided for by law any person, holder or nonholder of a valid license, convicted of violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punishable by the imposition of a fine of~~

~~not less than One Hundred Dollars ($100.00) and not more than Ten Thousand Dollars ($10,000.00) or by imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or by both said fine and imprisonment.~~

If after public hearing in accordance with the Administrative Procedures Act, the Board shall find any person to ~~be in violation of~~ have breached any of the provisions of this act, the Board has the authority to assess ~~a civil penalty~~ an administrative fine of ~~not less than One Hundred Dollars ($100.00) and~~ not more than One Thousand Dollars ($1,000.00) for each ~~violation~~ breach. It shall also be ~~unlawful and a misdemeanor~~ an administrative violation for any person, whether he be a commercial or noncommercial license holder or not a commercial or noncommercial license holder, to use a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained by the Board. The violator shall be subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 14. AMENDATORY 2 O.S. 1991, Section 3-121, is amended to read as follows:

Section 3-121. A. 1. It shall be unlawful for any person to refuse to permit an inspection provided for by the Oklahoma Apiary Act, or to hinder or interfere with, in any way, such inspection or the person authorized to make such inspection.

2. It shall be unlawful for any person renting a colony of bees to another to misrepresent the strength of such a colony.

3. Any person who fails to pay a registration fee required by the Oklahoma Apiary Act within thirty (30) days after March 15 of each year, shall pay a late registration fee of Ten Dollars ($10.00). All inspection fees are due within thirty (30) days after samples are processed or the inspection is completed. Late payment of inspection fees or fees for sample analysis are subject to a

penalty of ten percent (10%) of the amount due or Ten Dollars ($10.00), whichever is greater.

B. Any person who ~~is convicted for a violation of~~ breaches any of the provisions of the Oklahoma Apiary Act shall be ~~guilty of a misdemeanor and shall be punished by~~ liable for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) or not~~ more than One Thousand Dollars ($1,000.00).

SECTION 15. AMENDATORY 2 O.S. 1991, Section 3-203, is amended to read as follows:

Section 3-203. ~~(a)~~ It shall be ~~unlawful and a misdemeanor~~ an administrative violation for any grower to distribute, sell or offer for sale within this state, or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state, any of the following:

(1) Any vegetable plants that have not been inspected and approved for sale by an authorized agent of the State Board of Agriculture;

(2) Any vegetable plants infested or infected with any injurious insects or plant diseases or seriously devitalized;

(3) Any vegetable plants that are misrepresented as to variety and condition;

(4) Any vegetable plants in flats, crates, baskets or containers and there is not affixed to the outside a tag bearing

a. the name and address of the grower or dealer for whom inspected, and

b. the variety name under which said vegetable plants are sold.

The violator shall be subject to a fine of not more than One Thousand Dollars ($1,000.00).

~~(b) It shall be unlawful and a misdemeanor:~~

~~(1) For any person to detach, alter, deface or destroy in whole or in part any tag provided for in this subarticle or to add any other variety name to such tag other than the variety name for which it was intended.~~

~~(2) For any person to fail to comply with the provisions of a stop-sale order, or to remove the red tag attached to plants or their container which states a stop-sale order has been written on them.~~

SECTION 16. AMENDATORY 2 O.S. 1991, Section 3-206, is amended to read as follows:

Section 3-206. (a) The inspection of vegetable plants shall be made under the direction of the Board or an authorized agent thereof, for the purpose of determining whether they comply with the requirements of this subarticle. If it shall appear from such inspections that the vegetable plants fail to comply with the provisions of this subarticle, and the Board contemplates instituting ~~criminal~~ administrative proceedings against any person, the Board shall cause appropriate notice to be given to such person. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if thereafter, in the opinion of the Board, it shall appear that the provisions of the subarticle have been ~~violated~~ breached by such person, then the Board shall ~~refer the facts to the district attorney of the county in which the violation shall have occurred, with a copy of the results of the inspection or inspections of the vegetable plants. Provided, however, that nothing in this subarticle shall be construed as requiring the Board to report for prosecution, or for the institution of condemnation proceedings, minor violations of the provisions of this subarticle whenever it believes that the public interests will be best served by a suitable notice of warning in writing~~ continue the administrative proceedings.

(b) ~~It shall be the duty of each district attorney, when any such violation is reported, to cause appropriate proceedings to be instituted and prosecuted in the proper court without delay.~~

~~(c)~~ The Board shall, by publication in such manner as it may prescribe, give notice of all judgments entered in actions instituted under the authority of this subarticle.

SECTION 17. AMENDATORY 2 O.S. 1991, Section 3-208, is amended to read as follows:

Section 3-208. Any person ~~violating~~ breaching any of the provisions of this subarticle or any rule or regulation made by the State Board of Agriculture thereunder shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 18. AMENDATORY 2 O.S. 1991, Section 3-274, is amended to read as follows:

Section 3-274. (a) Any person ~~violating~~ breaching any of the provisions of this act or the rules and regulations promulgated under it shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished by~~ liable for an administrative violation and subject to a fine of ~~not less than One Hundred Dollars ($100.00) and~~ not more than ~~Three Hundred Dollars ($300.00) or by imprisonment in the county jail for not less than thirty (30) days and not more than six (6) months, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00).

(b) A person's permit may be invalidated after a hearing, when it is determined by the Board that such person has made misrepresentations for the purpose of defrauding, made legal contracts and refused to carry out such contracts without just cause, used pruning methods which were not suitable or safe for the purpose for which they were employed, or pruned without the proper permit, or failed or refused to give the Board, upon request, true information regarding methods, materials and safety measures used,

work performed, or other information essential to the administration of this act. The above-named reasons for invalidation of a permit shall also be considered violations of this act and subject the person to prosecution in district court.

SECTION 19. AMENDATORY 2 O.S. 1991, Section 4-6, is amended to read as follows:

Section 4-6. ~~Any person who knowingly places~~ It shall be unlawful for any person to knowingly place upon any livestock a mark or brand which has not been registered with the State Board of Agriculture shall, if such mark or brand duplicates one that is registered with the State Board of Agriculture~~, be guilty of a misdemeanor~~. Such duplication shall be the use of a similar brand, used in any position on the animal designated for the use of a registered brand, such as the head, neck, shoulder, rib, hip, or breeching. Violators shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 20. AMENDATORY 2 O.S. 1991, Section 5-30, is amended to read as follows:

Section 5-30. (a) Any person who ~~violates~~ breaches any of the provisions of Sections 5-21 through 5-30 of this title or rule or regulation promulgated thereto~~, upon conviction,~~ shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

(b) Any violation of Sections 5-21 through 5-30 of this title or rule or regulation thereto shall also be grounds for the Board to deny issuance of, suspend, cancel, revoke or refuse reissue of any license issued under the authority of Section 5-28 of this title after the licensee has been provided notice and opportunity for a hearing.

SECTION 21. AMENDATORY 2 O.S. 1991, Section 5-62.3, is amended to read as follows:

Section 5-62.3 A. It shall be ~~unlawful and a misdemeanor~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to do business as a service agency or service technician, unless such person has first obtained and holds a valid license issued by the State Board of Agriculture and has paid the license fee as required by this act.

B. A service agency license shall be issued by the Board after submitting an application to the Board on a form prescribed by the Board. The service agency shall have the appropriate amount of equipment and standards as provided herein and have employed a qualified licensed service technician in each category as stated on the application and such other information as shall be required by the Board. Failure to show proper qualification under the rules and regulations prescribed by the Board or for violations of any of the provisions of the Oklahoma Service Technician and Service Agency Act shall make it grounds for the Board to deny the issuance, renewal or re-issue of the license.

C. An apprentice service technician license shall be issued after submitting an application to the Board on a form prescribed by the Board. The apprenticeship license for new applicants, with no device-related educational training from an accredited or recognized institution or experience, shall be in effect for one year. All apprentice service technicians must work under the supervision of a licensed service technician when servicing a weight or measure. Failure to show proper qualifications under the rules and regulations prescribed by the Board or violations of any of the provisions of the Oklahoma Service Technician and Service Agency Act shall make it the duty of the Board to deny the issuance, renewal, or re-issue of the license.

D. An applicant for a service technician license shall submit an application to the Board on a form prescribed by the Board. Failure to show proper qualifications under the rules and

regulations prescribed by the Board or violations of any of the provisions of the Oklahoma Service Technician and Service Agency Act shall make it the duty of the Board to deny the issuance, renewal or re-issuance of the license.

E. A service technician license may be issued by the Board under the provisions of the Oklahoma Service Technician and Service Agency Act, provided the applicant qualifies under the provisions of the Oklahoma Service Technician and Service Agency Act or any rule and regulation adopted by the Board pursuant thereto and the applicant is limited to the category or categories of weight or measure named on the license. The Board shall establish such categories of weight or measure service it deems necessary.

F. Each service technician license shall specify the kind of work in which the applicant is authorized to engage, and shall show the name and address of the person to whom it is issued, and the name of the service agency with whom the individual is employed. All licenses are nontransferable and shall be returned to the Board upon separation of employment with the licensed service agency as stated on such license. Failure to return and continued use of such license upon separation of employment shall ~~constitute a misdemeanor~~ be an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00). The service agency shall immediately report the separation or termination of a licensed service technician's employment to the Board.

G. No service technician license shall be issued or remain valid if the Board finds that the applicant has been convicted of a weight or measure-related felony charge in any state or territory of the United States.

H. All licenses shall expire on June 30 following their issuance or renewal and may be renewed for the ensuing calendar year, without penalty, provided a properly completed application is filed with the Board no later than July 1 each year. If application

is not received within thirty (30) days of expiration date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the license as applicable.

I. The following fees shall be paid to the Board, and all such fees collected by the Board shall be deposited in the State Board of Agriculture Revolving Fund:

1. A fee of One Hundred Dollars ($100.00) for the issuance or renewal of a license as a service agency;

2. A fee of Twenty-five Dollars ($25.00) for issuance or renewal of a license as a service technician for each category of weights and measures serviced;

3. A fee of Ten Dollars ($10.00) for the issuance of a license for an apprentice service technician; and

4. A fee of Ten Dollars ($10.00) for the issuance of a duplicate license.

J. The Oklahoma Service Technician and Service Agency Act shall not apply to public utilities, public service corporations, rural electric associations, or municipal utilities and their subsidiaries during work on their own facilities or during the performance of energy audits, operations, inspections, maintenance, or repairs for their customers or on their own equipment.

SECTION 22. AMENDATORY 2 O.S. 1991, Section 5-62.9, is amended to read as follows:

Section 5-62.9 A. A license shall be suspended, canceled, revoked or refused re-issue by the State Board of Agriculture after the person has an opportunity for public hearing pursuant to the Administrative Procedures Act, Section 250 et seq. and 301 et seq. of Title 75 of the Oklahoma Statutes~~, and the person may be prosecuted in the court of proper jurisdiction~~ for any ~~violation~~ breach of this act. The following shall be a ~~violation~~ breach of this act:

1. Failure to correct work on each job which fails to meet the requirements of National Institute of Standards (NIST) Handbook 44 as amended and the required testing procedures;

2. Failure to complete the placing-in-service report in its entirety and to report the accurate description of parts replaced, adjusted, reconditioned or work performed;

3. Failure to report in a contract or work agreement, showing the actual repairs required to repair the weight or measure to meet the requirements;

4. Failure to furnish to the Board, upon request, duplicated copies of the service agency or any service technician weight or measure test report, or any other information required by the Board;

5. To test or place in service a weight or measure that does not meet the requirements for a commercial device as specified in the NIST Handbook 44 and the required testing procedures for the category of weight and measure;

6. Making a misrepresentation for the purpose of defrauding, which shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes;

7. Operating as a service technician or service agency without proper license;

8. Repairing a weight or measure unless the repair involved causes such weight or measure to meet the requirements of the Oklahoma Service Technician and Service Agency Act for at least ninety (90) days after such repairs;

9. Failure to submit a placing-in-service report to the Board within five (5) calendar days after such repair, installation or removal is performed; and

10. Filing a false or fraudulent application to the Board, which shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. Except as otherwise provided for by law, any person, holder or nonholder of a valid license ~~convicted in a court of proper jurisdiction of violating~~ who breaches any of the provisions of the Oklahoma Service Technician and Service Agency Act shall be ~~guilty of a misdemeanor, punishable by the imposition of~~ liable for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) and not~~ more than Ten Thousand Dollars ($10,000.00) ~~or by imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or by both said fine and imprisonment~~.

SECTION 23. AMENDATORY 2 O.S. 1991, Section 5-78, is amended to read as follows:

Section 5-78. Any person who by himself, his agents, representatives or employees~~, violates~~ breaches any of the provisions of this subarticle~~,~~ shall for each offense be ~~deemed guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 24. AMENDATORY 2 O.S. 1991, Section 5-307, is amended to read as follows:

Section 5-307. A. The Board is authorized to issue and enforce a written or printed "stop-sale, use, or removal" order to the owner or custodian of a food being offered or exposed for sale in violation of the Oklahoma Organic Food Act or rules promulgated thereto.

B. ~~Any person violating the provisions of the Oklahoma Organic Food Act shall, upon conviction in a court of competent jurisdiction, be guilty of a misdemeanor and may be punished by a fine of not more than One Thousand Dollars ($1,000.00). For the purposes of this section, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.~~

~~C.~~ If, after public hearing in accordance with the Administrative Procedures Act, the Board shall find any person to be in ~~violation~~ breach of any of the provisions of the Oklahoma Organic Food Act, the Board has the authority to assess, after notice and hearing, an administrative penalty of not ~~less than One Hundred Dollars ($100.00) and not~~ more than One Thousand Dollars ($1,000.00) for each ~~violation~~ breach. For the purpose of this section, each day upon which a ~~violation~~ breach is committed or is permitted to continue shall be deemed a separate offense.

SECTION 25. AMENDATORY 2 O.S. 1991, Section 6-28, is amended to read as follows:

Section 6-28. Any person who ~~violates~~ breaches any of the provisions of this subarticle shall be ~~guilty of a misdemeanor, and each day such violation occurs shall constitute a separate offense~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 26. AMENDATORY 2 O.S. 1991, Section 6-93, is amended to read as follows:

Section 6-93. Whenever any blood sample is drawn for the purpose of testing for brucellosis, the person drawing the blood sample shall fasten a metal tag, imprinted with a distinctive number, to the right ear of the animal from which blood is drawn; however, if an official ear tag is already fastened to the right ear, the number imprinted thereon will be recorded instead of inserting a new tag, and shall submit with the blood sample a written report to the State Board of Agriculture. The report shall be signed by the person drawing the sample and shall be on a form prescribed by the Board. The report shall show the number on the tag that was fastened to the tested animal's ear and descriptive markings of the animal, or herd tattoo, name and registration number if the tested animal was a registered animal; provided, it shall not be necessary to ear tag any registered animal if the herd tattoo,

name and registration number of such animal is shown on the report required by this section. The removal of the identifying metal ear tag from the animal's ear without prior authorization from the Board of Agriculture shall ~~be a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 27. AMENDATORY 2 O.S. 1991, Section 6-94, is amended to read as follows:

Section 6-94. A. If any animal has given a positive reaction to the official brucellosis test, and the reaction was not caused by official vaccination, the State Board of Agriculture shall declare the animal to be infected with brucellosis and shall immediately notify the person who drew the blood sample for the test, who shall place a permanent brand on the left jaw of each affected animal with the letter "B", which shall be not less than three (3) inches in height, and affix a metal tag, inscribed "Brucellosis Reactor", to the left ear of the animal.

B. Animals that are part of a known infected herd shall be treated as exposed. Any such animal destined for feeding or slaughter purposes shall be permanently branded on the left jaw with the letter "S". The brand shall be not less than two (2) inches in height and width and shall be affixed by the person who drew the blood sample by which the reactor was detected. The branding fee shall be paid by the seller of the animal. Each packing plant in Oklahoma shall collect and identify a blood sample with all identification tags, as provided by the Board, from each bovine animal that shows the presence of first central incisors.

~~C. The owner of exposed animals or reactors shall present the animals for branding or tagging within fifteen (15) days after receiving notice of reaction or exposure. The failure of an owner to comply with the requirements of this subsection shall be a misdemeanor.~~

~~D. The removal of any permanent mark or brand, including metal ear tags, from any animal with a reportable disease or those classified as diseased in a herd being depopulated, without prior authorization from the Board of Agriculture, shall be a felony.~~

SECTION 28. AMENDATORY 2 O.S. 1991, Section 6-100, is amended to read as follows:

Section 6-100. A. The State of Oklahoma is hereby declared a brucellosis eradication area. The Board of Agriculture shall institute a program of eradication in each county as prescribed in the approved plan as the funds become available in order for the state to qualify as a certified free area.

B. Each owner of livestock in the county, within sixty (60) days after notice is given that a compulsory plan has been placed in operation, shall comply with the requirements of the plan. An employee or authorized agent of the Board of Agriculture shall perform all tests on cattle for brucellosis. The owner or caretaker of the cattle shall render such assistance in restraining the animals as the State Veterinarian or his representative deems necessary. Any owner or caretaker who neglects or refuses to present the cattle for testing or refuses or neglects to assist in restraining them~~, upon conviction,~~ shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

C. The State Veterinarian or his representative authorized to test the cattle may file a complaint with the district attorney who shall immediately notify the offending party either by certified mail, personal service, posting said notice on the premises, or publication that said person will have an additional ten (10) days to comply with said requirements. If the party fails to so comply, the sheriff of the county may gather said cattle for testing. The owner shall pay all fees and costs, incurred in gathering said

cattle, into the county general fund, to be reappropriated to the county sheriff's office.

D. Whenever participation in the plan is made compulsory, an indemnity payment in an amount approved by the United States Agricultural Research Service and the Board of Agriculture, upon proof of slaughter, shall be made on each reactor within the compulsory area. The Board of Agriculture shall pay any owner of nonregistered beef cattle destroyed because of brucellosis an indemnity of not more than Fifty Dollars ($50.00) for each said animal, provided the animal qualifies for an indemnity payment pursuant to official state or federal brucellosis regulations, and the state monies will be in addition to any indemnity payments by United States Department of Agriculture. Said indemnity payments shall be made from funds made available for said purpose by the United States Agricultural Research Service or the Board of Agriculture, within the limits of availability. Said state indemnity shall not be paid unless the owner of said cattle is in compliance with regulations of the Board pertaining to an approved plan.

SECTION 29. AMENDATORY 2 O.S. 1991, Section 6-104, is amended to read as follows:

Section 6-104. Any person who ~~violates~~ breaches any of the provisions of this subarticle, or any rule or regulation adopted pursuant thereto, shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 30. AMENDATORY 2 O.S. 1991, Section 6-105, is amended to read as follows:

Section 6-105. It shall be ~~unlawful and a misdemeanor~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person ~~knowingly~~ to file a claim for funds to be used, or as reimbursement, for brucellosis

vaccinations or testing steers or heifers assigned for slaughter, exportation or feed lot purposes.

SECTION 31. AMENDATORY 2 O.S. 1991, Section 6-122, is amended to read as follows:

Section 6-122. Whenever any authorized agent of the State Board of Agriculture finds or suspects that any livestock is, or might be, infected with any infectious or contagious disease, or has been exposed thereto, he shall have the right and authority to go upon any premises or place and enter any building or enclosure for the purpose of inspecting and examining such livestock; and anyone interfering with such inspection or examination, whether by acts, words, threats or otherwise, shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 32. AMENDATORY 2 O.S. 1991, Section 6-155, is amended to read as follows:

Section 6-155. ~~Any person violating the provisions of Section 2(a) and (b) relating to the importation and transportation of livestock, is guilty of a felony and subject to a maximum punishment of two (2) years in prison or a Two Thousand Dollar ($2,000.00) fine, or both.~~ Any person ~~violating~~ breaching any of the ~~other~~ provisions of this subarticle ~~relating to the importation and transportation of livestock, is guilty of a misdemeanor~~ is liable for an administrative violation and subject to a ~~maximum punishment of six (6) months in the county jail or a Five Hundred Dollar ($500.00)~~ fine of not more than One Thousand Dollars ($1,000.00)~~, or both~~. Each animal brought into the state in violation of any of the provisions of this subarticle shall constitute a separate and distinct ~~violation~~ offense. The administrative fine provided for in this section shall be in addition to any criminal penalties provided for in Title 21 of the Oklahoma Statutes.

SECTION 33. AMENDATORY 2 O.S. 1991, Section 6-207, is amended to read as follows:

Section 6-207. (a) Any person, firm, or corporation who ~~violates~~ breaches any provision of this act for which no other ~~criminal penalty~~ liability is provided by this act shall ~~upon conviction~~ be liable for an administrative violation and subject to ~~imprisonment for not more than one (1) year, or~~ a fine of not more than One Thousand Dollars ($1,000.00)~~, or both such imprisonment and fine; but~~. But if such ~~violation~~ breach involves ~~intent to defraud, or~~ any distribution or attempted distribution of an article that is adulterated (except as defined in Section 2(j)(8) of this act), such person, firm, or corporation shall be liable for an administrative violation and subject to ~~imprisonment for not more than three (3) years, or~~ a fine of not more than Ten Thousand Dollars ($10,000.00)~~, or both:~~; provided, that no person, firm, or corporation shall be subject to ~~penalties~~ liability under this section for receiving for transportation any article or animal in ~~violation~~ breach of this act if such receipt was made in good faith, unless such person, firm, or corporation refuses to furnish on request of a representative of the Board the name and address of the person from whom he received such article or animal, and copies of all documents, if any there be, pertaining to the delivery of the article or animal to him.

(b) Nothing in this act shall be construed as requiring the Board to report for prosecution, or for the institution of legal action or injunction proceedings, minor violations of this act whenever it believes that the public interest will be adequately served by a suitable written notice of warning.

SECTION 34. AMENDATORY 2 O.S. 1991, Section 6-208, is amended to read as follows:

Section 6-208. (a) The Board shall also have power:

(1) To gather and compile information concerning and to investigate from time to time the organization, business, conduct,

practices, and management of any person, firm, or corporation engaged in intrastate commerce, and the relation thereof to other persons, firms, and corporations;

(2) To require, by general or special orders, persons, firms, and corporations engaged in intrastate commerce, or any class of them, or any of them to file with the Board in such form as the Board may prescribe, annual or special, or both annual and special, reports or answers, in writing, to specific questions, furnishing to the Board such information as it may require as to the organization, business, conduct, practices, management, and relation to other persons, firms, and corporations, of the person, firm, or corporation filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the Board may prescribe, and shall be filed with the Board within such reasonable period as the Board may prescribe, unless additional time be granted in any case by the Board.

(b) For the purposes of this act the Board shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, firm, or corporation being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person, firm, or corporation relating to any matter under investigation. The Board may sign subpoenas and may administer oaths and affirmations, examine witnesses, and receive evidence.

(1) Such attendance of witnesses and the production of such documentary evidence may be required at any designated place of hearing. In case of disobedience to a subpoena the Board may invoke the aid of any court designated in Section ~~25~~ 6-205 of this ~~act~~ title in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(2) Any of the courts designated in Section ~~25~~ 6-205 of this ~~act~~ title within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, firm, or corporation, issue an order requiring such person, firm, or corporation to appear before the Board or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(3) Upon the application of the Attorney General of this state at the request of the Board, the district court shall have jurisdiction to issue writs of mandamus commanding any person, firm, or corporation to comply with the provisions of this act or any order of the Board made in pursuance thereof.

(4) The Board may order testimony to be taken by deposition in any proceeding or investigation pending under this act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Board and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Board as hereinbefore provided.

(5) Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of this state, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in such courts, except the person or representatives of the firm or corporation charged with a violation and so summoned shall not be paid the fees and mileage that are paid witnesses.

(6) No person, firm, or corporation shall be excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the Board or in obedience to the subpoena of the Board, whether such subpoena be signed or issued by it or its delegate, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this act, or of any amendments thereto, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him or it may tend to incriminate him or it or subject him or it to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(c) Any person, firm, or corporation that shall neglect or refuse to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his or its power to do so, in obedience to the subpoena or lawful requirement of the Board shall be ~~guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by~~ <u>liable for an administrative violation and subject to</u> a fine of not more than One Thousand Dollars ($1,000.00)~~, or by imprisonment for not more than one (1) year, or by both such fine and imprisonment~~.

(1) Any person, firm, or corporation that shall ~~willfully~~ make, or cause to be made, any false entry or statement of fact in any report required to be made under this act, or that shall ~~willfully~~ make, or cause to be made, any false entry in any account, record, or memorandum kept by any person, firm, or corporation subject to this act or that shall ~~willfully~~ neglect or fail to make, or to

cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such person, firm, or corporation, or that shall ~~willfully~~ remove out of the jurisdiction of this state, or ~~willfully~~ mutilate, alter, or by any other means falsify any documentary evidence of any such person, firm, or corporation or that shall ~~willfully~~ refuse to submit to the Board or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any such person, firm, or corporation in his possession or within his control, shall be ~~deemed guilty of an offense and shall be subject, upon conviction in any court of competent jurisdiction,~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00)~~, or to imprisonment for a term of not more than three (3) years, or to both such fine and imprisonment~~. In addition, any such person may be subject to prosecution under any appropriate provision in Title 21 of the Oklahoma Statutes.

(2) If any person, firm, or corporation required by this act to file any annual or special report shall fail so to do within the time fixed by the Board for filing the same, and such failure shall continue for thirty (30) days after notice of such default, such person, firm, or corporation shall forfeit to this state the sum of One Hundred Dollars ($100.00) for each and every day of the continuance of such failure, which forfeiture shall be payable into the treasury of this state, and shall be recoverable in a civil suit in the name of the state brought in the county where the person, firm, or corporation has his or its principal office or in any county in which he or it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of this state, to prosecute for the recovery of such forfeitures. The costs and expenses of such prosecution shall be

paid out of the appropriation for the expenses of the courts of this state.

(3) Any officer or employee of this state who shall make public any information obtained by the Board without its authority, unless directed by a court, shall be ~~deemed guilty of a misdemeanor,~~ liable for an administrative violation and~~, upon conviction thereof, shall be punished by~~ subject to a fine of not ~~exceeding~~ more than Five Thousand Dollars ($5,000.00)~~, or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment, in the discretion of the court~~.

SECTION 35. AMENDATORY 2 O.S. 1991, Section 6-261, is amended to read as follows:

Section 6-261. A. Inspection shall not be provided under this act at any establishment for the slaughter of poultry or the processing of any carcasses or parts or products of poultry, which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in intrastate commerce, be denatured or otherwise identified as prescribed by regulations of the Board to deter their use for human food. ~~No person shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any poultry carcasses or parts or products thereof which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Board or naturally inedible by humans.~~

B. The following classes of persons shall, for such period of time as the Board may by regulations prescribe, not to exceed two (2) years unless otherwise directed by the Board for good cause shown, keep such records as are properly necessary for the effective enforcement of this act in order to insure against adulterated or misbranded poultry products for the American consumer; and all persons subject to such requirements shall, at all reasonable times,

upon notice by a duly authorized representative of the Board, afford such representative access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor:

1. Any person that engages in the business of slaughtering any poultry or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any poultry, for intrastate commerce, for use as human food or animal food;

2. Any person that engages in the business of buying or selling, as poultry products brokers, wholesalers, or otherwise, or transporting, in intrastate commerce, or storing in or for intrastate commerce, any carcasses, or parts or products of carcasses, of any poultry;

3. Any person that engages in business, in or for intrastate commerce, as a renderer, or engages in the business of buying, selling, or transporting, in intrastate commerce, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter. Any person breaching the provisions of this subsection shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any person violating this subsection shall also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

C. No person shall engage in business, in or for intrastate commerce, as a poultry products broker, renderer, or animal food manufacturer, or engage in business in intrastate commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any poultry, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such articles in or for intrastate commerce, or engage in the business of buying, selling, or transporting in intrastate commerce any dead,

dying, disabled, or diseased poultry, or parts of the carcasses of any poultry that died otherwise than by slaughter, unless, when required by regulations of the Board, he has registered with the Board his name and the address of each place of business at which, and all trade names under which, he conducts such business. Any person breaching the provisions of this subsection shall be liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00).

~~D. No person engaged in the business of buying, selling, or transporting in intrastate commerce, dead, dying, disabled or diseased poultry, or any parts of the carcasses of any poultry that dies otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation in intrastate commerce, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter, unless such transaction or transportation is made in accordance with such regulations as the Board may prescribe to assure that such poultry, or the unwholesome parts or products thereof, will be prevented from being used for human food.~~

SECTION 36. AMENDATORY 2 O.S. 1991, Section 6-271, is amended to read as follows:

Section 6-271. A. The Board shall also have power:

1. to require the keeping of adequate records and the furnishing of such information upon request to the Board which is necessary and essential for the administration of this act. Failure to keep such records and furnish such information shall constitute a ~~misdemeanor~~ civil infraction which is subject to a fine of not more than Five Thousand Dollars ($5,000.00);

2. to gather and compile information concerning and to investigate from time to time the organization, business, conduct, practices, and management of any person engaged in intrastate commerce, and the relation thereof to other persons;

B. 1. For the purposes of this act the Board shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation. The Board may sign subpoenas and may administer oaths and affirmation, examine witnesses, and receive evidence.

2. Such attendance of witnesses, and the production of such documentary evidence, may be required at any designated place of hearing. In case of disobedience to a subpoena the Board may invoke the aid of any court designated in Section ~~20~~ 6-270 of this ~~act~~ title in requiring the attendance and testimony of witnesses and the production of documentary evidence.

3. Any of the courts designated in Section 20 of this act within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Board or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

4. Upon the application of the Attorney General of this state at the request of the Board, the district court shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this act or any order of the Board made in pursuance thereof.

5. The Board may order testimony to be taken by deposition in any proceeding or investigation pending under this act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Board and having power to administer oaths. Such testimony shall be reduced to writing by the

person taking the deposition or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Board as hereinbefore provided.

6. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of this state, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in such courts.

C. 1. It shall be ~~a misdemeanor~~ an administrative violation for any person to ~~willfully~~ neglect or refuse to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his or its power to do so, in obedience to the subpoena or lawful requirement of the Board.

2. Any person that shall ~~willfully~~ make, or cause to be made, any false entry or statement of fact in any report required to be made under this act, or that shall ~~willfully~~ make, or cause to be made, any false entry in any account, record, or memorandum kept by any person subject to this act, or that shall ~~willfully~~ neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of any person subject to this act, or that shall ~~willfully~~ remove out of the jurisdiction of this state, or ~~willfully~~ mutilate, alter or by any other means falsify any documentary evidence of any such person, or that shall ~~willfully~~ refuse to submit to the Board or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this act in his or its possession or within his or its control, shall be ~~deemed guilty of an offense~~ liable for an administrative violation and ~~shall be~~

subject~~, upon conviction in any court of competent jurisdiction,~~ to a fine of not more than One Thousand Dollars ($1,000.00)~~, or to imprisonment for a term of not more than one (1) year, or to both such fine and imprisonment~~.

3. Any officer or employee of this state who shall make public any information obtained by the Board without its authority, unless directed by a court, shall be ~~deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding Five Hundred Dollars ($500.00), or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment, in the discretion of the court~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 37. AMENDATORY 2 O.S. 1991, Section 6-275, is amended to read as follows:

Section 6-275. Any ~~violation~~ breach of this act for which a specific ~~penalty~~ fine is not given shall be ~~a misdemeanor~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 38. AMENDATORY 2 O.S. 1991, Section 6-280.14, is amended to read as follows:

Section 6-280.14 A. ~~Any person who willfully:~~

~~1. makes, or causes to be made, any false entry or statement of fact in any report required to be made pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act;~~

~~2. makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to the Oklahoma Rabbit and Rabbit Products Inspection Act;~~

~~3. neglects or fails to make, or causes to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such person;~~

~~4. removes out of the jurisdiction of this state, or willfully mutilates, alters, or by any other means falsifies any documentary evidence of any such person; or~~

~~5. refuses to submit to the Board or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any such person, firm, or corporation in his possession or within his control,~~

~~shall be deemed guilty and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than Five Thousand Dollars ($5,000.00).~~

~~B.~~ Any officer or employee of this state who shall make public any information obtained by the Board, without its authority, unless directed by a court, shall be ~~deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding Five Thousand Dollars ($5,000.00)~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

~~C.~~ B. Any person who ~~violates~~ breaches any provision of the Oklahoma Rabbit and Rabbit Products Inspection Act for which no other ~~criminal~~ penalty is provided by the Oklahoma Rabbit and Rabbit Products Inspection Act shall~~, upon conviction,~~ be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

~~D. If a violation involved intent to defraud, or any distribution or attempted distribution of an article that is adulterated, such person shall be subject to a fine of not more than Ten Thousand Dollars ($10,000.00).~~

SECTION 39. AMENDATORY 2 O.S. 1991, Section 6-287, is amended to read as follows:

Section 6-287. Any person ~~violating~~ breaching any provision of this act or of any rules, regulation or order of the Board issued pursuant to this act is ~~guilty of a misdemeanor~~ liable for an

administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 40. AMENDATORY 63 O.S. 1991, Section 1-1301.13, as amended by Section 16, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140 O.S.L. 1994 (2 O.S. Supp. 1994, Section 7-413), is amended to read as follows:

Section 7-413. A. It shall be unlawful for any person to knowingly:

1. Attempt to produce, haul, process or distribute milk or milk products without an appropriate and valid permit;

2. Sell, offer or expose for sale as Grade A any adulterated or misbranded milk or milk product;

3. Sell, offer or expose for sale or serve milk and milk products which have not been maintained at or below the temperature specified by the State Board of Health;

4. Dip or ladle Grade A milk and milk products;

5. Transfer Grade A milk and milk products at any location other than a permitted Grade A facility designed and equipped for such purpose;

6. Prevent, interfere with or attempt to impede the Commissioner from investigating and enforcing the Oklahoma Milk and Milk Products Act;

7. Sell or serve Grade A milk and milk products from other than the individual container, or approved bulk dispenser, received from the distributor; or

8. Violate any provision of the Oklahoma Milk and Milk Products Act.

B. Any person convicted of violating the provisions of this section shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). In addition, a violator may be

subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 41. AMENDATORY 63 O.S. 1991, Section 1-1301.18, as amended by Section 21, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1994, Section 7-418, is amended to read as follows:

Section 7-418. Any person or persons, firm or corporation who shall hinder or obstruct or in any way interfere with the Commissioner or any authorized agent of the Department while discharging his duties of inspection, or who shall refuse or fail to make any report required or provided for by the Oklahoma Milk and Milk Products Act, or who shall refuse or neglect to conform to the rules of the Board, or who shall in any way obstruct or hinder the Commissioner, or any authorized agent of the Department, from performing any of his official duties or from carrying out the full meaning and intent of the Oklahoma Milk and Milk Products Act, upon conviction thereof, shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). In addition, a violator may be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 42. AMENDATORY 63 O.S. 1991, Section 1-1301.19, as amended by Section 22, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1994, Section 7-419), is amended to read as follows:

Section 7-419. A. Whenever the Commissioner, or any authorized agent of the Department, finds or has probable cause to find that any dairy product, in whole or in part, does not meet the requirements of the standards as required by the Oklahoma Milk and Milk Products Act, or that such product is handled in violation of law or rules of the Board, he shall affix to such article a tag or other appropriate marking, which shall thereby give notice that such

article is, or is suspected of, being manufactured, produced, handled, sold or offered for sale in violation of law or rules of the Board, and is quarantined, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by the Department. It shall be ~~unlawful and a misdemeanor~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to remove or dispose of such quarantined article by sale or otherwise without such permission.

B. If the Department finds that an article quarantined pursuant to subsection A of this section does not meet the requirements of law, or such rules, the Department may institutean action in the district court in whose jurisdiction the article is quarantined, for the condemnation and destruction of such article. If, however, the Department finds that an article so quarantined does meet the requirements of law and such rules, the Department shall forthwith remove the quarantine. In any court proceeding because of such quarantine, the Department or any authorized agent thereof, or the Commissioner, shall not be held liable if the court shall find there was probable cause for such quarantine.

C. If any court finds that a quarantined article, in whole or in part, is in violation of law or such rules, such article shall, after an entry of a decree, be destroyed at the expense of the owner or defender thereof, under the supervision of the Department, and all court costs and fees and cost of storage and other proper expenses shall be taxed against the owner or defender of such article, or

his agent. If the violation can be corrected by proper processing of the article, the court, after an entry of the decree, and after such costs, fees and expenses have been paid, and a good and sufficient bond conditioned that such article be so processed has been executed, may by order direct that such article be delivered to the owner or defender thereof for appropriate labeling or processing under the supervision of the Department. The expense of supervision shall be paid to the Department by the person obtaining release of the article under bond.

SECTION 43. AMENDATORY 2 O.S. 1991, Section 8-26, is amended to read as follows:

Section 8-26. (a) The duty of this subarticle and carrying out its provisions and requirements shall be vested in the State Board of Agriculture, which may act through its authorized agents, and which shall have authority:

(1) To sample, test, make analysis of and inspect any agricultural seed or vegetable seed transported, sold, offered or exposed for sale within this state for planting purposes, at such time and place and to such extent as may be deemed necessary to determine whether such agricultural seed or vegetable seed are in compliance with the provisions of this subarticle and rules and regulations promulgated thereunder;

(2) To enter upon any public or private premises during regular business hours in order to have access to seeds subject to this subarticle and rules and regulations promulgated thereunder;

(3) To issue and enforce a written or printed "stop-sale" order to the person or vendor of any agricultural seed or vegetable seed which is in violation of any of the provisions of this subarticle or rules and regulations promulgated thereunder; provided, that no

"stop-sale" order shall be issued or attached to any seed without first giving the vendor an opportunity to comply with the provisions of this subarticle or to withdraw the seed from sale;

(4) To furnish adequate facilities for seed testing and to employ qualified persons for making such tests;

(5) To publish or cause to be published the results of the examination, analysis and test of any agricultural or vegetable seed sampled in accordance with the provisions of this subarticle, together with any other information that the Board may deem advisable; and

(6) To cooperate with the United States Department of Agriculture in the enforcement of the Federal Seed Act where mutual understanding is reached by written cooperative agreement.

(b) Further, for the purpose of carrying out the provisions of this subarticle the State Board of Agriculture, which may act through its authorized agents, is authorized:

(1) To issue a license to any person, vendor, partnership, firm, corporation, trust, company, society or association upon payment of Five Dollars ($5.00) for each retail seed dealer and Twenty-five Dollars ($25.00) for each wholesale seed dealer such license to be applied for by each seed dealer upon forms furnished for such purpose. Out-of-state wholesale and retail seed dealers who sell or ship agricultural or vegetable seed into this state shall obtain a license in the same manner. A separate license shall be required for each place of business, except where packet vegetable seeds only are sold from racks or stands, and for any truck or other means of transportation, from which agricultural seed or vegetable seed are sold, offered for sale or exposed for sale. Where packet vegetable seeds are sold, or offered for sale from racks or stands furnished by persons customarily engaged in such business, a retail license stamp at a cost of Two Dollars ($2.00) shall be required on each vegetable seed rack or stand. Each license shall expire on the 30th

day of June following the date of issuance, except retail license stamps for packet vegetable seed racks or stands shall be issued on a calendar year basis. Any license issued under the provisions of this subarticle may be revoked by the State Board of Agriculture upon satisfactory proof that the licensee has violated any of the provisions of this subarticle or any of the rules and regulations promulgated thereunder;

(2) To provide that any person in this state shall have the privilege of submitting seed samples for test, subject to the charges made for samples submitted in excess of the number allowed free, as prescribed in rules and regulations promulgated under this subarticle;

(3) To provide that any agricultural or vegetable seeds sold, distributed, offered for sale or exposed for sale in this state, the person or vendor responsible for labeling and distributing the seed shall pay an inspection fee of not to exceed eight cents ($0.08) per hundred-pound weight. Every person responsible for labeling and distributing seed to a retail seed licensee in Oklahoma, or each retail seed licensee who processes and sells seed to the consumer on which the inspection fee has not been paid, shall file not later than the last day of January and July a semiannual affidavit, setting forth the number of pounds of seed sold for the preceding six (6) calendar months; and upon filing such statement shall pay the inspection fee herein provided. Each person labeling and distributing seed shall keep such records as may be necessary or required by the State Board of Agriculture to indicate accurately the number of pounds of seed sold. The State Board of Agriculture, or its authorized agent, shall have the right to examine such records and to verify the statement of the number of pounds of seed sold and the inspection fee reported. The form of such statement for reporting and paying the seed inspection fees on a semiannual basis shall be prescribed in rules and regulations of the State

Board of Agriculture. Failure to make an accurate statement of the number of pounds of seed sold and payment of the inspection fee as provided herein shall be ~~a misdemeanor~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00), and constitute sufficient cause for the revocation of the person's Oklahoma Seed License and to take any other appropriate action provided under the law. An inspection fee penalty of ten percent (10%) of the amount due or Ten Dollars ($10.00), whichever is greater, shall be assessed if the semiannual statement is not submitted when due unless prior written approval is obtained for a delayed report; and

(4) To collect all fees and other money as provided in this subarticle and deposit the same in the State Department of Agriculture Trust Fund.

SECTION 44. AMENDATORY 2 O.S. 1991, Section 8-29, is amended to read as follows:

Section 8-29. (a) Any person or vendor ~~violating~~ breaching any of the provisions of Sections 8-21 through 8-28 of this title or rules and regulations promulgated thereunder shall be ~~guilty of a misdemeanor,~~ liable for an administrative violation and~~, on conviction thereof, shall be fined~~ subject to a fine of not more than ~~One Hundred Dollars ($100.00)~~ Five Hundred Dollars ($500.00) for the first ~~offense~~ breach, and not more than ~~Five Hundred Dollars ($500.00)~~ Five Thousand Dollars ($5,000.00) for each subsequent ~~offense~~ breach.

(b) When the State Board of Agriculture or any authorized agent thereof shall find that a person has violated any of the provisions of Sections 8-21 through 8-28 of this title or rules and regulations promulgated thereunder, it or he may institute proceedings in a court of competent jurisdiction in the locality in which the violation occurred, to have such person convicted therefor, or may

file with the district attorney, with the view of prosecution, such evidence as may be deemed necessary.

(c) It shall be the duty of each district attorney to whom any violation is reported, to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(d) ~~Nothing in Sections 8-21 through 8-28 of this title shall be construed as requiring the State Board of Agriculture or any authorized agent thereof to report, for prosecution, or for the institution of seizure proceedings, minor violations of Sections 8-21 through 8-28 of this title when it is believed that the public interest will best be served by a suitable notice of warning in writing.~~

~~(e)~~ If the State Board of Agriculture finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of Sections 8-21 through 8-28 of this title, the Board shall assess a penalty fee of ten percent (10%) maximum not to exceed Two Thousand Dollars ($2,000.00) of amount due, or One Hundred Dollars ($100.00), whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment made within thirty (30) days.

SECTION 45. AMENDATORY 2 O.S. 1991, Section 8-41.13, is amended to read as follows:

Section 8-41.13 A. Any person ~~convicted of violating~~ <u>who breaches</u> any of the provisions of this act or who shall impede, hinder, or otherwise prevent, or attempt to prevent, the State Board of Agriculture or its duly authorized agent in performance of his duty in connection with the provisions of this act, shall be ~~adjudged guilty of a misdemeanor~~ <u>liable for an administrative violation</u> and shall be subject to a fine of <u>not more than</u> Five Hundred Dollars ($500.00) for the first ~~offense~~ <u>breach</u> and <u>not more</u>

than One Thousand Dollars ($1,000.00) for each subsequent ~~offense~~ breach.

B. Nothing in this act shall be construed as requiring the Board or its representative to:

1. Report for prosecution; or

2. Institute seizure proceedings; or

3. Issue a "Stop Sale" order, as a result of minor violations of this act, or when the public interest will best be served by suitable notice of warning in writing.

C. ~~It shall be the duty of each district attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the Board reports a violation for such prosecution, an opportunity shall be given to the distributor to present his view to the Board.~~

~~D.~~ The Board is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or regulation promulgated under this act notwithstanding the existence of other remedies at law.

~~E.~~ D. Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this act may within forty-five (45) days thereafter bring action in the Oklahoma County District Court for judicial review of such actions. The form of the proceeding shall comply with the Oklahoma Administrative Procedures Act, or in the silence thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.

~~F.~~ E. Any person who uses to his own advantage, or reveals to other than the Board, or officers of the Board (appropriate departments of this state), or to the courts when relevant in any judicial proceeding, any information acquired under the authority of

this act, concerning any method, records, formulations, or processes, which as a trade secret is entitled to protection, is ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Provided, that this prohibition shall not be deemed as prohibiting the Board, or his duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States government, or of other states, who are similarly prohibited by law from revealing this information.

SECTION 46. AMENDATORY 2 O.S. 1991, Section 8-69, is amended to read as follows:

Section 8-69. A. It shall be ~~unlawful and a misdemeanor~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) to sell or distribute a commercial fertilizer which carries any false or misleading statement upon or attached to the container, or any false or misleading statements concerning its agricultural value made in any advertising matter accompanying or associated with the commercial fertilizer.

B. The Board shall have authority to cancel or refuse to issue any license or registration issued pursuant to the provisions of this act, upon satisfactory evidence that the registrant or licensee has used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of this act or any rules promulgated thereunder.

SECTION 47. AMENDATORY 2 O.S. 1991, Section 8-74, is amended to read as follows:

Section 8-74. A. ~~Except as otherwise provided by subsection E of this section, any person, registrant, manufacturer, or agent who violates any of the provisions of Sections 8-61 through 8-74 of this title or rules promulgated thereunder shall be guilty of a misdemeanor. In all prosecutions under Sections 8-61 through 8-74 of this title involving the composition of a commercial fertilizer,~~

~~a certified copy of the official analysis certified by the Board or the chemist in charge of making the analysis, shall be accepted as prima facie evidence of the composition.~~

~~B.~~ Nothing in Sections 8-61 through 8-74 of this title shall be construed as requiring the Board or any authorized agent thereof to report, for prosecution, or for the institution of seizure proceedings, minor violations of Sections 8-61 through 8-74 of this title when the public interest will best be served by a suitable notice of warning in writing.

~~C. It shall be the duty of each district attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.~~

~~D.~~ B. The Board or any authorized agent thereof may apply for, and the court may grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of Sections 8-61 through 8-74 of this title or any rules promulgated thereunder, notwithstanding the existence of other remedies at law. Such injunction shall be issued without bond.

~~E.~~ C. Any person violating the provisions of this act or any rule of the Board promulgated pursuant to the provisions of this act concerning human health and safety or water contamination~~, upon conviction thereof, shall be deemed guilty of a misdemeanor which shall be punishable by a minimum fine of Two Hundred Dollars ($200.00) up to a maximum~~ shall be liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) for each violation~~, by imprisonment in the county jail for not more than six (6) months for each violation~~.

~~F.~~ D. If, after public hearing in accordance with the Administrative Procedures Act, the Board shall find any person to be in violation of any of the provisions of this act, the Board has the

authority to assess an administrative ~~penalty~~ fine of not less than One Hundred Dollars ($100.00) and not more than One Thousand Dollars ($1,000.00) for each violation. For the purposes of this section, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.

~~C.~~ E. All civil and administrative penalties collected pursuant to this section shall be deposited in the State Department of Agriculture Revolving Fund.

SECTION 48. AMENDATORY 2 O.S. 1991, Section 8-96, is amended to read as follows:

Section 8-96. Any person ~~violating~~ breaching any of the provisions of this subarticle or committing any of the acts made unlawful hereunder shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any ~~conviction or judgment for a violation of~~ liability for the provisions of this subarticle, and any information or facts in connection therewith, may be publicized by the State Board of Agriculture.

SECTION 49. AMENDATORY 2 O.S. 1991, Section 9-22, is amended to read as follows:

Section 9-22. A. It shall be ~~unlawful and a misdemeanor~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to operate a public warehouse unless he shall have obtained and holds a license therefor issued by the State Board of Agriculture or be licensed and bonded as required by the United States Warehouse Act. Each application for a license issued by the Board shall be on a form prescribed by the Board, which shall charge and collect a fee of One Hundred Dollars ($100.00) for each such license and the Board shall deposit such fees in the State Department of Agriculture Revolving Fund. No license shall be issued by the Board until the applicant therefor

has filed with the Board a financial statement and such other financial information as shall be required by the Board.

B. 1. The Board shall also charge and collect a fee of Ten Dollars ($10.00) per One Thousand Dollars ($1,000.00) of surety. Such fee shall be deposited in the Commodity Storage Indemnity Fund and shall be specially designated and accounted for as a reinsurance fee. The Board shall use the reinsurance fee to provide protection to the Indemnity. If upon determination by the Board that the fee of Ten Dollars ($10.00) is not sufficient to adequately provide protection of the Indemnity, the Board is authorized to assess an additional fee in such an amount so as to provide the necessary protection for the Indemnity provided such additional fee shall not exceed Twenty Dollars ($20.00) per One Thousand Dollars ($1,000.00) of surety.

2. The protection of the Indemnity shall be under the supervision of the Risk Management Administrator of the Office of Public Affairs. The supervision shall include transferring risks from the Indemnity by acquiring commercial insurance, by contractual pass off including coinsurance, reinsurance, or self-insurance, or by any other means to accomplish the stated purpose. Surety required herein shall be in the same amounts as shall be required for bonds or certificates of deposit as specified in subsection D of this section. Claims against such surety shall be paid by the Board from the Indemnity in the same manner as shall be required for bonds or certificates of deposit. A corporate surety bond or certificate of deposit, as specified in subsection D of this section, may be used to secure a license in lieu of the reinsurance fee.

C. The applicant, in order to qualify for a license issued by the Board, as evidence of his financial status shall have a net worth equal to twenty-five cents ($0.25) per bushel for the first four million (4,000,000) bushels of licensed capacity but not less than Fifty Thousand Dollars ($50,000.00). All licensed capacity in

excess of four million (4,000,000) bushels shall be computed at the rate of ten cents ($0.10) per bushel for net worth purposes. In case of a net worth deficiency, the warehouseman shall furnish a surety bond or certificate of deposit in an amount equal to such deficiency. Such bond or certificate of deposit shall be filed and made payable to the Board for the benefit of all persons storing commodities with the applicant as a state-licensed warehouseman. Insurable property owned by the warehouseman may only be included in the net worth of the warehouse, provided it is insured to at least eighty percent (80%) of its appraised value. The Board may require a certified property appraisal provided by an appraiser approved by the Board. If the net worth of the applicant is less than One Million Dollars ($1,000,000.00), a financial statement shall be submitted each one hundred eighty (180) days. Financial statements shall be prepared according to generally accepted accounting principles, set forth the current financial position of the applicant, and be certified by the applicant, his partner or a corporate officer and include such other information required by the Board. Corporate surety bonds shall be on a form prescribed by the Board, on condition that the applicant will fulfill all his obligations as a warehouseman. The Board may require the applicant to provide a profit and loss statement and an audited financial statement prepared by a person authorized to practice public accounting in this state.

D. The bond or certificates of deposit shall be payable to the Board for the benefit of all persons storing commodities with the applicant as a state-licensed warehouseman. The amount of bond or certificates of deposit to be furnished for each state-licensed warehouse shall be fixed at a rate of twenty-five cents ($0.25) per bushel of licensed capacity, provided that the amount of the bond or certificates of deposit shall be not less than Fifty Thousand Dollars ($50,000.00) nor more than Five Hundred Thousand Dollars

($500,000.00). The licensed capacity shall be the maximum number of bushels of commodities that the warehouse may accommodate. Depositors, including producers, suffering a loss due to a violation of any of the terms of the Public Warehouse and Commodity Indemnity Act may recover such loss up to the amount of the bond or certificates of deposit, and claims therefor may be instituted with the Board by such person. Each state license issued under the provisions of this section shall be issued annually. The Board shall prescribe annual expiration dates for each license to provide effective administration of the Public Warehouse and Commodity Indemnity Act. Such state license may be suspended, revoked or denied by the Board, after notice by registered mail and an opportunity to be heard has been given, for a failure to maintain the financial status required or adequate insurance on all commodities received in store, or received for storage or for handling for restorage, or for a violation of any of the provisions of the Public Warehouse and Commodity Indemnity Act or of any rule or regulation of the Board adopted pursuant thereto. Upon evidence of just and good cause, such state license may be temporarily suspended without a hearing, for a period of not to exceed thirty (30) days. Whenever a state license is suspended or revoked, the Board shall immediately give notice thereof, by registered United States mail, to the holder of such license, who may, within twenty (20) days after receipt of such notice, appeal to the district court of Oklahoma County. The district court, after a full hearing, shall make an order either sustaining the action of the Board or reinstating the license.

E. Upon cancellation of the bond, all indemnifications held by the bonding company shall be released to the warehouseman following the second consecutive satisfactory inspection or examination by the Board.

SECTION 50. AMENDATORY 2 O.S. 1991, Section 9-34, is amended to read as follows:

Section 9-34. ~~A. Any warehouseman, or employee or manager of a public warehouse, who shall be guilty of issuing any warehouse receipt for any commodities that are not actually in a store at the time of issuing such receipt, or who shall be guilty of issuing any warehouse receipt, including scale ticket, that is in any respect fraudulent in its character, either as to its date or to the quantity, quality or inspected grade of such commodities, or who shall remove any commodities from store, except to preserve the same from fire or other damage or as otherwise provided in this section, without the return and cancellation of any and all outstanding receipts that may have been issued to represent such commodities, shall, when convicted thereof, be guilty of a felony, and shall be punished by a fine of not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the State Penitentiary for not more than ten (10) years, or by both such fine and imprisonment.~~

~~B.~~ The Board, upon application from the warehouseman may approve the prepositioning of commodity stocks in state or federally licensed terminal warehouses or other warehouses licensed in this state in order to free storage space for new harvest commodities. The period for such action shall not exceed sixty (60) days prior to anticipated harvest for the commodity nor can they be out of position more than one hundred eighty (180) days total, provided for good cause shown, the Board may extend such time period an additional one hundred eighty (180) days as specified by rules and regulations established by the Board.

SECTION 51. AMENDATORY 2 O.S. 1991, Section 9-47, is amended to read as follows:

Section 9-47. Any person who has been determined by the Board to have ~~violated~~ breached any provision of the Public Warehouse and Commodity Indemnity Act, or any rule, regulation or order issued

pursuant thereto may be liable for an administrative ~~penalty of not less than One Hundred Dollars ($100.00) nor~~ violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each ~~violation~~ breach. Each day that said ~~violation~~ breach continues shall constitute a separate offense.

SECTION 52. AMENDATORY 2 O.S. 1991, Section 9-132, is amended to read as follows:

Section 9-132. A. Except as otherwise provided by subsection C of this section, no person shall operate, conduct or maintain a livestock auction market unless such person holds a livestock auction market license issued by the State Board of Agriculture and has:

1. executed a corporate surety bond pursuant to the provisions of this section. The bond shall be conditioned upon the prompt and faithful accounting for all livestock received, handled or sold, and the remittance of the proceeds from any sale, purchase or exchange of any livestock to the consignor thereof; or

2. opened a certificate of deposit account or a money market savings account. For a certificate of deposit account or a money market savings account to be eligible pursuant to the provisions of this section:

a. the account must be opened at a federally insured financial depository,

b. an officer of the financial depository must specifically acknowledge and guarantee the deposit of the funds required by subsection B of this section until otherwise released pursuant to this subsection,

c. the person operating, conducting or maintaining a livestock auction market may only withdraw any funds deposited in a certificate of deposit account or a money market savings account one hundred twenty (120) days after such person has permanently ceased

operations of such livestock auction market unless such person presents to the financial institution a written authorization for release of funds by the Oklahoma Department of Agriculture.

B. The corporate surety bond or account required by subsection A of this section for any person operating, conducting or maintaining a livestock auction market shall be in the amount of Twenty-five Thousand Dollars ($25,000.00).

C. The corporate surety bond or account required by subsection A of this section shall not be required of any person who, as to such livestock auction markets, has executed and maintained a corporate surety bond or account of Twenty-five Thousand Dollars ($25,000.00) to secure the performance of his obligations under the provisions of the federal Packers and Stockyards Act, as amended. A letter of credit shall not be acceptable.

D. 1. Any corporate surety company issuing a bond to any person as specified by subsection A or C of this section for operating, conducting or maintaining a livestock auction market shall notify the Board within seven (7) days in writing of such notice of cancellation or nonrenewal of the bond.

2. The Board shall provide for the publication of notice to the public of the nonrenewal or cancellation of the bond for a livestock auction market upon any notification that the bond of the livestock auction market has been nonrenewed or canceled and no new bond has been obtained.

3. No person shall knowingly operate, conduct or maintain a livestock auction market without a bond or certificate of deposit or money market savings account in place. Any person violating the provisions of this paragraph~~, upon conviction, shall be guilty of a felony~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

E. All records relating to the prompt and faithful accounting for all livestock received, handled or sold, and the remittance of the proceeds from any sale, purchase or exchange of any livestock to the consignor thereof shall be in accordance with the provisions of the federal Packers and Stockyards Act, as amended. The State Board of Agriculture or its authorized agent shall audit such records at least once a year. Any violation of the standards of said Act shall result in the immediate suspension of the livestock auction market license.

F. Except as otherwise provided by this section, any person ~~violating~~ breaching the provisions of this section~~, upon conviction, shall be guilty of a misdemeanor~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 53. AMENDATORY 2 O.S. 1991, Section 9-134, is amended to read as follows:

Section 9-134. A. Every person operating or conducting a livestock auction market shall make, and keep for two (2) years, a record showing an identifying description, vehicle license tag number, and the names and addresses of the buyer and seller of livestock consigned for sale at such livestock auction markets. Such records shall be open to inspection during reasonable business hours by any authorized agent employed by the State Board of Agriculture or by any other law enforcement officer of this state.

B. Any records required to be kept pursuant to subsection A of this section may not be removed from the premises by said authorized agent or officer without the express authority of the person who has jurisdiction over such records or except as otherwise authorized by a court of law. These records may be photocopied at the request of the agent or officer.

C. Any person convicted of ~~violating~~ breaching the provisions of subsection A of this section shall be ~~guilty of a misdemeanor and~~

~~shall be punishable by a fine not to exceed One Hundred Dollars ($100.00) or by imprisonment in the county jail not to exceed ten (10) days or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 54. AMENDATORY 2 O.S. 1991, Section 9-135, is amended to read as follows:

Section 9-135. A. The State Board of Agriculture shall cause a periodic inspection to be made of all scales used at any livestock auction market. All scales used at any livestock auction market shall have an automatic stamping device so as to print the weight on a card, paper or ticket to be furnished interested parties in connection with the weighing of any livestock handled at the livestock auction market.

B. No person shall use any scales found to be inaccurate until such scales have been made accurate and have been approved as to accuracy by the Board.

C. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 55. AMENDATORY 2 O.S. 1991, Section 9-136, is amended to read as follows:

Section 9-136. A. No person shall buy or offer to buy livestock on the premises owned and used by a person or corporation operating a livestock auction market before such livestock has been regularly consigned for sale thereat.

B. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 56. AMENDATORY 2 O.S. 1991, Section 9-139, is amended to read as follows:

Section 9-139. A. Unless otherwise agreed to in writing between the owner and the purchaser or his agent or representative for each transaction, it shall be unlawful for any person who purchases livestock for slaughter, whether acting for himself or an agent or representative of another, to fail or refuse to make payment by negotiable check or wire transfer of funds to the owner of such livestock, his representative, agent or assignee for such livestock on the business day within which the ownership of said livestock is transferred within the State of Oklahoma except that if the transfer of ownership is accomplished after normal banking hours said payment shall be made in the manner herein provided not later than the close of the first business day following the transfer of ownership. For the purposes of this section, where livestock is sold and purchased on a grade and yield basis, the transfer of ownership shall be deemed to have occurred on the day when the grade and yield is determined.

B. Payment for livestock purchased for slaughter shall be made by negotiable check or wire transfer of funds and shall be drawn on a banking institution within the Federal Reserve District where the transaction takes place, unless otherwise agreed to in writing between the owner and the purchaser or his agent or his representative.

C. Any person ~~violating~~ breaching any of the provisions of this act shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 57. AMENDATORY 2 O.S. 1991, Section 9-212, as amended by Section 1, Chapter 99, O.S.L. 1993 (2 O.S. Supp. 1994, Section 9-212), is amended to read as follows:

Section 9-212. A. Any person ~~violating the~~ breaching any provisions of the Oklahoma Feed Yards Act or any rule or regulation of the Board for which a penalty has not been specified ~~promulgated~~

~~thereto~~ shall~~, upon conviction, be deemed guilty of a misdemeanor and upon conviction thereof may be punished by a fine not exceeding One Hundred Dollars ($100.00)~~ be liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) for each breach.

B. Any owner or operator who fails to take such action as may be reasonable and necessary to avoid pollution of any stream, lake, river or creek, except as otherwise provided by law, or who ~~violates~~ breaches any rule or regulation of the Board adopted to prevent water pollution from feed yards pursuant to this act shall~~, upon conviction, be deemed guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of Two Hundred Dollars ($200.00) to Ten Thousand Dollars ($10,000.00) for each violation, by imprisonment in the county jail for not more than six (6) months for each violation, or by the assessment of a civil penalty up to Ten Thousand Dollars ($10,000.00) for each violation or by any of such fine, imprisonment, and civil penalty~~ be liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) for each breach.

C. For the purposes of this section, each day upon which a ~~violation~~ breach is committed or is permitted to continue shall be deemed a separate offense.

D. In addition to other penalties as may be imposed by law, any person who ~~knowingly~~ makes any false statement, representation or certification in any water pollution form, notice or report, or who ~~knowingly~~ renders inaccurate any monitoring device or method required to be maintained by any water pollution regulations adopted by the Board, shall~~, upon conviction, be guilty of a misdemeanor~~ be liable for an administrative violation and ~~may be~~ subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each such ~~violation~~ breach. This fine shall be in addition to any criminal liability as provided for in Title 21 of the Oklahoma Statutes.

SECTION 58. AMENDATORY 2 O.S. 1991, Section 10-42, is amended to read as follows:

Section 10-42. Any person, firm or corporation ~~violating~~ breaching any of the provisions of the preceding section shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 59. AMENDATORY 2 O.S. 1991, Section 10-62, is amended to read as follows:

Section 10-62. It shall be ~~unlawful and a misdemeanor~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to sell or offer to sell by peddling, or to offer for sale from house to house, or to vend in the streets, or to sell at public auction, any baby chicks, started chicks, baby poults or started poults, unless he has first obtained a permit therefor from the State Board of Agriculture.

SECTION 60. AMENDATORY 2 O.S. 1991, Section 10-68, is amended to read as follows:

Section 10-68. Any person ~~violating~~ breaching any of the provisions of this subarticle shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00); and in addition thereto, any container of baby chicks, started chicks, baby poults or started poults which is not labeled as required by the provisions of this subarticle or regulations prescribed hereunder, may be seized and its contents quarantined by the State Board of Agriculture or any of its authorized agents, or returned to the owner and placed under quarantine by the Board.

SECTION 61. AMENDATORY 2 O.S. 1991, Section 11-2, is amended to read as follows:

Section 11-2. It shall be ~~a misdemeanor~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) to sell, offer for sale, or advertise any agricultural

product by using any word, figure, number, or term which pertains to grade, quality, condition, quantity or size, such as No. 1, Fancy, Choice, Select, A, Large, Size A, or any other word, figure, number or term which in any manner implies or suggests that the product involved has been officially graded and/or unless such product has actually been officially graded, sized or measured under state or federal regulations, and/or sized or measured in accordance with the requirements of the State Board of Agriculture or of federal regulations.

SECTION 62. AMENDATORY 2 O.S. 1991, Section 11-3, is amended to read as follows:

Section 11-3. Any person who ~~violates~~ breaches any of the terms, conditions, stipulations or directions of a stop-sale order or of a tie-up order that this has been made or issued under or pursuant to the provisions of this Code shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 63. AMENDATORY 2 O.S. 1991, Section 11-5, is amended to read as follows:

Section 11-5. Any act or ~~offense~~ breach that is declared to be ~~a misdemeanor~~ an administrative violation by the terms and provisions of this Code shall, unless otherwise specified therein, be ~~punishable by~~ subject to a fine of not ~~to exceedFive Hundred Dollars ($500.00), or by imprisonment in the county jail for not to exceed six (6) months, or by both such fine and imprisonment~~ more than One Thousand Dollars ($1,000.00).

SECTION 64. AMENDATORY 2 O.S. 1991, Section 163, is amended to read as follows:

Section 163. Each officer, owner, or manager of any carnival company or show, who ~~willfully~~ fails to cause bond and certificate to be filed as provided by this act, shall be ~~guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum~~

~~of not less than Fifty Dollars ($50.00) nor~~ liable for a civil infraction and subject to a fine of not more than ~~Two Hundred Dollars ($200.00)~~ One Thousand Dollars ($1,000.00).

SECTION 65. AMENDATORY 2 O.S. 1991, Section 352, is amended to read as follows:

Section 352. Hereafter no person shall commence to do business in this state under a name or designation which includes the word "cooperative" or any abbreviation or derivative thereof, if such name or designation be the same as that of any existing association, or so similar to such name as likely to be confused therewith. Any person ~~violating~~ breaching or failing to comply with the provisions of this section shall be ~~deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by~~ liable for an administrative violation and subject to a fine of not more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00).

SECTION 66. AMENDATORY 2 O.S. 1991, Section 361r, is amended to read as follows:

Section 361r. Any person or persons or any corporation whose officers or employees ~~knowingly~~ induce, or attempt to induce any member or stockholder of an association organized hereunder or organized under similar statutes of other states and operating in this state under due authority, to breach its marketing contract with the association, or who ~~maliciously and knowingly~~ spread false reports about the finances, management or activity thereof shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and be subject to a fine of not ~~less than One Hundred Dollars ($100.00) and not~~ more than One Thousand Dollars ($1,000.00) for each such offense; except that any member may present anything relative to the affairs of the association at any annual or special meeting of the members, without being liable under this section.

SECTION 67. AMENDATORY 2 O.S. 1991, Section 738.5, is amended to read as follows:

Section 738.5 Any person ~~violating~~ breaching this act shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished by~~ liable for an administrative violation and subject to a fine of not ~~to exceed One Hundred Dollars ($100.00) or by imprisonment in the county jail not more than thirty (30) days or by both such fine and imprisonment~~ more than One Thousand Dollars ($1,000.00).

SECTION 68. AMENDATORY 2 O.S. 1991, Section 741, is amended to read as follows:

Section 741. If any person shall set or cause to be set on fire any woods, marsh or prairie, or any grass or stubble lands owned by that person except as hereinafter provided, such person shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof, be fined a sum~~ liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00) nor less than Ten Dollars ($10.00), or imprisonment in the county jail for a period not longer than six (6) months, one or both at the discretion of the court~~ One Thousand Dollars ($1,000.00), and shall also be liable in a civil action to any person or persons damaged by such fire to the amount of such damages.

SECTION 69. AMENDATORY 2 O.S. 1991, Section 743, is amended to read as follows:

Section 743. If any fire, set as provided in ~~the preceding section~~ Section 742 of this title, should by accident and without any fault or neglect of the person setting the same, get beyond his control, such person shall be liable as provided in ~~the second preceding section~~ Section 741 of this title for all damages done by said fire, but not otherwise. ~~But if~~ If such fire should by negligence, carelessness or be intentionally permitted to spread beyond the bounds of such strip of land mentioned in ~~the preceding section~~ Section 742 of this title, then the person setting such fire shall be liable ~~both civilly and criminally~~ for a civil infraction

as provided in ~~the second preceding section~~ Section 741 of this title.

SECTION 70. AMENDATORY 2 O.S. 1991, Section 744, is amended to read as follows:

Section 744. Fire set under the provisions of ~~the second preceding section~~ Section 741 of this title shall not be allowed to spread beyond the control of the person setting the same and shall be subdued and extinguished the same day on which it is set. Any person who breaches this section shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 71. AMENDATORY 2 O.S. 1991, Section 756, is amended to read as follows:

Section 756. Any milk processor failing to establish an escrow account upon receipt of notification of a dairy farmer pursuant to the provisions of this act or who fails to continue to make such payments until the dairy farmer has received full payment of the purchase price~~, upon conviction shall be guilty of a misdemeanor and shall be punished by the imposition of~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) ~~or by imprisonment in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment~~.

SECTION 72. AMENDATORY 2 O.S. 1991, Section 788.6, is amended to read as follows:

Section 788.6 It shall be unlawful for any person, firm, association or corporation to issue, make, use or circulate any certification, as defined in this act, without the authority and approval of the Agricultural Experiment Station and the Agricultural Extension Service of the Oklahoma State University of Agriculture and Applied Science, or its duly authorized agency as herein provided. Every person, firm, association or corporation who shall

~~violate~~ breach any of the provisions of this act pertaining to certification shall be deemed ~~guilty of a misdemeanor, and upon conviction thereof shall be fined~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00) for each offense.

SECTION 73. AMENDATORY 2 O.S. 1991, Section 793, is amended to read as follows:

Section 793. Any person ~~violating~~ breaching any of the provisions of this act shall be ~~guilty of a misdemeanor, and, upon conviction, may be fined~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 74. AMENDATORY 2 O.S. 1991, Section 953, is amended to read as follows:

Section 953. Any person, firm, or corporation ~~violating~~ breaching the provisions of this act shall be ~~deemed guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 75. AMENDATORY 2 O.S. 1991, Section 1038, is amended to read as follows:

Section 1038. Any person ~~violating~~ breaching any of the provisions of this act shall be ~~guilty of a misdemeanor~~ prosecuted by the appropriate district attorney, provided, the breach is a crime as provided in Title 21 of the Oklahoma Statutes.

SECTION 76. AMENDATORY 2 O.S. 1991, Section 1112, is amended to read as follows:

Section 1112. Any person who shall ~~violate~~ breach any of the provisions of this act shall be ~~deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than Five Hundred Dollars ($500.00)~~ prosecuted by the appropriate district attorney, provided, the breach is a crime as provided in Title 21 of the Oklahoma Statutes.

SECTION 77. AMENDATORY 2 O.S. 1991, Section 1301-204, is amended to read as follows:

Section 1301-204. Any road foreman or member of a road construction or maintenance crew, or any foreman, superintendent or employee of any road contractor or subcontractor, who shall, without sufficient cause, ~~willfully~~ refuse or neglect to prevent and suppress fires as provided in this act shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be punished by~~ liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00) or by imprisonment for not more than one (1) year, or by both~~ One Thousand Dollars ($1,000.00).

SECTION 78. AMENDATORY 2 O.S. 1991, Section 1301-206, is amended to read as follows:

Section 1301-206. A. It is unlawful for any person to set fire to any forest, grass, woods, wild lands or marshes, or to build a campfire or bonfire, or to burn trash or other material that may cause a forest, grass or woods fire in any county, counties or area within a county where, because of emergency drought conditions, there is gubernatorially proclaimed extraordinary danger from fire, unless the setting of any backfire during the drought emergency is necessary to afford protection as determined by a representative of the Division of Forestry, or unless it can be established that the setting of such backfire was necessary for the purpose of saving life or property. The burden of proving such shall rest on such person claiming same as a defense.

B. The Division of Forestry shall advise the Governor when the lands described in subsection A of this section in any county, counties or area within a county of this state because of emergency drought conditions are in extraordinary danger from fire. The Governor may by proclamation declare a drought emergency to exist and describe the general boundaries of the area affected.

C. Any proclamation promulgated by the Governor under authority of this section shall be effective immediately upon publication in a newspaper of general circulation in the area affected or the posting of the proclamation at the front door of the courthouse or courthouses and in at least ten public places throughout the area. Evidence of publication or posting as herein provided must be filed with the Forestry Division.

D. When conditions warrant, due notice of the termination of the emergency shall be promptly made by proclamation, which shall be published or posted in like manner as when officially declared.

E. Any person who ~~violates~~ breaches this section ~~is guilty of a misdemeanor punishable by~~ shall be liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00) or by imprisonment for not more than one (1) year, or by both~~ One Thousand Dollars ($1,000.00). This fine is in addition to any appropriate criminal liability provided for in Title 21 of the Oklahoma Statutes.

SECTION 79. AMENDATORY 2 O.S. 1991, Section 1301-207, is amended to read as follows:

Section 1301-207. It is ~~unlawful~~ a civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00) for any individual or group of individuals to build a warming or camp fire and leave same unextinguished. ~~Any person who violates this section is guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than one (1) year, or by both.~~

SECTION 80. AMENDATORY 2 O.S. 1991, Section 1301-208, is amended to read as follows:

Section 1301-208. A. It is unlawful for any person either willfully or carelessly to burn or cause to be burned or to set fire to or cause fire to be set to any forest, grass, woods, wild lands or marshes owned or controlled by such person, except under the

following circumstances: (1) in protection areas notification to burn must be made to the local office or local representative of the Forestry Division at least four (4) hours in advance and verbal or written approval obtained; or (2) outside protection areas, in order for such burning to be lawful, such person shall take reasonable precaution against the spreading of fire to other lands by providing adequate firelines, manpower and fire fighting equipment for the control of such fire, shall watch over said fire until it is extinguished and shall not permit fire to escape to adjoining land. Nothing in this section shall relieve the person from the obligation to confine the fire to the owner's, agent's or tenant's land. This act shall not apply to trimming or cutting of trees by public or private utilities for the purpose of eliminating interference with utility lines, poles or other utility equipment.

B. Any person who ~~carelessly violates~~ breaches this section ~~is guilty of a misdemeanor~~ ~~punishable by~~ shall be liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00) or by imprisonment for not more than one (1) year, or by both. Any person who willfully violates this section is guilty of a felony punishable by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment for not more than three (3) years, or by both~~ One Thousand Dollars ($1,000.00). A violator may also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 81. AMENDATORY 2 O.S. 1991, Section 1459, is amended to read as follows:

Section 1459. A. ~~Any person, registrant, manufacturer, or agent who violates any of the provisions of the Oklahoma Agricultural Liming Materials Act or rules promulgated thereunder, upon conviction, shall be guilty of a misdemeanor. In all prosecutions of the Oklahoma Agricultural Liming Materials Act involving the composition of agriculture lime, a certified copy of~~

~~the official analysis certified by the Board or the chemist in charge of making the analysis shall be accepted as prima facie evidence.~~

~~B.~~ If, after public hearing in accordance with the Administrative Procedures Act, the Board shall find any person, registrant, manufacturer, or agent to be in ~~violation~~ breach of the Oklahoma Agricultural Liming Materials Act or any rule promulgated thereunder, the Board shall have the authority to ~~assess~~ find the violator liable for an administrative ~~penalty~~ violation and fine the violator ~~of~~ not ~~less than One Hundred Dollars ($100.00) and not~~ more than One Thousand Dollars ($1,000.00) for each ~~violation~~ breach.

~~C.~~ B. If the Board finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of the Oklahoma Agricultural Liming Materials Act, the Board shall assess a penalty fee of ten percent (10%) maximum not to exceed Two Thousand Dollars ($2,000.00) of amount due, or One Hundred Dollars ($100.00), whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment made within thirty (30) days.

~~D.~~ C. All administrative penalties collected pursuant to this section shall be deposited in the State Department of Agriculture Revolving Fund.

SECTION 82. AMENDATORY 2 O.S. 1991, Section 1516, is amended to read as follows:

Section 1516. ~~The Attorney General may bring action in the district court of Oklahoma County to recover all fees and penalties due the Commission for failure of any person to comply with the provisions of this act.~~ Any person ~~violating~~ breaching any of the provisions of this act shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 83. AMENDATORY 2 O.S. 1991, Section 1602, is amended to read as follows:

Section 1602. Any person who ~~violates~~ breaches the provisions of this act by failing to properly display the proper number shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not ~~to exceed Ten Dollars ($10.00)~~ more than One Thousand Dollars ($1,000.00). ~~Any person who alters a vehicle identifying number in violation of this act, or regulations issued pursuant thereto, shall be guilty of a misdemeanor.~~

SECTION 84. AMENDATORY 2 O.S. 1991, Section 1712, is amended to read as follows:

Section 1712. A. Any person ~~convicted of violation of~~ breaching any provision of this act or the rules and regulations promulgated under this act shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

B. The Board is hereby authorized to apply for and the court is authorized to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or regulation promulgated under this act, notwithstanding the existence of other remedies at law. Said injunction shall be issued without bond.

SECTION 85. AMENDATORY 2 O.S. 1991, Section 1751, is amended to read as follows:

Section 1751. As used in this act:

1. "Board" means the Oklahoma Board of Agriculture;

2. "Person" means any individual, partnership, corporation, association or other form of business enterprise;

3. "Livestock" means cattle, sheep, swine, horses, mules and goats;

4. "Livestock dealer" means any person engaged in the business of buying or selling livestock in commerce; or any person registered

and bonded under the provisions of the Federal Packers and Stockyards Act of 1921, as amended, who buys livestock. The term livestock dealer shall not include a person who buys or sells livestock as part of his own bona fide breeding, feeding or dairy or beef operations, nor a person who receives livestock exclusively for immediate slaughter on his own premises; nor a farmer or rancher who buys livestock in the ordinary course of his farming or ranching operation unless he is registered and bonded under the Federal Packers and Stockyards Act of 1921, as amended. It shall be ~~unlawful and a misdemeanor~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to operate as a livestock dealer without a valid livestock dealer's license;

5. "Livestock special sale" means any public or private sale of livestock by public auction except livestock sales conducted under the provisions of Sections 9-131 through 9-137 of this title and farm auctions.

SECTION 86. AMENDATORY 2 O.S. 1991, Section 1753, is amended to read as follows:

Section 1753. The Board shall have authority to promulgate all necessary rules and regulations for the implementation of this act.

Any ~~violation~~ breach of this act shall be ~~a misdemeanor~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 87. AMENDATORY 2 O.S. 1991, Section 1754, is amended to read as follows:

Section 1754. A. It shall be ~~a misdemeanor~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to conduct a livestock special sale without a valid permit issued by the Board of Agriculture for the time and place of the sale.

B. After a hearing in accordance with the Administrative Procedures Act, the Board of Agriculture has the authority to find an administrative violation and to impose a fine of not ~~to exceed One Hundred Dollars ($100.00) for the first offense, Two Hundred Fifty Dollars ($250.00) for the second offense and Five Hundred Dollars ($500.00)~~ more than Five Hundred Dollars ($500.00) for the first breach and not more than One Thousand Dollars ($1,000.00) for each succeeding ~~offense~~ breach on every person operating or conducting a livestock auction market for failure to provide the Board with adequate records and means to trace the origin of livestock in each consignment delivered to the livestock auction market.

SECTION 88. AMENDATORY 2 O.S. 1991, Section 1818, is amended to read as follows:

Section 1818. Any person ~~violating~~ breaching any of the provisions of this act shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 89. AMENDATORY 2 O.S. 1991, Section 1904, is amended to read as follows:

Section 1904. To obtain a permit from the Department, each applicant shall submit a copy of his valid federal permit, such application form as the Department may establish and the appropriate fee. This permit shall be conspicuously displayed in the producer's plant. A person violating this section shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 90. AMENDATORY 2 O.S. 1991, Section 1907, is amended to read as follows:

Section 1907. Any person who violates any provision of this act shall be ~~guilty of a felony, and shall upon conviction be fined not more than Twenty-five Thousand Dollars ($25,000.00), or imprisoned~~

~~in the state penitentiary for not more than five (5) years or both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 91. AMENDATORY 2 O.S. 1991, Section 2018, is amended to read as follows:

Section 2018. ~~A. Any person violating the provisions of the Oklahoma Agriculture Biotechnology Act shall, upon conviction in a court of competent jurisdiction, be guilty of a misdemeanor and may be punished by a fine of not less than One Thousand Dollars ($1,000.00) nor more than Ten Thousand Dollars ($10,000.00). For the purposes of this section, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.~~

~~B.~~ If, after public hearing in accordance with the Administrative Procedures Act, Section 215 et seq. and Section 301 et seq. of Title 75 of the Oklahoma Statutes, the Board shall find any person to be in ~~violation~~ breach of any of the provisions of this act, the State Board of Agriculture has the authority ~~to assess~~, after notice and hearing, to find an administrative ~~penalty~~ violation and fine the violator ~~of~~ not ~~less than One Hundred Dollars ($100.00) and not~~ more than ~~One Thousand Dollars ($1,000.00)~~ Ten Thousand Dollars ($10,000.00) for each ~~violation~~ breach. For the purpose of this section, each day upon which a ~~violation~~ breach is committed or is permitted to continue shall be deemed a separate ~~offense~~ breach.

SECTION 92. AMENDATORY 3 O.S. 1991, Section 112, is amended to read as follows:

Section 112. Each ~~violation~~ breach of this act or of any regulations, orders, or rulings promulgated by the political subdivision, Joint Airport Zoning Board, or Commission pursuant to this act, shall ~~constitute a misdemeanor and shall be punishable by~~ be an administrative violation subject to a fine of not more than

~~Five Hundred Dollars ($500.00) or imprisonment for not more than one (1) year in the county jail, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00). In addition, the political subdivision or agency adopting zoning regulations under this act may institute in any court of competent jurisdiction, an action to prevent, restrain, correct or abate any violation of this act, or of airport zoning regulations adopted under this act, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this act and of the regulations adopted and orders and rulings made pursuant thereto.

SECTION 93. AMENDATORY 3 O.S. 1991, Section 205, is amended to read as follows:

Section 205. A. Every person who, in the ordinary course of his business, rents an aircraft to another person, shall deliver to that person a written notice stating the nature and extent of insurance coverage provided, if any, for the renter against loss of or damage to the hull of the aircraft, or against liability arising out of the ownership, maintenance or use of the aircraft. Such notice shall contain the name of the person giving the notice, and shall be in substantially the following form:

NOTICE OF INSURANCE COVERAGE

As a renter of aircraft, you are hereby notified that:

(1) You (are) (are not) (strike phrase not applicable) insured under a policy or policies of insurance provided by the undersigned and providing liability coverage to renters of aircraft. If coverage is provided, it is in the amount of $_____.

Said liability insurance is subject to a deductible amount of $_____.

(2) You (are) (are not) (strike phrase not applicable) insured for hull damage to the aircraft. If hull insurance is provided, it is in the amount of $_____.

Such hull damage insurance is subject to a deductible amount of $_____.

(3) Although insurance may be provided for liability and/or hull coverage, the undersigned's insurance carrier has full rights to subrogate against you for any payments it may be required to make on account of any damage or loss arising out of your operation of the aircraft. It is suggested that you carry insurance to protect you to partially or fully cover this possibility.

_____

(Signature of Person or Officer of Company Renting Aircraft)

Dated _____, 19___

(Month) (Day) (Year)

B. The notice delivered pursuant to subsection A of this section shall constitute a material part of any rental agreement, and each renter shall give written acknowledgment of receipt of such notice.

Delivery of said notice to a renter shall cover all future rentals, unless the insurance coverage set forth in the original notice has been reduced or eliminated.

C. Any person ~~convicted of violating~~ breaching any provision of this section shall be ~~guilty of a misdemeanor punishable by~~ liable for a civil infraction and subject to a fine of not more than ~~Fifty Dollars ($50.00)~~ One Thousand Dollars ($1,000.00).

SECTION 94. AMENDATORY 3 O.S. 1991, Section 256.2, is amended to read as follows:

Section 256.2 A. Each manufacturer of aircraft shall pay a registration fee of Two Hundred Fifty Dollars ($250.00) on each

aircraft in the process of manufacture, whether or not on a factory basis, including assembly and subassembly, and the personal property used or consumed therein, which, when completed, shall be the subject of a Federal Aviation Administration-approved type certificate. Such fee shall be paid by the manufacturer to the Oklahoma Tax Commission. The Tax Commission shall remit such fee to the county treasurer of the county in which the manufacturing facility is located to be apportioned in the same manner that ad valorem taxes are apportioned.

B. In calculating the number of aircraft in the process of manufacture, "personal property used or consumed therein" shall include personal property which:

1. Is or is to be used or consumed as part of an aircraft in the process of manufacture; and

2. Is held by the manufacturer or by a supplier physically located in this state who has entered into a contract with the manufacturer for the provision of such personal property.

C. The manufacturer shall submit to the Tax Commission and to the county assessor of the county in which the manufacturing facility is located a report which provides documentation of the personal property, the value thereof and the Oklahoma supplier thereof which is or is to be used or consumed in the process of manufacture for each aircraft registered pursuant to the provisions of this section. Each such Oklahoma supplier shall also submit to the Tax Commission and to the county assessor of the county in which the supplier is located a report which provides documentation of any personal property, the value thereof and the manufacturer thereof which is used or consumed in the process of manufacture for each aircraft registered pursuant to the provisions of this section. Such reports shall contain any further information which may be required by the Tax Commission or the county assessor to enforce the

provisions of this section and the Ad Valorem Tax Code, Section 2801 et seq. of Title 68 of the Oklahoma Statutes.

D. Any manufacturer or supplier who ~~willfully violates~~ breaches the provisions of this section shall be ~~guilty of a misdemeanor and shall be punishable by~~ liable for a civil infraction and subject to a fine of not ~~exceeding~~ more than Five Thousand Dollars ($5,000.00). In addition to such ~~penalty~~ fine a manufacturer or supplier ~~convicted of a violation of~~ breaching this section shall not be eligible to pay the registration fee as provided by this section and shall be subject to the provisions of the Ad Valorem Tax Code, Section 2801 et seq. of Title 68 of the Oklahoma Statutes.

SECTION 95. AMENDATORY 3 O.S. 1991, Section 258, is amended to read as follows:

Section 258. A. It is unlawful for any person in this state to operate an aircraft that is not registered with the Federal Aviation Administration Office of Aircraft Registry or with a foreign country which has ratified and is subject to the Convention on the International Recognition of Rights in Aircraft, 4 U.S.T. 1830. Provided however, no person charged with violating this subsection shall be convicted of the charge if he or she produces in court or the office of the arresting officer proof of registration that was valid at the time of arrest.

B. It is a violation of this section for any person or corporate entity to knowingly supply false information to any governmental entity in regard to ownership of an aircraft in or operated in this state.

C. It is a violation of this section for any person to give a wrong description in any application for the registration of any aircraft in this state for the purpose of concealing or hiding the identity of such aircraft.

D. This section does not apply to any aircraft registration or information supplied by a governmental entity in the course and scope of performing its lawful duties.

E. ~~A violation of this section shall be deemed a felony~~ Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 96. AMENDATORY 3 O.S. 1991, Section 259, is amended to read as follows:

Section 259. A. Any person or persons who shall destroy, remove, cover, alter or deface, or cause to be destroyed, removed, covered, altered or defaced, the United States registration number assigned by the Federal Aviation Administration or manufacturer's serial number of any aircraft in this state, without first giving notice of such act to the Federal Aviation Administration, upon such form as the Federal Aviation Administration may prescribe, shall be ~~deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for a term of not less than one (1) year nor more than five (5) years~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. A person who removes a manufacturer's identification number plate or decal from an aircraft or affixes to an aircraft a manufacturer's identification number plate or decal not authorized by law for use on said aircraft ~~with intent to conceal or misrepresent the identity of the aircraft or its owner shall, upon conviction, be guilty of a felony~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

C. A person who buys, receives, possesses, sells or disposes of an aircraft, knowing that the identification number of the aircraft has been removed or falsified, shall~~, upon conviction, be guilty of~~

~~a misdemeanor~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

D. ~~A person who buys, receives, possesses, sells or disposes of an aircraft, with knowledge that the identification number of the aircraft has been removed or falsified and with intent to conceal or misrepresent the identity of the aircraft, shall, upon conviction, be guilty of a felony.~~

~~E.~~ As used in this section:

1. "Identification number" includes an identifying number or serial number placed on an aircraft by its manufacturer or by authority of the Federal Aviation Administration or in accordance with the laws of another country;

2. "Remove" includes deface, cover and destroy; and

3. "Falsify" includes alter and forge.

~~F.~~ E. An identification number may be placed on an aircraft by its manufacturer in the regular course of business or placed or restored on an aircraft by authority of the Federal Aviation Administration without violating this section; an identification number so placed or restored is not falsified.

SECTION 97. AMENDATORY 3 O.S. 1991, Section 271, is amended to read as follows:

Section 271. The required airman's certificate and medical certificate as applicable shall be kept in the personal possession of the certificate holder when he is operating aircraft within this state and shall be presented for inspection upon the demand of any peace officer of this state or any federal law enforcement officer. Any person arrested for a violation of this section shall be released by the arresting officer upon personal recognizance if the arrested person signs a written promise to appear as provided for on the citation issued by the arresting officer. The arresting officer shall record the ~~arraignment~~ appearance date and time on the citation. Any person ~~convicted of violating this section shall be~~

~~guilty of a misdemeanor~~ breaching the provisions of this section shall be liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00); provided however, no person charged with violating this section shall be convicted of the charge if he or she produces in court or the office of the arresting officer the required certificates issued to that person and valid at the time of arrest.

SECTION 98. AMENDATORY 3 O.S. 1991, Section 281, is amended to read as follows:

Section 281. A. It is unlawful for any person, firm, corporation, or association to install or equip on any aircraft, or install in the wings or fuselage of the aircraft, any fuel tank, bladder, drum, or other container which will hold fuel if such fuel tank, bladder, drum, or other container does not conform to federal aviation regulations or has not been approved by the Federal Aviation Administration by inspection or special permit. Any person ~~convicted of~~ violating this subsection shall be ~~guilty of a felony~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. It is unlawful for any person to knowingly possess any aircraft which has been equipped with, or had installed in its wings or fuselage, any fuel tank, bladder, drum, or other container which will hold fuel if such fuel tank, bladder, drum, or other container does not conform to federal aviation regulations or has not been approved by the Federal Aviation Administration by inspection or special permit. Any person ~~convicted of~~ violating this subsection shall be ~~guilty of a felony~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

C. A copy of the Federal Aviation Administration Approval Form 337 or special permit pertaining to such installations shall be carried on board the aircraft at all times. Any person ~~convicted of violating~~ breaching this subsection shall be ~~guilty of a misdemeanor~~

liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00). Provided however, no person charged with violating this subsection shall be convicted of the charge if he or she produces in court or the office of the arresting officer a copy of the required documentation either valid at the time of arrest or acquired within thirty (30) days after the arrest.

D. The provisions of this section shall apply to any pipes, hoses, or auxiliary pumps which when present in the aircraft could be used to introduce fuel into the primary fuel system of the aircraft from such tanks, bladders, drums, or containers.

SECTION 99. AMENDATORY 3A O.S. 1991, Section 203.6, is amended to read as follows:

Section 203.6 ~~A.~~ The Commission, its executive director, or the stewards may issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers or things, to enable any of them to effectually discharge its or his duties, and may administer oaths or affirmations as necessary in connection therewith.

~~B. Any person subpoenaed who fails to appear at the time and place specified in answer to the subpoena and to bring any papers or things specified in the subpoena, or who upon such appearance, refuses to testify or produce such records or things, upon conviction, is guilty of a misdemeanor.~~

~~C. Any person who testifies falsely under oath in any proceeding before, or any investigation by, the Commission, its executive director, or the stewards, upon conviction, shall be guilty of a felony and shall be punished in the same manner prescribed for the punishment of perjury.~~

SECTION 100. AMENDATORY 3A O.S. 1991, Section 204, as last amended by Section 17, Chapter 355, O.S.L. 1993 (3A O.S. Supp. 1994, Section 204), is amended to read as follows:

Section 204. A. The Oklahoma Horse Racing Commission shall:

1. Have supervision of:

a. all race meetings held in this state; provided, for non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks jurisdiction of the Commission shall be limited to a period of time beginning twelve (12) hours before the commencement of the first race on a race day and ending four (4) hours after the finish of the last race on a race day,

b. all occupation and organization licensees in this state, and

c. all persons on the property of an organization licensee; provided, for non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks supervision of such persons shall be limited to the period set out in subparagraph a of this paragraph;

2. Have the authority to promulgate rules and regulations for the purpose of administering the provisions of the Oklahoma Horse Racing Act;

3. Administer and enforce the provisions of the Oklahoma Horse Racing Act and the rules and regulations of the Commission;

4. Adjudicate controversies arising from the enforcement of the provisions of the Oklahoma Horse Racing Act and the rules and regulations of the Commission;

5. Allocate racing days of not to exceed six (6) days per calendar week, dates, and hours which are in the best interests of the people of this state to organization licensees;

6. Promulgate rules and regulations for the granting or refusing and the suspension or revoking of licenses;

7. Promulgate rules and regulations for the holding, conducting, and operating of all race meetings held in this state; provided, the rules of the American Quarter Horse Association for regulation of the holding, conducting and operating of non-pari-

mutuel race meetings and training races held at non-pari-mutuel tracks shall serve as the rules for the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks, except that appeals from decisions of the stewards shall be to the Commission, until such time as the Commission has promulgated substantially similar rules for regulation of the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks;

8. Have supervision and control of the pari-mutuel machines and all other equipment at all race meetings held in this state;

9. Check the making of pari-mutuel pools and the distribution of such pools and be authorized to contract with the Office of the State Auditor and Inspector to cause the places where race meetings are held to be inspected at reasonable intervals;

10. Promulgate rules and regulations governing:

a. bids on leases, and

b. the rate charged by an organization licensee for admission to races, and

c. the rate charged for the performance of any service or for the sale of any article on the premises of an organization licensee;

11. Approve all contracts and agreements for the payment of money and all salaries, fees, and compensations by any organization licensee;

12. Have the authority to exclude, or compel the exclusion, from any race meeting:

a. any person who violates the provisions of any rule, regulation, or order of the Commission or any law of this state, any other state, or the United States, or

b. any person who has been previously convicted of violating any law of this state, any other state, or the United States, or

c. any other person, licensed or unlicensed, whose conduct or reputation is such that his presence at the race meeting may, in the opinion of the Commission reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of the race meeting. No person shall be excluded or ejected from a race meeting solely on the grounds of race, color, creed, sex, national origin, or ancestry;

13. Have investigatory powers and authority to place attendants and such other persons as may be deemed necessary by the Commission in the offices, on the tracks, or in places of business of any organization licensee for the purpose of determining whether an organization or occupation licensee is complying with the provisions of the Oklahoma Horse Racing Act and the rules and regulations of the Commission;

14. Have authority to acquire or contract with, or establish, maintain, and operate testing laboratories and related facilities for the purpose of conducting:

a. human substance abuse testing on occupation licensees who may affect the outcome of race results. Human substance abuse tests and the laboratories performing such tests must meet the nationally recognized standards specified in the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by the United States Department of Health and Human Services. The Commission may require any occupation licensee to submit to a human substance abuse test if the Commission has probable cause to believe that such licensee is possessing or using any controlled

dangerous substance or any other drug in violation of any federal or state law. Provided, on and after July 1, 1994, such testing shall be in compliance with the provisions of the Standards for Workplace Drug and Alcohol Testing Act, and

b. a saliva test, a blood test, a urine test, or other tests or combinations of tests on the horses run or to be run in any race meeting. Prior to the Commission entering into any contract pursuant to this paragraph, the Attorney General shall review and approve the contract. Any contract entered into pursuant to this paragraph shall contain the specifications that were in the request for bid for the contract;

15. Approve of all proposed construction on property owned or leased by an organization licensee;

16. Have authority to require that all financial, employment, or other records of an organization licensee shall be kept in such manner as prescribed by the Commission and shall be subject to inspection by the Commission. The organization licensee shall submit to the Commission an annual balance sheet, profit-and-loss statement, and any other information the Commission deems necessary in order to administer the provisions of the Oklahoma Horse Racing Act;

17. Have the authority to suspend or revoke a license or impose fines <u>for administrative violations</u> in amounts not to exceed Ten Thousand Dollars ($10,000.00) against individuals for each violation and in amounts not to exceed Twenty Thousand Dollars ($20,000.00) against organization licensees for each violation of any provision of the Oklahoma Horse Racing Act, any rules or regulations adopted by the Commission, or any order of the Commission, or for any other action which, in the discretion of the Commission, is a detriment or impediment to horse racing or both such suspension or revocation and

fine. Each day upon which such violation or other action by the organization licensee occurs shall constitute a separate offense;

18. Have authority to suspend a horse from participating in races if the horse has been involved in any violation of the rules promulgated by the Commission or the provisions of the Oklahoma Horse Racing Act; and

19. Prepare and submit an annual report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. The report shall include an account of the operations, actions, and orders of the Commission, and an accounting of all revenue received by the Commission.

B. 1. The Commission may delegate to stewards or the Executive Director, those of its powers and duties as it deems necessary to fully implement and effectuate the purposes of the Oklahoma Horse Racing Act.

2. The Commission, upon appeal or due consideration, may overrule any decision of a steward except decisions regarding disqualifications for interference during the running of a race if a preponderance of evidence indicates:

a. the stewards mistakenly interpreted the law; or

b. new evidence of a convincing nature is produced; or

c. the best interests of racing and the state may be better served.

3. Any decision pertaining to the finish of a race, as used for purposes of pari-mutuel pool distribution to winning ticket holders, may not be overruled. Any decision pertaining to the distribution of purses may be changed only if a claim is made in writing to the Commission by one of the involved owners or trainers, and a preponderance of evidence clearly indicates to the Commission that one or more of the grounds for protest, as provided for in the rules and regulations prepared by the Commission, has been substantiated.

SECTION 101. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 211 of Title 3A, unless there is created a duplication in numbering, reads as follows:

Any person convicted of any felony relating to any activity covered by the Oklahoma Horse Racing Act shall have any license issued pursuant to the Oklahoma Horse Racing Act revoked or suspended.

SECTION 102. AMENDATORY Section 1, Chapter 194, O.S.L. 1992 (3A O.S. Supp. 1994, Section 301), is amended to read as follows:

Section 301. A. As used in this act:

1. "Amateur athlete" means any athlete who meets the eligibility standards established by the national governing body for the sport in which the athlete competes;

2. "Amateur athletic competition" means a contest, game, meet, match, tournament, regatta, or other event in which amateur athletes compete;

3. "Amateur sports organization" means a not-for-profit corporation, club, federation, union, association, or other group organized in the United States or the State of Oklahoma which sponsors or arranges any amateur athletic competition;

4. "Corporation" means the United States Olympic Corporation;

5. "National governing body" means an amateur sports organization which is recognized by the Corporation in accordance with Section 391 of the Amateur Sports Act of 1978, 36 U.S.C., Section 371 et seq.; and

6. "Sanction" means a certificate of approval issued by a national governing body.

B. The provision of this section shall apply to those amateur sports organizations that have been or are currently seeking recognition, sanction, associate membership, affiliate membership or

full membership of the national governing body for the sport in which the athletes or teams compete.

C. All public or private schools affiliated with the Oklahoma Secondary Schools Activities Association (OSSAA) which sponsors or conducts amateur athletes or athletic competition shall not be considered an amateur sports organization under the provisions of this section, provided however such schools shall comply with the OSSAA guidelines concerning discriminatory practices against amateur athletes.

D. All public and private organizations or religious-based organizations or individuals who sponsor, support or conduct an amateur sports organization or athletic competition that is not officially sanctioned or is not seeking sanction as a full, affiliate or associate member of the national governing body for the sport being played, as defined by Section 373 of the Amateur Sports Act of 1978, 36 U.S.C., Section 371 et seq., shall not be subject to this section and shall have exclusive jurisdiction over such competition and shall be entitled to establish eligibility standards, provided however those standards do not conflict with federal or state law or established standards set by a governing body for which the organization or individual may seek affiliation or membership at the local, state or regional level.

E. All amateur sports organizations shall follow the eligibility standards established by the national governing body for the sport in which the athlete competes and shall:

1. Demonstrate that its membership is open to all individual amateur athletes, teams, coaches, trainers, managers, administrators or officials who seek membership, and to all amateur sports organizations which conduct programs in the sport for which membership is sought;

2. Provide an equal opportunity to all amateur athletes, teams, coaches, trainers, managers, administrators and officials to

participate in amateur athletic competition without discrimination on the basis of race, color, religion, age, sex, geographical boundaries or national origin; and to provide fair notice and an opportunity for hearing to any amateur athlete, team, coach, trainer, manager, administrator or official before determining that such individual or team is ineligible to participate;

3. Not have eligibility criteria relating to amateur status which are more restrictive than those of the appropriate international sports federation;

4. Provide equitable support and encouragement to women for participation in athletic competition where separate programs for male and female athletes are conducted on a statewide basis;

5. Encourage and support amateur athletic sports programs for handicapped individuals in amateur athletic activity including, where feasible, expanding the opportunities for meaningful participation by handicapped individuals in athletic competition for able-bodied individuals; and

6. Encourage and provide assistance to amateur athletes of racial and ethnic minorities for the purpose of eliciting the participation of such minorities in amateur athletic activities in which they are underrepresented.

F. All amateur athletes or teams who are members of an amateur sports organization shall not be restricted from playing either recreational or competitive sports due to race, color, religion, age, sex, geographical boundaries or national origin.

G. Any person, officer or amateur sports organization, as defined by the Amateur Sports Act of 1978, 36 U.S.C., Section 373 and by the provisions of this section, ~~knowingly violating~~ breaching the provisions of subsection F of this section shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and~~, upon conviction,~~ shall be ~~imprisoned in the county jail for not more than six (6) months or fined~~ subject to a fine of not more than ~~Five Hundred~~

~~Dollars ($500.00), or both such fine and imprisonment; and knowing violation of any of the provisions of this section may subject such persons or organization to civil penalties~~ One Thousand Dollars ($1,000.00).

SECTION 103. AMENDATORY Section 6, Chapter 328, O.S.L. 1992, as amended by Section 5, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1994, Section 405), is amended to read as follows:

Section 405. A. Any organization which conducts any charity game activities not more than four times per year may obtain an exemption from specific provisions of the Oklahoma Charity Games Act, Section 401 et seq. of this title, as provided in this section. Such exemption shall be obtained by the filing of a verified application with the ABLE Commission signed by the executive officer of said organization and containing the following information:

1. The name and address of the organization;

2. The name, address and telephone number of the executive officer of the organization or such other person authorized to receive documents or other information from the Commission on behalf of the organization; and

3. A statement that said organization shall conduct a charity game session four or fewer times per calendar year and the dates and times and location wherein such activities shall occur.

B. Any organization which conducts any charity game activities not more than four times per year which has obtained an exemption from the Commission shall not:

1. Be required to obtain any type of license required by the Oklahoma Charity Games Act;

2. Be restricted to the use of bingo faces as defined in the Oklahoma Charity Games Act but shall not be authorized to use electronic facsimile of faces;

3. Be required to purchase charity game equipment from persons or business entities licensed pursuant to the provisions of the Oklahoma Charity Games Act; or

4. Be subject to any restrictions in this act or rules of the Commission relating to conducting charity games on certain days of the week or during certain hours.

C. Any hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility which conducts charity games at such facilities on a regular basis for the residents or regular patrons of the facility and their immediate family members may obtain an exemption from specific provisions of the Oklahoma Charity Games Act as provided in this section. Such exemption shall be obtained by the filing of a verified application with the Commission signed by the owner or supervisor of the facility and containing the following information:

1. The name and address of the hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility;

2. The name, address and telephone number of the owner or supervisor of the facility or such other person authorized to receive documents or other information from the Commission on behalf of the facility; and

3. A statement that said facility shall conduct charity games at the specified facility for the residents or regular patrons of the facility and their immediate family members. Provided, the prizes awarded either in cash or any other thing of value shall not exceed Two Hundred Fifty Dollars ($250.00) in any one (1) day at any such hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility.

D. Any hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility which conducts charity games at such facilities on a regular basis

for the residents or regular patrons of the facility or their immediate family members which has obtained an exemption from the Commission shall not:

1. Be required to obtain any type of license required by the Oklahoma Charity Games Act;

2. Be restricted to the use of bingo faces, as defined in the Oklahoma Charity Games Act but shall not be authorized to use electronic facsimile of faces;

3. Be required to purchase charity game equipment from persons or business entities licensed pursuant to the provisions of the Oklahoma Charity Games Act; or

4. Be subject to any restrictions in the Oklahoma Charity Games Act or rules of the Commission relating to conducting charity games on certain days of the week or during certain hours.

E. Any organization, hospital, nursing home, residential care facility, senior citizens' center, or convalescent facility which conducts a charity game which is not covered by its exemption shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 104. AMENDATORY Section 9, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1994, Section 408), is amended to read as follows:

Section 408. A. Any organization desiring to conduct a charity game in this state shall apply to the Commission for an organization license. Any person conducting a bingo, U-PIK-EM bingo game, or break open ticket game without a license shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. An organization license shall only be issued to an organization. A business entity shall not be qualified under any conditions to hold an organization license.

B. An organization shall be limited to only one license and to doing business at only one location.

C. An organization shall use only disposable bingo faces purchased from a licensed distributor. Only one game shall be played on each bingo face.

D. Only an organization or a person paid by an organization shall conduct a charity game for which a charge is made. Compensation paid to an organization or other person for conducting a charity game shall not exceed two times the amount of the minimum wage specified pursuant to federal law.

E. An initial application for an organization license shall be sworn and attested to by a principal officer of the applicant organization and shall include:

1. A certified copy of the document from the U.S. Internal Revenue Service which grants the applicant tax-exempt status and the federal identification number;

2. A certified copy of the articles of incorporation and certificate of incorporation of the organization;

3. A copy of the bylaws of the organization;

4. A copy of the minutes of the meeting of the organization at which the governing body was elected and the terms of office of each member of the governing body;

5. A copy of the minutes of the meeting of the governing body of the organization at which the application for the license was authorized;

6. The name and address of a person authorized to receive service of process on behalf of the organization;

7. The address of the location where the charity games will be conducted; and

8. Such other information deemed necessary by the Commission to assure eligibility for a license.

F. A renewal application shall only include any changes in the information required to be submitted with the initial application.

G. An organization license shall be placed within public view at all times in a conspicuous place at the location where the charity game is being conducted.

SECTION 105. AMENDATORY Section 10, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1994, Section 409), is amended to read as follows:

Section 409. A. Any person or business entity desiring to sell or supply any charity game equipment to a licensed organization in this state shall apply to the Commission for a distributor license. Any person who sells or supplies charity game equipment to a licensed organization in this state without first obtaining a license as provided in this section shall be liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00).

B. An application for a distributor license shall include:

1. The name and address of the applicant and the name and address of each of its separate locations distributing charity game equipment; and

2. The name and address of all owners of the distributing business entity, if the business entity is not a corporation. If the business entity is a corporation, the name and address of each of the officers and directors of the corporation and of each stockholder owning ten percent (10%) or more of any class of stock in the corporation.

SECTION 106. AMENDATORY Section 11, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1994, Section 410), is amended to read as follows:

Section 410. A. Any person or business entity desiring to sell or supply charity game equipment to a distributor in this state shall apply to the Commission for a manufacturer license. Any person who sells or supplies charity game equipment to a distributor in this state without first obtaining a license as provided in this

section shall be liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00).

B. An application for a manufacturer license shall include:

1. The name and address of the applicant and the name and address of each of its separate locations manufacturing charity game equipment;

2. The name and address of all owners of the manufacturing business entity, if the business entity is not a corporation. If the business entity is a corporation, the name and address of each of the officers and directors of the corporation and of each stockholder owning ten percent (10%) or more of any class of stock in the corporation; and

3. If the applicant is a foreign manufacturer, the full name, business address, and home address of the person who is a resident of this state authorized to receive service of process on behalf of the business entity.

SECTION 107. AMENDATORY Section 15, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1994, Section 414), is amended to read as follows:

Section 414. A. Every licensee shall keep and maintain a set of records which shall include such details as required by the Commission of the activities of the licensee relating to doing business in this state pursuant to the provisions of the Oklahoma Charity Games Act.

1. Such records shall be available for inspection by the Commission during regular business hours.

2. Such records shall be maintained for a period of not less than three (3) years from the date of the end of the fiscal year of the licensee.

3. Such records maintained shall include copies of all invoices to all organizations in this state which shall include but not be

limited to information as to the amount of charity game equipment sold in this state.

B. Each distributor shall also submit a quarterly report to the Commission containing the name, address, and license or exemption number of each purchaser of charity game equipment.

C. Each licensed manufacturer shall also submit a quarterly report to the Commission containing the following information:

1. The total amount of charity game equipment sold in this state;

2. The total number with the serial numbers and sequential order of bingo faces, U-PIK-EM bingo sets, and breakopen deals sold; and

3. Copies of all invoices for all charity game equipment sold which shall include but not be limited to information as to the number of games sold in this state.

D. Any person who fails to maintain the records required to be maintained pursuant to this section or who fails to file the reports required to be filed pursuant to this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 108. AMENDATORY Section 18, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1994, Section 417), is amended to read as follows:

Section 417. No licensed organization shall sell, serve or permit to be consumed any alcoholic beverage as defined in Section 506 of Title 37 of the Oklahoma Statutes or nonintoxicating beverage as defined in Section 163.2 of Title 37 of the Oklahoma Statutes in any room or outdoor area where and during the time a charity game is being conducted. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 109. AMENDATORY Section 21, Chapter 328, O.S.L 1992 (3A O.S. Supp. 1994, Section 420), is amended to read as follows:

Section 420. Any person, organization or business entity selling food, drink, or any other product subject to sales tax at any charity game location shall be required to obtain an Oklahoma sales tax permit prior to such sale. Any person violating the provisions of this section shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). In addition, a person violating this section may be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 110. AMENDATORY Section 23, Chapter 328, O.S.L. 1992, as amended by Section 12, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1994, Section 422), is amended to read as follows:

Section 422. A. All taxes levied pursuant to the provisions of Section 421 of this title shall be collected and remitted by the distributor to the Oklahoma Tax Commission.

B. The distributor shall submit a copy of each invoice from the manufacturer from which the distributor obtained the charity game equipment stating the amount and price of each item obtained.

C. The distributor shall submit a copy of each invoice submitted for payment to a purchaser of charity game equipment.

D. The taxes shall be due and paid monthly, and shall be deemed delinquent if not paid on or before the fifteenth day of the month following the month during which the items were sold to an organization. In addition, any person who fails to comply with the provisions of this subsection shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

E. Charity game equipment taxed pursuant to the provisions of the Oklahoma Charity Games Act, Section 401 et seq. of this title,

shall be exempt from taxation pursuant to any other law of this state levying a sales tax, consumers tax, or use tax.

F. A licensed distributor shall be allowed a discount of one percent (1%) of the taxes due pursuant to the provisions of the Oklahoma Charity Games Act as remuneration for establishing and maintaining the records required by the ABLE Commission and the Oklahoma Tax Commission and for collecting such tax for the benefit of the state, if such tax is timely reported and remitted; provided, the discount provided by this section shall be limited to Three Thousand Three Hundred Dollars ($3,300.00) per reporting period for each licensed distributor and any amount in excess of Three Thousand Three Hundred Dollars ($3,300.00) per reporting period for each licensed distributor shall be retained by the state as an administrative expense and deposited to the General Revenue Fund. If the tax becomes delinquent, the licensed distributor forfeits any claim to the remuneration.

G. The Oklahoma Tax Commission shall, by rule, establish a procedure by which a licensed distributor shall be allowed a credit against subsequent tax liability for damaged bingo faces, U-PIK-EM bingo game sets, breakopen ticket games or charity game equipment upon which the tax required by the Oklahoma Charity Games Act has been paid and by which the distributor shall reimburse the organization which purchased such damaged bingo faces, U-PIK-EM bingo game sets, breakopen ticket games or charity game equipment for the tax paid by such organization.

H. Effective July 1, 1993, the Oklahoma Tax Commission shall devise only such tax reporting forms as necessary for tax collection pursuant to the Oklahoma Charity Games Act and shall promulgate and enforce only such rules as are necessary to provide for the collection, remitting and verification of payment of taxes by distributors as required by this section.

I. The Oklahoma Tax Commission shall have the authority to enter the licensed premises of any licensee to verify compliance with the taxation provisions of the Oklahoma Charity Games Act.

SECTION 111. AMENDATORY Section 25, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1994, Section 424), is amended to read as follows:

Section 424. Any person ~~convicted of~~ violating ~~the~~ any provisions of the Oklahoma Charity Games Act for which a specific administrative penalty is not provided shall be ~~guilty of a misdemeanor punishable by incarceration for a period not to exceed one (1) year and by a fine of not less than Two Hundred Dollars ($200.00) and not more than Two Thousand Dollars ($2,000.00) or both such fine and incarceration~~ liable for a civil infraction and subject to a fine of not more than Two Thousand Dollars ($2,000.00).

SECTION 112. AMENDATORY Section 26, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1994, Section 425), is amended to read as follows:

Section 425. A. In addition to any other powers conferred on the Commission to impose penalties for violations of the provisions of the Oklahoma Charity Games Act, whenever in the judgment of the Commission any person, organization, or business entity has committed an act which constitutes a violation of the Oklahoma Charity Games Act, the Commission may:

1. After notice and hearing, issue a cease and desist order to any person or business entity that should have obtained a license;

2. Impose a fine of not more than Five Thousand Dollars ($5,000.00) for each administrative violation in the event that after the issuance of an order to cease and desist the illegal activity, the person or business entity that the order is directed to commits any act in violation of the order; and

3. Make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the

Commission that such violations have occurred, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court, without bond.

B. Each day a violation is continuing shall constitute a separate offense.

C. Administrative fines imposed pursuant to the provisions of this section shall be enforceable in the district courts of this state.

D. All administrative fines collected by the Commission pursuant to the provisions of this section shall be forwarded to the State Treasurer for deposit in the General Revenue Fund.

SECTION 113. AMENDATORY 4 O.S. 1991, Section 32, is amended to read as follows:

Section 32. Refusal to comply with the provisions of Section 31 of this title shall be a ~~misdemeanor punishable by~~ civil infraction subject to a fine of not more than ~~Fifty Dollars ($50.00)~~ One Thousand Dollars ($1,000.00).

SECTION 114. AMENDATORY 4 O.S. 1991, Section 43, is amended to read as follows:

Section 43. The board of county commissioners of any county with a population of two hundred thousand (200,000) or more according to the last Federal Decennial Census may regulate or prohibit the running at large of dogs within said county, and cause such dogs as may be running at large to be impounded and disposed of as otherwise provided for by law or sold to discharge the costs and penalties provided for the violation of such prohibition and the expense of impounding and keeping the same for such sale; and may also provide for the erection of all needful pens, pounds and buildings for the use of said county at any place within said county. It shall be the duty of the board of county commissioners of any county undertaking the regulation and taxation of dogs in said county under this act to establish and enforce rules governing

the same, and they shall enter into a definite cooperative agreement with the sheriff of said county prescribing said rules and regulations and the manner and terms of enforcement thereof, and for the financing and compensation therefor. The board of county commissioners may also regulate and provide for taxing the owners and harborers of dogs, and authorize the humane killing or disposal of dogs, found at large, contrary to any ordinance regulating the same. Any person, firm or corporation who ~~violates~~ breaches any rule or regulation made by such board of county commissioners under the authority of this act shall be ~~guilty of a misdemeanor and shall be punished as provided by the laws of this state in any court of competent jurisdiction, provided that in the case of continuing offenses, each day on which the offense occurs shall constitute a separate offense~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00). Each day in which the breach occurs shall constitute a separate offense.

SECTION 115. AMENDATORY 4 O.S. 1991, Section 47, is amended to read as follows:

Section 47. Any dangerous dog shall be immediately confiscated by an animal control authority if:

1. The dog is not validly registered under Section ~~2~~ 45 of this ~~act~~ title;

2. The owner does not secure the liability insurance coverage or surety bond required under Section ~~2~~ 45 of this ~~act~~ title;

3. The dog is not maintained in the proper enclosure; and

4. The dog is outside of the dwelling of the owner, or outside the proper enclosure and not under physical restraint of the responsible person. In addition, the owner shall be ~~guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year or by the imposition of a fine not to exceed Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment. Any such fine, at the discretion of the court, may be~~

~~offset by payments made by the dog owner to any victim of an attack by the dog. However, insurance payments may not be considered as an offset~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

It is the purpose of this act to provide additional and cumulative remedies to control dangerous and potentially dangerous dogs in this state. Nothing in this act shall be construed to abridge or alter rights of action or remedies of victims under the common law or statutory law, criminal or civil.

SECTION 116. AMENDATORY 4 O.S. 1991, Section 99, is amended to read as follows:

Section 99. Any person who (1) ~~willfully~~ omits to keep a domestic animal he owns or has charge of within a suitable enclosure, or (2) allows such animal to be unrestrained or to run at large, with notice, actual or constructive, that the enclosure within which such animal is kept is open, or (3) any other person who ~~knowingly~~ causes a domestic animal to escape confinement shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished by~~ liable for a civil infraction and subject to a fine of not more than ~~Fifty Dollars ($50.00)~~ One Thousand Dollars ($1,000.00) for each ~~offense~~ breach~~, or not more than thirty (30) days' imprisonment in the county jail for each offense, or by both such fine and imprisonment~~. For the purpose of this act the term "domestic animals" shall not include domestic house pets.

SECTION 117. AMENDATORY 4 O.S. 1991, Section 132, is amended to read as follows:

Section 132. If any person, by force or otherwise, without leave of the person having the stock under distraint remove the stock from such distraint, he shall be ~~guilty of a misdemeanor, and shall pay~~ liable for a civil infraction and subject to a fine of not ~~less than ten (10) nor~~ more than ~~One Hundred Dollars ($100.00), or be imprisoned in the county jail not less than ten (10) nor more~~

~~than thirty (30) days~~ One Thousand Dollars ($1,000.00), and shall in addition thereto, be liable in a civil action for the recovery of the stock so relieved from distraint, or for damages and costs, as the party distraining may elect.

SECTION 118. AMENDATORY 4 O.S. 1991, Section 251, is amended to read as follows:

Section 251. All parties butchering stock or purchasing hides or pelts, in the state, shall be required to keep a record of the marks, brands, color, from whom purchased, and by the party butchering, the sex and age. They shall be required to keep all hides together, with horns and ears complete, for at least five (5) days from the time of butchering the same during the months of May, June, July, August, September and October, and, during the remaining months of the year, ten (10) days, said hides to be free for inspection to anyone wishing to see the same. Any person ~~violating~~ breaching any of the provisions of this section shall be ~~guilty of a misdemeanor, and upon conviction in any court of competent jurisdiction, shall be fined in any sum not less than Twenty-five Dollars ($25.00), nor more than Two Hundred Dollars ($200.00) or shall be imprisoned in the county jail not less than ten (10) days nor more than six (6) months, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine to not more than One Thousand Dollars ($1,000.00).

SECTION 119. AMENDATORY 4 O.S. 1991, Section 342, is amended to read as follows:

Section 342. Any person, firm or corporation who refuses to permit the lessee of pens, as provided in Section ~~1 hereof~~ 341 of this title, to furnish their own feed and feed the same to the livestock of such lessees while impounded in pens belonging to lessors, shall be ~~guilty of a misdemeanor, and punished by~~ liable for a civil infraction and subject to a fine of not ~~to exceed Five Hundred Dollars ($500.00) or by imprisonment in the county jail for~~

~~a period not exceeding thirty (30) days, or by both such fine and imprisonment~~ more than One Thousand Dollars ($1,000.00).

SECTION 120. AMENDATORY 4 O.S. 1991, Section 351, as amended by Section 5, Chapter 36, O.S.L. 1993 (4 O.S. Supp. 1994, Section 351), is amended to read as follows:

Section 351. Any person who is the driver of any truck, automobile or other vehicle containing any livestock, domestic fowls or ratite or any slaughtered livestock, slaughtered domestic fowls or ratite or the butchered portions of any of which he is not the owner and which is upon or being driven upon any land of which said driver is not owner, lessee, renter or tenant, or which is upon or being driven upon any highway, public street or thoroughfare, who fails to have in his possession and exhibit to any meat inspector, sheriff or deputy sheriff upon demand a written permit authorizing said movement, signed by the owner or caretaker of said livestock, domestic fowls or ratite, or from the owner or person in control of the land from which said driver began said movement, shall be ~~fined~~ liable for a civil infraction and subject to a fine of not more than ~~Two Hundred Dollars ($200.00)~~ Five Hundred Dollars ($500.00) for each head of livestock in said movement, unless said driver upon demand of said meat inspector, sheriff or deputy sheriff makes, signs and delivers to said meat inspector, sheriff or deputy sheriff a written statement containing all information herein required to be included in permits. Said permit or statement shall contain a description of each head of livestock, domestic fowls and ratites, and the place of origin thereof, including the name of ranch, market center, packing house or other place, and the kind, breed, color and marks and brands of such livestock, domestic fowls or ratites, if there be any. Failure or refusal of such driver to exhibit to a person or peace officer said permit or to make said statement shall constitute probable cause for any meat inspector, sheriff or deputy sheriff to search said truck or vehicle to ascertain if it contains

any stolen livestock, domestic fowls or ratites and to detain said movement a reasonable length of time to ascertain whether any stolen livestock, domestic fowls or ratites are contained therein, but the person detaining said movement shall provide adequate care and feed for such livestock, domestic fowls or ratites while said livestock, domestic fowls or ratites are being detained. ~~Any driver who has in his possession any false or forged permit or who makes any false written statement shall be fined not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00) or he shall be imprisoned in the county jail not less than sixty (60) days nor more than six (6) months, or he shall be punished by both such fine and imprisonment.~~

SECTION 121. AMENDATORY 4 O.S. 1991, Section 401, is amended to read as follows:

Section 401. ~~It shall be a misdemeanor for:~~

~~(a)~~ Any ~~person or institution to violate any of the provisions of this act or any rules and regulations promulgated thereunder, or (b) Any person to fail wilfully to execute any duty imposed on him by this act~~ breach of these sections shall be prosecuted by the appropriate district attorney provided the breach is a crime under Title 21 of the Oklahoma Statutes.

SECTION 122. AMENDATORY 6 O.S. 1991, Section 203, as amended by Section 2, Chapter 157, O.S.L. 1994 (6 O.S. Supp. 1994, Section 203), is amended to read as follows:

Section 203. In addition to other powers conferred by the Oklahoma Banking Code, the Board shall have power to:

(1) Regulate its own procedures and practice, except as may be hereafter provided by law.

(2) Define any term not defined in the Oklahoma Banking Code.

(3) Adopt and promulgate reasonable and uniform rules and regulations to govern the conduct, operation and management of all banks or trust companies created, organized or existing under or by

virtue of the laws of this state, and to govern the examination, valuation of assets and the statements and reports of such banks or trust companies, and the form on which such banks or trust companies shall report their assets, liabilities and reserves, and charge off bad debts and otherwise keep their records and accounts, and otherwise to govern the administration of the Oklahoma Banking Code.

(a) Each bank and trust company and each officer, director, owner, stockholder, agent and employee thereof shall comply with every rule and regulation promulgated so long as the same remain in force.

(b) The Board may amend, modify or repeal rules and regulations now in force and effect or hereafter adopted. Copies of such amendments and modifications and notice of repeal shall be mailed to each bank and trust company within ten (10) days after such action is taken.

(4) Restrict the withdrawal of deposits from all, or one or more, banks where the Board finds that extraordinary circumstances make such restriction necessary for the proper protection of depositors in the affected institution or institutions.

(5) Authorize banks or trust companies under circumstances in which they are not given authority under the Oklahoma Banking Code to participate in any public agency hereafter created under the laws of this state, or of the United States, the purpose of which is to afford advantages or safeguards to banks or trust companies, and to authorize compliance with all requirements and conditions imposed upon such participants; and to authorize banks to engage in any banking activity in which banks subject to the jurisdiction of the federal government may hereafter be authorized by federal legislation to engage.

(6) Order any person to cease violating a provision of the Oklahoma Banking Code, federal banking law, or a lawful regulation

issued thereunder, or to cease engaging in any unsound banking or trust practice. A copy of such order shall be mailed to each director of the bank by which such person is employed.

(7) Affirm, modify, reverse or stay the enforcement of any order or ruling of the Commissioner concerning commercial banks or trust companies.

(8) Suspend a director, officer or employee of a bank or trust company who becomes ineligible to hold his position, or who, after receipt of an order to cease, violates the Oklahoma Banking Code, federal banking law, or a lawful regulation or order issued thereunder, or who is dishonest or who is reckless or grossly incompetent in the conduct of banking business or who has engaged or participated in any unsafe or unsound practice in connection with a bank or trust company. It shall be ~~a criminal offense~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any such person, after receipt of a suspension order, to perform any duty or exercise any power of any bank or trust company until the Board shall vacate such suspension order. A suspension order shall specify the grounds thereof. A copy of the order shall be sent to the bank or trust company concerned, and to each member of its board of directors; provided, in absence of circumstances deemed by the Board to require immediate action, no person shall be suspended under the powers herein granted unless he shall have first been afforded a hearing before the Board after not less than ten (10) days' notice thereof shall have been served upon him by registered or certified mail, return receipt requested.

(9) To fix and establish the amount of interest which a bank may pay on savings and time deposits; provided, such rate shall not exceed nor be less than the maximum rate allowed to national banks by the Board of Governors of the Federal Reserve System. No bank operating under the laws of this state or officer thereof shall

agree, directly or indirectly, to pay any interest on deposits at a rate in excess of the amount fixed by the Board.

SECTION 123. AMENDATORY 6 O.S. 1991, Section 213, is amended to read as follows:

Section 213. No officer or employee of the State Banking Department shall be an officer, director, attorney, owner or shareholder in any bank or trust company or, except as hereinafter provided, receive, directly or indirectly, any payment or gratuity from any such bank or trust company or be indebted to any bank or trust company or other institution over which the Department has supervisory control. Willful violation of this section ~~is declared to be a criminal offense~~ shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. This provision shall not prohibit employees of the Department from being members of credit unions or from being indebted to credit unions and finance companies, nor shall it prohibit their being depositors in a bank or lessees of safe deposit boxes therein on the same terms as are available to the public generally, or being indebted to a bank upon a mortgage loan upon the mortgagor's own home, or upon an installment debt transferred to a bank in the regular course of business by a seller of consumer goods, including automobiles purchased by the officer or employee. Further, this section shall not prohibit the four banker members of the State Banking Board from being executive officers in banks and from receiving bona fide compensation as such officers.

SECTION 124. AMENDATORY 6 O.S. 1991, Section 312, is amended to read as follows:

Section 312. Within ninety (90) days after approval of an application or any additional period allowed by the Board:

1. The capital, surplus and undivided profits subscribed must be fully paid in cash. No share shall be issued until the par value

and pro rata portion of the paid-in surplus and undivided profits specified in the application have been paid in full in cash;

2. Articles of incorporation submitted to the Commissioner with the application for authority to organize shall be subscribed by the organizers, acknowledged and submitted in quintuplicate to the Bank Commissioner. A copy thereof, duly approved by the Commissioner, shall be filed with the Secretary of State by the applicant. The Secretary of State shall issue a certificate in the form provided by law for other corporations and the existence of such bank or trust company shall date from the issuance of the certificate of the Secretary of State; provided, it shall be ~~a criminal offense~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) against this Code for a state bank or trust company to perform any act other than to perfect its organization, obtain and equip a place of business and otherwise prepare to do business before receiving a certificate of authority to operate issued to it by the Commissioner;

3. After the capital, surplus and undivided profits subscribed have been fully paid and a certificate of incorporation received from the Secretary of State, a meeting of the shareholders shall be called by the organizers on ten (10) days' notice to elect directors and adopt the bylaws submitted to the Board and direct the call on five (5) days' notice of the first meeting of directors for the election of officers. The bylaws adopted may be amended by majority vote of the outstanding voting shares voted at a meeting of the shareholders, and the bylaws may provide for amendment by the Board of Directors of any provision other than those relating to the duties, term of office, remuneration, reimbursement or indemnification of a director; and

4. After the first meeting of the shareholders and the Board of Directors, the President, Secretary or Cashier shall file with the Commissioner a verified application for certificate of authority.

The application shall contain:

a. a statement that the capital, surplus and undivided profits set forth in the application have been paid in,

b. the name, address and business and professional affiliations of each director and executive officer,

c. evidence of the character, financial responsibility and ability of the managing officer,

d. the name and address of each shareholder and the number of shares held by each,

e. the address at which the bank or trust company will operate,

f. a statement that all of the bylaws adopted were attached as an exhibit to the application for authority to organize,

g. if a bank, a statement that an application for Federal Deposit Insurance or for membership in the Federal Reserve System has been approved, and

h. such other information as the Commissioner may require to enable him to determine whether a certificate of authority should be issued.

SECTION 125. AMENDATORY 6 O.S. 1991, Section 415, is amended to read as follows:

Section 415. A. Drive-in or walk-up service authorized. (1) Any bank chartered pursuant to the laws of this state may maintain and operate, subject to the approval of the Board as evidenced by its certificate, outside attached facilities and two detached facilities having one or more tellers' windows for drive-in or walk-up service or both. Of the two detached facilities, one may be on property owned or leased by the bank and located less than one thousand (1,000) feet from the bank's main building and one may be

on property owned or leased by the bank located less than three (3) miles from said main bank building.

(2) Any branch may maintain and operate, subject to the approval of the Board or the Comptroller of the Currency as evidenced by its certificate, one outside attached facility having one or more tellers' windows for drive-in or walk-up service or both on property owned or leased by the bank.

(3) The Board or the Comptroller of the Currency shall not grant a certificate for a detached facility unless it is more than three hundred thirty (330) feet from any other existing main bank building or branch building or unless the facility is established with the irrevocable consent of such other bank.

(4) For the purposes of this section the date of approval of a bank charter or the date of approval of a branch by the appropriate state or federal authority shall be the date of existence of such bank, branch, or facility.

(5) For purposes of this section, the distance limitation shall be determined by measuring along a straight line drawn between the nearest exterior wall of the appropriate main bank building or branch building and the nearest exterior wall of the facility.

B. Certificate to maintain additional outside facilities - Notice and hearing - Injunction of prohibited activities. (1) From and after May 26, 1965, no bank shall be permitted to maintain and operate such additional outside facilities except upon certificate issued by the Board. The issuance of the certificates shall rest solely as to the location in the discretion of the Board.

(2) The application for a certificate to maintain and operate a detached facility shall comply with the regulations of the Board. Within thirty (30) days after receipt of the application, the Commissioner shall report the results of his investigation to the Board. Notice of hearing on the application shall be given in compliance with the provisions of Section 306.1 of this title.

Within twenty (20) days after the conclusion of the hearing the Board, in its sole discretion, shall approve or deny the application and shall notify the applicant of its decision. An application fee payable to the Department in an amount set by rule of the Board, not to exceed the fee amount set by the Comptroller of the Currency for national banks' additional facilities applications.

(3) Any banking function may be performed at the facilities except that of making loans. Upon the recommendation of the Commissioner, the Attorney General shall bring an appropriate action to enjoin a bank from conducting the making of loans at such facilities.

(4) Any bank now validly operating a detached facility under and in accordance with the applicable statutes of this state prior to May 26, 1965, shall be granted a certificate to continue its operation at such facility. Any facility authorized pursuant to the laws of this state prior to October 1, 1983, shall not be rendered unlawful by any provision of this section.

(5) The provisions of this section shall not be construed in derogation or denial of the right to operate and maintain facilities as provided for in Sections 421 and 422 of this Code.

C. ~~Violation~~ Breach of Section 415 - Penalty therefor. A ~~violation~~ breach of any portion of this section shall be ~~and constitute a misdemeanor punishable upon conviction by~~ an administrative violation and subject to a fine of not ~~exceeding Five Hundred Dollars ($500.00)~~ more than One Thousand Dollars ($1,000.00). Each day's violation shall constitute a separate offense.

SECTION 126. AMENDATORY 6 O.S. 1991, Section 421, is amended to read as follows:

Section 421. A. Military banking facilities authorized. Any bank located in the State of Oklahoma may, subject to the approval of the Board as evidenced by its certificates, and subject to the

approval of the military installation commander as evidenced by a letter of approval, maintain and operate a detached facility on any military installation located in the State of Oklahoma.

B. Definition. As used in this section, the following terms shall have the following meanings:

(1) "Bank" means any national bank or national banking association or any state bank or state banking association, whether organized under the laws of Oklahoma, or the laws of the United States, and located in the State of Oklahoma.

(2) "Military Banking Facility" means a detached facility maintained by a bank upon a military installation within the State of Oklahoma, provided such military banking facility must be within the confines of a military reservation and located upon property owned or leased by the United States Government.

C. Certificate to maintain military banking facilities - Notice and hearing - Injunction of prohibited activities.

(1) From and after the passage of this Code, no bank shall be permitted to maintain and operate such military banking facility, except on certificate issued by the Board. The issuance of such certificate shall rest solely in the discretion of the Commissioner and the Board.

(2) The application for a certificate to maintain and operate a military banking facility shall comply with the regulations of the Board. Within thirty (30) days after receipt of the application, the Commissioner shall report the results of his investigation to the Board. Notice of Hearing on the application shall be given in compliance with subsections C., D. and E. of Section 306. Within twenty (20) days after the conclusions of the hearing the Board shall, in its sole discretion, approve or deny the application and shall notify the applicant of its decision.

(3) No banking function shall be performed at the facility save that of accepting deposits, cashing checks, making change, selling

bank paper, such as bank drafts, cashier's checks, money orders, traveler's checks, etc., accepting payment for personal utility bills, redeeming and selling United States Savings Bonds, and such other services as the installation commander may request, in writing, of the bank. Upon the recommendation of the Commissioner, the Attorney General shall bring an appropriate action to enjoin a bank from conducting banking functions at such facility other than those herein granted.

(4) Any bank now validly operating a detached military banking facility prior to this Code shall be granted a certificate to continue its operation at such facility, but limited to the functions set out in subsection (3) above.

D. ~~Violation~~ Breach of Section 421 - Penalty therefor. A ~~violation~~ breach of any portion of this section shall be ~~and constitute a misdemeanor punishable upon conviction by~~ an administrative violation and subject to a fine of not ~~exceeding Five Hundred Dollars ($500.00)~~ more than One Thousand Dollars ($1,000.00). Each day's ~~violation~~ breach shall constitute a separate offense.

SECTION 127. AMENDATORY 6 O.S. 1991, Section 501.1, as amended by Section 1, Chapter 52, O.S.L. 1993 (6 O.S. Supp. 1994, Section 501.1), is amended to read as follows:

Section 501.1 A. Definitions. As used in this section:

1. "Bank" means any bank chartered under the laws of this state or any national bank which is authorized to engage in the banking business and is located in this state.

2. "Branch" means any place of business separated from the main office of a bank at which deposits are received, or checks paid, or money lent.

3. "Main Bank" means the office location which has been designated by the State Banking Commissioner or Comptroller of the Currency as the main office of a bank.

4. "Main office" means either the main bank or the main office location of a savings association.

5. "Savings association" means any savings and loan association or savings bank chartered under the laws of this state or any federal savings and loan association or savings bank which is authorized to engage in the savings and loan business and is located in this state.

6. "Savings association branch" means any place of business separated from the main office of a savings association at which deposits are received, or checks paid, or money lent.

B. Authorization to establish branches.

1. Any bank may establish and perform any banking function at no more than two branches on property owned or leased by the bank as follows:

a. located within the corporate city limits where the main bank is located; or

b. located within twenty-five (25) miles of the main bank if located in a city or town which has no state or national bank located in said city or town; provided however, if an application for a bank charter has been filed, the State Banking Board shall give priority to the charter application.

2. Neither the Board nor the Comptroller of the Currency shall grant a certificate for any branch unless it is more than three hundred thirty (330) feet from any main bank or branch in counties with a population of five hundred thousand (500,000) or more according to the 1980 Federal Decennial Census unless the branch is established with the irrevocable consent of such other bank. This distance limitation shall be determined by measuring along a straight line drawn between the nearest exterior wall of the appropriate main bank building or branch building and the nearest exterior wall of the branch bank or facility.

3. If at the time of acquisition of a bank pursuant to subsection D of this section no other state or national bank was located in the same city or town as the acquired bank, the Board or the Comptroller of the Currency shall not grant any other bank a certificate to establish a branch within such city or town for a period of five (5) years after the acquisition and operation of the branch.

C. Authorization to accept deposits at institutions of higher education. Any main bank, branch bank or savings association located in a county where an institution of higher education is located may open accounts and accept deposits for not to exceed three (3) days per year on the campus of the institution of higher education at an institution-sponsored event if permission is granted by the institution.

D. Authorization to branch by acquisition. Subject to the limitations in subsection E of this section, any bank may acquire and operate as branches of the bank at which any banking function may be performed an unlimited number of banks or savings associations or bank branches or savings association branches without restriction on location. Any such acquisition of a bank or savings association may include all of the assets and liabilities of the bank or savings association and all branches and facilities thereof which have been established prior to the date of the acquisition as determined by the Board or the Comptroller of the Currency.

If a bank or savings association acquired pursuant to this subsection had no outside-attached facilities or detached facilities permitted under Section 415 of this title or Section 381.24b of Title 18 of the Oklahoma Statutes at the time of acquisition, the acquiring bank may establish such facilities after the acquisition.

E. Deposit limitation.

1. It shall be unlawful for any bank to acquire any other bank or savings association in Oklahoma or any portion of its assets if such acquisition would result in the bank having direct or indirect ownership or control of more than eleven percent (11%) of the aggregate deposits of all financial institutions located in Oklahoma which have deposits insured by the Federal Deposit Insurance Corporation, and National Credit Union Administration as determined by the Commissioner on the basis of the most recent reports of such institutions to their supervisory authorities which are available at the time of the proposed acquisition.

2. The deposit limitation provided for in this subsection shall not apply to disallow an acquisition of a bank or savings association if control results only by reason of ownership or control of shares of a bank or savings association acquired directly or indirectly:

a. in a good faith fiduciary capacity, except when such shares are held for the benefit of the acquiring bank's shareholders; or

b. by a bank in the regular course of securing or collecting a debt previously contracted in good faith; or

c. at the request of or in connection with the exercise of regulatory authority for the purpose of preventing imminent failure of the bank or savings association or to protect the depositors thereof as determined by the principal supervisory agency in its sole discretion.

Provided, however, at the end of a period of five (5) years from the date of acquisition, for the circumstances set forth in subparagraphs b and c of this paragraph, the deposits of the acquired bank or savings association shall be included in computing the deposit limitation and if deposits are in excess, appropriate reductions and disposition shall be made within six (6) months to

meet such limitations. Further, in the circumstances set forth in subparagraph c of this paragraph, the Commissioner and the Federal Deposit Insurance Corporation shall give priority in authorizing any such acquisition to any acquiring bank whose total deposits do not exceed the deposit limitation.

F. Authorized acquisitions. Subject to the limitations in subsection E of this section, a bank for which the application for charter was granted after December 31, 1986, shall not be acquired by a bank and operated as a branch until such bank has been in existence and continuous operation for a period of more than five (5) years. Provided, however, the provisions of this subsection shall not prevent a bank from acquiring a bank to be operated as a branch whose charter was granted for the purpose of:

1. Purchasing the assets and assuming the liabilities of a bank closed by the Commissioner or the Comptroller of the Currency due to insolvency or impairment of capital; or

2. Acquiring or merging with an existing bank with an interim bank charter in accordance with the laws of this state or of the United States.

G. Certificate to establish and operate a branch.

1. No bank shall be permitted to establish or operate a branch except upon certificate issued by the Board or Comptroller of the Currency.

2. The application for a certificate to establish or operate a branch of a state bank shall comply with the regulations of the Board. Within thirty (30) days after receipt of the application, the Commissioner shall report the results of his investigation to the Board. Notice of hearing on the application shall be given in compliance with Section 306.1 of this title. Within twenty (20) days after the conclusion of the hearing, the Board, in its sole discretion, shall approve or deny the application and shall notify the applicant of its decision. An application fee may be assessed

in an amount set by rule of the Board, not to exceed the fee amount set by the Comptroller of the Currency for national bank branch applications.

H. Right to operate and maintain facilities. The provisions of this section shall not be construed in derogation or denial of the right to operate and maintain facilities as provided for in Sections 421 and 422 of this title.

I. Sanctions. A ~~violation~~ breach of any portion of this section~~, upon conviction, shall be a misdemeanor punishable by~~ is an administrative violation subject to a fine of not ~~exceeding Five Hundred Dollars ($500.00)~~ more than One Thousand Dollars ($1,000.00). Each day's ~~violation~~ breach shall constitute a separate offense.

SECTION 128. AMENDATORY 6 O.S. 1991, Section 502, as amended by Section 9, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1994, Section 502), is amended to read as follows:

Section 502. A. Citation - Purpose. This section may be cited as the "Bank Holding Company Section" and shall have for its purpose the maintenance of competitive services between banks by limiting the expansion of bank holding companies and similar organizations. It is deemed to be in the public interest that competition prevail in the banking system in the State of Oklahoma and to that end that the independence of unit banks be preserved. Further, it shall be the policy of the State of Oklahoma to oppose any attempt by any bank holding company to acquire control of any bank located in this state if such acquisition would result in a monopoly or in an attempt to monopolize the business of banking in this state.

B. Definitions. As used in this section the following terms shall have the following meanings:

1. "Bank" means any national banking association or any state bank or banking association, whether organized under the laws of Oklahoma, the laws of another state, or the laws of the United

States, authorized to engage in the banking business and located in the State of Oklahoma;

2. "Company" means any corporation, association, partnership, business trust or similar organization, but shall not include any corporation, the majority of the shares of which are owned by the United States or by any state;

3. "Banking company" means any bank;

4. "Bank holding company" means any company which directly or indirectly owns or controls at least one bank;

5. "Multi-bank holding company" means a company which directly or indirectly owns or controls two or more banks, two or more bank holding companies, or one or more of each;

6. "Subsidiary" with respect to a specified bank holding company or multi-bank holding company means:

a. any bank or company, twenty-five percent (25%) or more of whose voting shares is owned or controlled by such bank holding company or multi-bank holding company, or

b. any bank or company, the election of a majority of whose directors is controlled in any manner by such bank holding company or multi-bank holding company, or

c. any bank or company, twenty-five percent (25%) or more of whose voting shares is held by trustees for the benefit of the shareholders or members of such bank holding company or multi-bank holding company, or

d. any nonbanking company which a bank holding company or multi-bank holding company is allowed to acquire control or ownership of pursuant to the provisions of Sections 1841 et seq. of Title 12 of the United States Code Annotated;

7. For purposes of this section, a company has "direct or indirect ownership or control" of a bank or of another company if the company directly or indirectly, or acting through one or more

persons, owns, controls, or has power to vote twenty-five percent (25%) or more of any class of voting securities of the bank or other company. For this purpose:

a. voting shares owned or controlled by any subsidiary of a company shall be deemed to be indirectly owned or controlled by said company, and

b. voting shares held or controlled directly or indirectly by trustees for the benefit of a company, the shareholders or members of a company, or employees of a company shall be deemed to be controlled by said company;

8. If the company controls in any manner the election of a majority of the directors or trustees of the bank or another company, such bank or other company shall be deemed to be directly or indirectly owned or controlled by said company; and

9. For purposes of this section, the company has control if the company has control under the provisions of the federal "Bank Holding Company Act of 1956" (Public Law 84-511) as amended or in accordance with the provisions of the regulations promulgated thereto by the Board of Governors of the Federal Reserve System; the procedures for determining the rebuttable presumption of control, under the terms of either said Act or the regulations promulgated thereto, shall be the same as provided in said Act or regulations.

C. Multi-bank holding companies authorized. From and after October 1, 1983, a company may be a multi-bank holding company and have direct or indirect ownership or control of two or more banks or bank holding companies, subject to the deposit limitation provided for in subsection D of this section; provided that except as specifically permitted in this Code, all forms of direct or indirect ownership or control of banks, bank holding companies, and multi-bank holding companies by any foreign bank or foreign bank holding company shall be prohibited.

D. Limitation. From and after October 1, 1983, it shall be unlawful for a multi-bank holding company to acquire direct or indirect ownership or control of any financial institution insured by the Federal Deposit Insurance Corporation (FDIC), Federal Savings and Loan Insurance Corporation (FSLIC), and National Credit Union Administration (NCUA) and located in this state if such acquisition results in the multi-bank holding company having direct or indirect ownership or control of banks located in this state, the total deposits of which at the time of such acquisition exceed eleven percent (11%) of the aggregate deposits of all financial institutions insured by the Federal Deposit Insurance Corporation (FDIC), Federal Savings and Loan Insurance Corporation (FSLIC), and National Credit Union Administration (NCUA) as determined by the Commissioner on the basis of the most recent reports of such institutions in Oklahoma to their supervisory authorities which are available at the time of the proposed acquisition. Multi-bank holding company acquisitions of other multi-bank holding companies shall not be exempt from this limitation.

E. Board of Directors requirements. The Board of Directors of each bank acquired by a multi-bank holding company shall have no less than a majority of the total membership of the Board of Directors of the bank from the local area in which the bank is located.

F. Exceptions to deposit limitation. The deposit limitation provided for in subsection D of this section shall not apply in the following circumstances:

1. Control of a bank by reason of ownership or control of shares acquired by a bank or by a bank holding company in good faith in a fiduciary capacity, except where such shares are held for the benefit of the shareholders of such bank or such bank holding company; or

2. Control of a bank by reason of ownership or control of shares acquired by a bank or by a bank holding company in the regular course of securing or collecting a debt previously contracted in good faith. The deposits of the acquired bank shall not be included in computing the appropriate deposit limitation set forth in subsection D of this section for a period of five (5) years from the date of acquisition; or

3. The acquisition of direct or indirect ownership or control of a bank or bank holding company at the request of or in connection with the exercise of regulatory authority by the Commissioner, the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System for the purpose of preventing imminent failure of the bank or to protect the depositors thereof as determined by such authority in its sole discretion. The deposits of the acquired bank shall not be included in computing the appropriate deposit limitation as set forth in subsection D of this section for a period of five (5) years from the date of acquisition. The regulatory authority shall give acquisition priority to qualified purchasers or bidders whose total deposit control at the time of acquisition does not exceed the appropriate deposit limitation as set forth in subsection D of this section.

G. Limitation on acquisitions. A bank for which the application for charter was filed, received, or granted by the appropriate authorizing agency after July 1, 1983, shall not be acquired by a multi-bank holding company for a period of five (5) years. Provided however, the provisions of this subsection shall not prevent a multi-bank holding company from directly or indirectly acquiring a bank whose charter was granted for the purpose of purchasing the assets and assuming the liabilities of a bank closed by the Commissioner or the Comptroller of the Currency due to insolvency or impairment of capital.

H. De novo charter prohibition. A bank holding company or a multi-bank holding company shall not apply for or obtain a de novo charter except for the following purposes:

1. Purchasing the assets and assuming the liabilities of a bank closed by the Commissioner or the Comptroller of the Currency due to insolvency or impairment of capital; or

2. In the case of a bank holding company, merging with an existing bank subsidiary or subsidiaries of said bank holding company in accordance with the laws of this state or of the United States and subject to the following provisions:

a. a bank holding company may apply for and obtain only one de novo charter for the purpose of merging with an existing bank subsidiary or subsidiaries pursuant to this subsection, and

b. the de novo chartered bank shall be the survivor of any such merger, and

c. the de novo chartered bank shall be the main banking office of the merged banks, and

d. the deposit limitations provided for in subsections D of this section and Section 501.1 of this title shall be applicable to any such merger, and

e. the de novo chartered bank shall have branching authority under subsections B and C of Section 501.1 of this title.

A company shall not be deemed to be a bank holding company for purposes of this section until it owns or controls a bank which has received a charter from the Banking Board of this state, the Comptroller of the Currency or a foreign country.

I. Interim charters. A bank holding company or a multi-bank holding company may apply for and obtain an interim charter to organize an interim state bank for the purpose of facilitating the creation of a bank holding company, or acquiring or merging with an

existing bank in accordance with the provisions of Section 502.1 of this title or the laws of the United States.

J. Acquisition approval - Reports. A national bank in this state, bank holding company, or multi-bank holding company seeking to acquire a state bank or national bank in this state, or a nonbanking company that submits an application for approval of such acquisition to the Board of Governors of the Federal Reserve System pursuant to the provisions of Sections 1841 et seq. of Title 12 of the United States Code Annotated shall also submit a copy of such application to the Board.

K. Jurisdiction - Appeals. The district court shall have jurisdiction to determine all questions of compliance with the provisions of this section, except such jurisdiction shall not apply to actions of the Board or proceedings before the Board conducted pursuant to the Banking Code. The decision of the district court shall be appealable to the Supreme Court in the same manner as in other civil cases.

L. Reports and examinations. Each bank holding company and multi-bank holding company which directly or indirectly owns, controls, or has power to vote twenty-five percent (25%) or more of the voting shares of one or more banks shall furnish a copy of the annual report of the operations of the bank holding company or multi-bank holding company which is submitted to the Federal Reserve Bank for each fiscal year to the Commissioner.

M. Penalties. Any company which ~~intentionally and willfully violates~~ breaches any provision of this section~~, upon conviction,~~ shall be ~~fined not less than Five Hundred Dollars ($500.00) nor~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each day during which the ~~violation~~ breach continues. Any individual who ~~intentionally and willfully~~ participates in a ~~violation~~ breach of any provision of this section~~, upon conviction,~~ shall be ~~fined~~

liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) ~~or imprisoned not more than one (1) year, or both such fine and imprisonment~~.

SECTION 129. AMENDATORY 6 O.S. 1991, Section 505, is amended to read as follows:

Section 505. A. Scope. The provisions of this section shall apply to the operations, activities, and acquisitions of in-state banks, Oklahoma bank holding companies, and Oklahoma multi-bank holding companies acquired by a foreign bank holding company prior to July 1, 1987.

B. Prohibited transactions. The provisions of this section shall not be construed to permit any in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company which becomes a subsidiary of a foreign bank or foreign bank holding company under the extraordinary acquisition provisions of 12 U.S.C. Section 1823(f) or any successor statute thereto, or which was acquired by a foreign bank holding company prior to July 1, 1987, or which is otherwise deemed to be controlled by a foreign bank or foreign bank holding company under the Oklahoma Banking Code of 1965, Section 101 et seq. of this title, or the federal Bank Holding Company Act of 1956, Section 1841 et seq. of Title 12 of the United States Code, as amended, to convert to a branch or to acquire direct or indirect ownership or control of any additional in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company, or to establish additional branches or facilities, except as otherwise provided for in this section; provided, however, the provisions of this paragraph shall not be applicable to any additional acquisitions of an in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company whose stock is held as stock acquired in the course of realizing upon a security interest which secured a debt previously contracted in good faith prior to the original acquisition by the foreign bank holding company.

C. Branching, acquisition, and conversion by subsidiaries. On and after July 1, 1987, any in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company which becomes a subsidiary of a foreign bank holding company under the extraordinary acquisition provisions of 12 U.S.C. Section 1823(f) or any successor statute thereto, or which was acquired by a foreign bank holding company prior to July 1, 1987, or which is otherwise deemed to be controlled by a foreign bank holding company under the Oklahoma Banking Code of 1965 or the federal Bank Holding Company Act of 1956, as amended, may acquire direct or indirect ownership or control of any additional in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company, establish additional branches or facilities, or convert to a branch of an in-state bank:

(1) if the State Banking Department has determined that the principal place of business of the foreign bank holding company has enacted and implemented legislation that qualifies that state as a reciprocal banking state within the purview of Section 506 of this title, or

(2) upon the expiration of a four-year period commencing on the date of acquisition by the foreign bank holding company.

Any conditions, restrictions, and requirements applicable to the bank subsidiaries of an Oklahoma bank holding company or Oklahoma multi-bank holding company in the state where the foreign bank holding company has its principal place of business which are more restrictive than those applicable to banks and bank holding companies in that state, if such state has enacted and implemented legislation authorizing the acquisition by an Oklahoma bank holding company or Oklahoma multi-bank holding company of banks or bank holding companies located in that state, shall apply to an in-state bank, Oklahoma bank holding company, or Oklahoma multi-bank holding

company which is a subsidiary of such foreign bank holding company. All limitations and restrictions of the Oklahoma Banking Code of 1965 applicable to in-state banks, Oklahoma bank holding companies, and Oklahoma multi-bank holding companies shall apply to an in-state bank, Oklahoma bank holding company, or Oklahoma multi-bank holding company which is a subsidiary of a foreign bank holding company. The provisions of this subsection shall not be construed to prohibit a foreign bank holding company which acquired an in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company prior to July 1, 1987, from acquiring additional failed or failing banks pursuant to Section 506 of this title.

D. Divestiture. The Banking Board shall have the power to enforce the prohibitions provided for in subsection B of this section by requiring divestiture and through the imposition of fines and penalties, the issuance of cease and desist orders, and such other remedies as are provided by law.

E. Penalties. Any company which ~~intentionally and willfully violates~~ breaches any provision of this section~~, upon conviction,~~ shall be ~~fined not less than Five Hundred Dollars ($500.00) nor~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each day during which the ~~violation~~ breach continues. Any individual who ~~intentionally and willfully~~ participates in a ~~violation~~ breach of any provision of this section~~, upon conviction,~~ shall be ~~fined~~ liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) ~~or imprisoned not more than one (1) year, or both such fine and imprisonment~~.

F. Judicial review. Any final order of the Banking Board shall be appealable pursuant to the provisions of Section 207 of this title.

SECTION 130. AMENDATORY 6 O.S. 1991, Section 506, is amended to read as follows:

Section 506. A. Authorization for acquisition. On and after July 1, 1987, a foreign bank holding company, upon approval by the Federal Reserve Board, may acquire an unlimited number of in-state banks, Oklahoma bank holding companies and Oklahoma multi-bank holding companies, including any in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company which could have been acquired under Section 505 of this title prior to July 1, 1987. Any acquisition made pursuant to the provisions of this section may include assets and liabilities of the bank, Oklahoma bank holding company or Oklahoma multi-bank holding company and all branches and facilities thereof.

B. Prohibited transactions. The provisions of this section shall not be construed to:

(1) Permit any in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company which becomes a subsidiary of a foreign bank holding company under the extraordinary acquisition provisions of 12 U.S.C. Section 1823(f) or any successor statute thereto, or which is otherwise deemed to be controlled by a foreign bank holding company under the Oklahoma Banking Code of 1965, Section 101 et seq. of this title, or the federal Bank Holding Company Act of 1956, Section 1841 et seq. of Title 12 of the United States Code, as amended, to convert to a branch or to acquire direct or indirect ownership or control of any additional in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company, or to establish additional branches or facilities, except as otherwise provided for in this section; or

(2) Permit any foreign bank holding company to acquire any in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company, except as otherwise permitted by this section.

C. Bid procedures. The bid procedure for the acquisition of a bank that has been closed due to insolvency or impairment of capital shall be as follows:

The Federal Deposit Insurance Corporation shall set minimum bid requirements for assets and liabilities of the bank subject to acquisition. The Federal Deposit Insurance Corporation's calculations and estimates of the minimum bid requirements shall be determinative. Bids for such assets and liabilities shall be solicited exclusively from in-state banks, Oklahoma bank holding companies, Oklahoma multi-bank holding companies, individuals and groups of individuals. The Federal Deposit Insurance Corporation may solicit such bids as are practicable from prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring assets and liabilities of the bank. If the minimum bid requirements are met by any of such entities, the bank shall be acquired by the bidder whose bid was determined by the Federal Deposit Insurance Corporation, in its sole discretion, to be the least costly and most acceptable bid from among those submitted. If the minimum bid requirements are not met by any of such entities, the Federal Deposit Insurance Corporation shall extend the solicitation for bids to include foreign bank holding companies determined by the Federal Deposit Insurance Corporation to be qualified bidders.

D. Approval of acquisition. No acquisition provided for in this section shall be permitted unless the approval of the Federal Reserve Board required pursuant to subsection A of this section:

(1) Includes, for all acquisitions, a finding that:

(a) the in-state bank sought to be acquired or all of the bank subsidiaries of the Oklahoma bank holding company or Oklahoma multi-bank holding company sought to be acquired have either been in existence and continuous operation for more than five (5) years or were chartered before May 7, 1986, and

(b) notice of intent to acquire has been published in a newspaper of general paid circulation in the county or

counties where the bank or banks to be acquired are located and that a notice of intent to acquire has been mailed by certified mail with return receipt requested to each person owning stock in the in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company to be acquired, and

(c) the reports required by the Federal Reserve Board in order to assess the foreign bank holding company's record of meeting the credit needs of its entire community as required under the provisions of Section 2903 of Title 12 of the United States Code have been placed on file as a matter of public record with the Oklahoma Banking Department, and

(d) the in-state bank and, if acquired indirectly, its Oklahoma bank holding company or Oklahoma multi-bank holding company immediately after the acquisition meets the capital adequacy guidelines of the appropriate federal financial supervisory agency; and

(2) Includes, for any acquisition of a majority of the voting shares, a finding that the acquisition has been approved by the board of directors and a majority of the voting shares of the in-state bank or of its parent Oklahoma bank holding company or Oklahoma multi-bank holding company; and

(3) Subjects the acquisition to any conditions, restrictions, and requirements applicable to the acquisition by an Oklahoma bank holding company or Oklahoma multi-bank holding company of a bank or bank holding company in the state where the foreign bank holding company has its principal place of business which are more restrictive than those applicable to banks and bank holding companies in that state, if such state has enacted and implemented legislation authorizing the acquisition by an Oklahoma bank holding

company or Oklahoma multi-bank holding company of banks or bank holding companies located in that state; and

(4) Except when the additional acquisition is of an in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company whose stock is held as stock acquired in the course of realizing upon a security interest which secured a debt previously contracted in good faith prior to the original acquisition by the foreign bank holding company, prohibits additional branching and further acquisitions by an in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company which is a subsidiary of a foreign bank holding company unless and until the earlier of:

(a) such time as the Federal Reserve Board determines that the state in which the foreign bank holding company has its principal place of business has enacted and implemented legislation authorizing Oklahoma bank holding companies or Oklahoma multi-bank holding companies to acquire banks and bank holding companies in that state on a reciprocal basis, or

(b) the expiration of a four-year period commencing on the date of acquisition by the foreign bank holding company.

E. Branching, acquisition, and conversion by subsidiaries. On and after July 1, 1987, any in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company which becomes a subsidiary of a foreign bank holding company under the extraordinary acquisition provisions of 12 U.S.C. Section 1823(f) or any successor statute thereto, or which is otherwise deemed to be controlled by a foreign bank holding company under the Oklahoma Banking Code of 1965 or the federal Bank Holding Company Act of 1956, as amended, may acquire direct or indirect ownership or control of any additional in-state bank, Oklahoma bank holding company or Oklahoma multi-bank

holding company, establish additional branches or facilities, or convert to a branch of an in-state bank:

(1) if the State Banking Department has determined that the principal place of business of the foreign bank holding company has enacted and implemented legislation that qualifies that state as a reciprocal banking state within the purview of this section, or

(2) upon the expiration of a four-year period commencing on the date of acquisition by the foreign bank holding company.

F. Limitations and restrictions. All limitations and restrictions of the Oklahoma Banking Code of 1965 applicable to in-state banks, Oklahoma bank holding companies and Oklahoma multi-bank holding companies shall apply to an in-state bank, Oklahoma bank holding company or Oklahoma multi-bank holding company which becomes a subsidiary of a foreign bank holding company and to such foreign bank holding company. In addition, any in-state bank which becomes a subsidiary of a foreign bank holding company shall maintain current reports showing the in-state bank's record of meeting the credit needs of its entire community as required by the in-state bank's federal financial supervisory agency under Section 2903 of Title 12 of the United States Code on file as a matter of public record with the Oklahoma Banking Department. The provisions of this subsection shall not be construed to prohibit the acquisition by a foreign bank holding company of all or substantially all of the shares of an in-state bank organized solely for the purpose of facilitating the acquisition of an in-state bank or all of the bank subsidiaries of an Oklahoma bank holding company or Oklahoma multi-bank holding company which have either been in existence and continuous operation for more than five (5) years or were chartered before May 7, 1986, if the acquisition has otherwise been approved pursuant to this subsection. Nor shall the provisions of this subsection be construed to prohibit a foreign bank holding company which acquires an in-state bank, Oklahoma bank holding company or

Oklahoma multi-bank holding company under this section from additional acquisitions under this section, if such acquisitions would otherwise be permitted.

G. Applicable law. Any foreign bank holding company which controls an in-state bank, an Oklahoma bank holding company or Oklahoma multi-bank holding company shall be subject to laws of this state and rules of its agencies relating to the acquisition, ownership, and operation of in-state banks, Oklahoma bank holding companies and Oklahoma multi-bank holding companies.

H. Regulatory supervision. The Banking Board may enter into cooperative agreements with other bank regulatory agencies to facilitate the regulation of banks and bank holding companies doing business in this state. The Bank Commissioner may accept reports of examinations and other records from such other agencies in lieu of conducting its own examinations of banks controlled by foreign bank holding companies. The Board may take any action jointly with other regulatory agencies having concurrent jurisdiction over banks and bank holding companies doing business in this state or may take such actions independently in order to carry out its responsibilities.

I. Divestiture. The Banking Board shall have the power to enforce the prohibitions provided for in subsection B of this section by requiring divestiture and through the imposition of fines and penalties, the issuance of cease and desist orders, and such other remedies as are provided by law.

J. Penalties. Any company which ~~intentionally and willfully violates~~ breaches any provision of this section~~, upon conviction,~~ shall be ~~fined not less than Five Hundred Dollars ($500.00) nor~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each day during which the ~~violation~~ breach continues. Any individual who ~~intentionally and willfully~~ participates in a ~~violation~~ breach of any provision of this section~~, upon conviction,~~ shall be ~~fined~~

liable for an administrative violation and subject to fine of not more than Ten Thousand Dollars ($10,000.00) ~~or imprisoned not more than one (1) year, or both such fine and imprisonment~~.

K. Judicial review. Any final order of the Banking Board shall be appealable pursuant to the provisions of Section 207 of this title.

SECTION 131. AMENDATORY 6 O.S. 1991, Section 808, is amended to read as follows:

Section 808. A. Prohibition against political expenditures. It is unlawful for any bank to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any candidate, political committee, or for any other person to accept or receive any contribution prohibited by this section (Section 808A).

B. Penalties. Every bank which makes any contribution or expenditure in violation of this section (Section 808A) ~~shall be fined not more than Five Thousand Dollars ($5,000.00)~~; and every officer or director of any bank who consents to any such contribution or expenditure by the bank~~, and any person who accepts or receives any such contribution, shall be fined not more than One Thousand Dollars ($1,000.00) or imprisoned not more than one (1) year, or both; and if the violation was willful shall be fined not more than Ten Thousand Dollars ($10,000.00) or imprisoned not more than two (2) years, or both~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 132. AMENDATORY 6 O.S. 1991, Section 809, as amended by Section 12, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1994, Section 809), is amended to read as follows:

Section 809. A. Except as provided in Section 411 of this Code, no bank, banker or bank official shall give preference to any

depositor or creditor by pledging the assets of the bank as collateral security. ~~No bank, banker or bank official shall sell or transfer any of the assets of any insolvent bank in consideration of any deposit in such bank.~~ Any officer, director or employee of any bank who ~~violates~~ breaches any provision of this section shall be ~~guilty of a felony and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars ($100.00), nor more than One Thousand Dollars ($1,000.00), or by imprisonment in the State Penitentiary for not less than one (1) year, nor more than five (5) years, or by both such fine and imprisonment~~ liable for an administrative violation and subject to a fine of not more than Twenty Thousand Dollars ($20,000.00).

B. No attachment, injunction, execution or other recordation which constitutes a lien under the laws of this state upon the property of a bank created, organized or existing under or by virtue of the laws of this state, shall be issued against such a bank or its property before final judgment in any suit, action or proceeding in any federal, state, county or municipal court. As used in this subsection, "final judgment" shall mean a judgment on the merits from which no appeal can be taken or the time in which to file an appeal has elapsed and not merely a judgment rendered.

C. The Banking Board shall have the authority, pursuant to Section 203 of this title, to order or seek injunction over any person, as defined in Section 103 of this title, to cease and desist violating any of the provisions of this section.

SECTION 133. AMENDATORY 6 O.S. 1991, Section 906, is amended to read as follows:

Section 906. A. When a deposit has been made in a bank in the name of a sole individual without designation of a payable on-death beneficiary, upon the death of the sole owner of the account if the amount of the aggregate deposits held in single ownership accounts in the name of the deceased individual is Two Thousand Dollars

($2,000) or less, the bank may transfer the funds to the known heirs of the deceased upon receipt of an affidavit sworn to by the known heirs of the deceased which establishes jurisdiction and relationship and states that the owner of the account left no will. Said affidavit shall be sworn to and signed by the known heirs of the deceased and the same shall swear that the facts set forth in the affidavit establishing jurisdiction, heirship and intestacy are true and correct.

B. Receipt by the bank of the affidavit described in subsection A shall be a valid and sufficient release and discharge to the bank for any transfer of deposits made pursuant thereto and shall set to discharge the bank from liability as to any other party, including any heir, legatee, devisee, creditor or other person having rights or claims to funds or property of the decedent, and include a discharge of the bank from liability for any estate, inheritance or other taxes which may be due the state from the estate or as a result of the transfer.

C. Any person who knowingly submits and signs a false affidavit as provided in this section shall be ~~fined not more than Three Thousand Dollars ($3,000.00) or imprisoned for not more than six (6) months, or both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Restitution of the amount fraudulently attained shall be made to the rightful beneficiary by the guilty person.

SECTION 134. AMENDATORY 6 O.S. 1991, Section 1003, is amended to read as follows:

Section 1003. A. No trust company shall advertise to furnish to the public legal services pertaining to the execution of trusts set forth in Section 1001 of this Code, or to the issuance of securities. No trust company shall advertise to furnish or furnish to the public legal advice or practice or hold itself out as practicing law.

B. Any trust company whose officers or agents solicit legal business shall be liable for an administrative violation and subject to a fine of not ~~to exceed~~ more than One Thousand Dollars ($1,000.00).

SECTION 135. AMENDATORY 6 O.S. 1991, Section 1024, is amended to read as follows:

Section 1024. A. For the purposes of this section:

1. "Control" means the power, directly or indirectly, to direct the management or policies of a trust company or to vote twenty-five percent (25%) or more of any class of voting securities of a trust company;

2. "Person" means an individual, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated association, or any other entity not specifically listed; and

3. "Trust company" shall not include any trust department of banks authorized to engage in the trust company business.

B. No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any trust company through a purchase, assignment, transfer, pledge, or other disposition of voting stock of such trust company unless the State Bank Commissioner has been given sixty (60) days' prior written notice of such proposed acquisition and within that time period the Commissioner has not issued a notice disapproving the proposed acquisition or extending for up to another thirty (30) days the period during which such disapproval may be issued. The period for disapproval may be further extended if the Commissioner determines that any acquiring party has not furnished all the information required under subsection F of this section or that in the judgment of the Commissioner any material information submitted is substantially inaccurate. An acquisition may be made prior to

expiration of the disapproval period if the Commissioner issues written notice of his intent not to disapprove the action.

C. Upon receiving any notice under this section, the Commissioner shall forward a copy thereof to interested persons unless the Commissioner determines that he must act immediately upon said notice in order to prevent the probable failure of the trust company involved in the proposed acquisition.

D. Within ten (10) days after his decision to disapprove any proposed acquisition, the Commissioner shall notify the acquiring party in writing of the disapproval.

E. Within ten (10) days of receipt of such notice of disapproval, the acquiring party may request a hearing before the State Banking Board on the proposed acquisition. At the conclusion thereof, the Board shall by order approve or disapprove the proposed acquisition on the basis of the record made at the hearing.

F. Any person whose proposed acquisition is disapproved after agency hearings under this section may obtain review by the Supreme Court by filing a notice of appeal in such court within ten (10) days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the State Banking Board. The Board shall certify and file in the court the record upon which the disapproval was based. The findings of the Board shall be set aside if found to be arbitrary or capricious.

G. Except as otherwise provided by regulation of the State Banking Board, a notice filed pursuant to this section shall contain the following information:

1. The name, address, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five (5) years, and a description of any material pending legal or administrative proceedings in which he

is a party and any criminal indictment or conviction of such person by a state or federal court;

2. A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five (5) fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety (90) days prior to the date of the filing of the notice;

3. The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made;

4. The identity, source and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons;

5. Any plans or proposals which any acquiring party making the acquisition may have to liquidate the trust company, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management;

6. The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation;

7. Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition; and

8. Any additional relevant information in such form as the Board may require by regulation or by specific request in connection with any particular notice.

H. The Commissioner may disapprove any proposed acquisition upon finding that:

1. The proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize in any part of the United States;

2. The effect of the proposed acquisition of control in any section of the country may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

3. The financial condition of any acquiring person is such as might jeopardize the financial stability of the trust company or prejudice the interests of any depositors of the trust company;

4. The competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the trust company, or in the interest of the public to permit such person to control the trust company; or

5. Any acquiring person neglects, fails, or refuses to furnish the Commissioner all the information required by the Commissioner.

I. Any person who ~~willfully violates~~ breaches any provision of this section, or any regulation or order of the State Bank

Commissioner or State Banking Board pursuant thereto, shall ~~forfeit and pay a civil penalty~~ be liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) per day for each day during which such violation continues. The Board shall have authority to assess such a civil penalty, after giving notice and an opportunity to the person to submit data, views, and arguments, and after giving due consideration to the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, and any data, views, and arguments submitted. The State Bank Commissioner may collect such civil penalty by agreement with the person or by bringing an action in the appropriate district court, except that in any such action, the person against whom the penalty has been assessed shall have a right to trial de novo.

SECTION 136. AMENDATORY 6 O.S. 1991, Section 1401, is amended to read as follows:

Section 1401. It shall be unlawful for any person, firm, association or corporation to receive money upon deposit or transact a banking business except as authorized by the laws of this state or of the United States, or to use or advertise, in connection with any business other than the banking business, conducted under the banking laws of this state or the savings and loan business conducted under the savings and loan laws of this state, the words: Bank, Banker, Bankers, Investment Banker, or any other word or term calculated to deceive the public into belief that such person, firm, association or corporation is engaged in the banking business or savings and loan business. Any person, firm, association or corporation ~~violating~~ breaching any of the provisions of this section, either individually or as an interested party, in any firm, association or corporation, shall be ~~guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than Six~~

~~Hundred Dollars ($600.00), nor~~ liable for an administrative violation and subject to a fine of not more than Two Thousand Dollars ($2,000.00) per ~~violation, or by imprisonment in the county jail not less than thirty (30) days or more than one (1) year, or by both such fine and imprisonment, and it is hereby made the duty of the Attorney General to enforce the provisions of this section~~ breach.

SECTION 137. AMENDATORY 6 O.S. 1991, Section 1402, is amended to read as follows:

Section 1402. It shall be ~~unlawful~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person, firm, association or corporation except state banks having trust powers, national banking associations located in this state and having trust powers and trust companies incorporated under the laws of this state and having trust powers to use or advertise the word "Trust" or "Trust Company" in the conduct of their business in a manner calculated to deceive the public into belief that such person, firm, association or corporation has been authorized to transact business as a regulated financial institution and no firm, association or corporation hereafter organized under any other act shall use the word "Trust" or "Trust Company" as a part of its name; provided, however, that nothing herein shall prohibit the continued use of such words by any banking corporation which is using such words as of the effective date of this act.

SECTION 138. AMENDATORY 6 O.S. 1991, Section 1403, is amended to read as follows:

Section 1403. A. It is ~~unlawful~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to use the words "safe deposit," "safety deposit" or other words deceptively similar thereto, in connection with the rental of storage space, or in the title or name under which business was done, unless he is:

(1) a person subject to the jurisdiction of the Banking Department of this state;

(2) a manufacturer or dealer in safe deposit facilities or equipment;

(3) an association, the membership of which is composed of officers or institutions subject to the jurisdiction of the Banking Department of this or other states.

SECTION 139. AMENDATORY 6 O.S. 1991, Section 1405, is amended to read as follows:

Section 1405. A. It shall be ~~unlawful~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for an affiliate of a bank or trust company or for an officer, director or employee of a bank or trust company or affiliate of a bank or trust company:

(1) To solicit, accept or agree to accept, directly or indirectly, from any person other than the institution any gratuity, compensation or other personal benefit for any action taken by the institution or for endeavoring to procure any such action.

(2) To have any interest, directly or indirectly, in the proceeds of a loan or of a purchase or sale made by the bank, unless such loan, purchase or sale is expressly authorized by this Code or by rule of the Board and is specifically approved by vote of a majority of the Board. Provided, no interested director or trustee shall take part in such vote.

(3) To have any interest, directly or indirectly, in the purchase at less than its face value of any evidence of indebtedness issued by the institution.

B. In this section the term "affiliate" shall include:

(1) Any person who holds a majority of the stock of a bank or has been determined by the Board to hold a controlling interest therein, any other corporation in which such person owns a majority of the stock and any partnership in which he has an interest.

(2) Any corporation in which the institution or an officer, director or employee thereof holds a majority of the stock and any partnership in which such person has an interest.

(3) Any corporation of which a majority of the directors are officers, directors or employees of the institution or of which officers, directors, trustees or employees constitute a majority of the directors of the institution.

SECTION 140. AMENDATORY 6 O.S. 1991, Section 1406, as amended by Section 7, Chapter 295, O.S.L. 1992 (6 O.S. Supp. 1994, Section 1406), is amended to read as follows:

Section 1406. It shall be ~~unlawful~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for a bank to receive any deposit after the bank has been notified by its primary regulator that it is insolvent or for an officer, director or employee ~~who knows or,~~ in the proper performance of his duty, ~~should know of the notification of such insolvency~~ to receive or authorize the receipt of such deposit, if such deposit, when aggregated together with other funds held by the depositor in the same right and capacity, would exceed the limit of federal deposit insurance coverage.

SECTION 141. AMENDATORY 6 O.S. 1991, Section 1407, is amended to read as follows:

Section 1407. It is ~~unlawful~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to serve as an officer or director of a bank who:

(1) has been convicted of an offense constituting in the jurisdiction in which the conviction was rendered a violation of the banking laws, a felony involving dishonesty or a breach of trust.

(2) is indebted to the bank for more than thirty (30) days upon a judgment that has become final.

SECTION 142. AMENDATORY 6 O.S. 1991, Section 1408, is amended to read as follows:

Section 1408. It shall be ~~a criminal offense~~ prohibited for any person to serve as Commissioner, Deputy Commissioner, Administrative Assistant or Assistant Bank Commissioner, of the State Banking Department who has been convicted of an offense constituting, in the jurisdiction in which the conviction was had, a violation of the banking laws, a felony involving dishonesty or a breach of trust.

SECTION 143. AMENDATORY 6 O.S. 1991, Section 1409, is amended to read as follows:

Section 1409. It shall be ~~unlawful~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for an officer, director, employee, attorney, or agent of a bank or trust company to conceal or endeavor to conceal any transaction of the bank or trust company from any officer, director or employee of the bank or trust company or any official or employee of the department to whom it should be properly disclosed.

SECTION 144. AMENDATORY 6 O.S. 1991, Section 1410, is amended to read as follows:

Section 1410. It shall be ~~unlawful~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for an officer, director, employee or agent of a bank or trust company:

(1) to maintain or authorize the maintenance of any account of the bank or trust company in a manner which, to his knowledge, does not conform to the requirements prescribed by this Code or by the Commissioner or the Board.

(2) with intent to deceive, to make any false or misleading statement or entry or omit any statement or entry that should be made in any book, account, report or statement of the institution.

(3) to obstruct or endeavor to obstruct a lawful examination of the institution by an officer or employee of the Department.

SECTION 145. AMENDATORY 6 O.S. 1991, Section 1411, is amended to read as follows:

Section 1411. It shall be ~~unlawful~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for a bank or trust company to pay a fine or penalty imposed by law upon any other person or any judgment against such person or to reimburse directly or indirectly any person by whom such fine, penalty or judgment has been paid, except in settlement of its own liability or in connection with the acquisition of property against which such judgment is a lien, or as provided in Section 420.

SECTION 146. AMENDATORY 6 O.S. 1991, Section 1414, is amended to read as follows:

Section 1414. A. ~~Any person responsible for an act or omission expressly declared to be unlawful or a criminal offense by this Code shall be guilty:~~

~~(1) of a misdemeanor punishable by imprisonment for a term not exceeding one (1) year or a fine not exceeding Fifty Thousand Dollars ($50,000.00), or both.~~

~~(2) if the act or omission was intended to defraud, of a felony punishable by imprisonment not exceeding five (5) years or a fine not exceeding One Hundred Thousand Dollars ($100,000.00), or both.~~

~~B.~~ An officer, director, employee, agent or attorney of a bank or trust company shall be responsible for an act or omission of the institution declared to be ~~a criminal offense~~ an administrative violation against this Code whenever, knowing that such act or omission is unlawful, he participates in authorizing, executing, ratifying or concealing such act, or in authorizing or ratifying such omission or, having a duty to take the required action, omits to do so.

A director shall be deemed to participate in any action of which he has knowledge taken or omitted to be taken by the board of which he is a member unless he dissents therefrom in writing and promptly notifies the Commissioner of his dissent.

~~C.~~ B. It shall be ~~a criminal offense against this Code to violate~~ an administrative violation subject to a fine of not more than Ten Thousand Dollars ($10,000.00) to breach any of the provisions of this act for which a specific penalty in Title 21 of the Oklahoma Statutes is not provided. It shall be an administrative violation subject to a fine of not more than Five Thousand Dollars ($5,000.00) to breach any lawful order of the Board or Commissioner, served upon it, or to ~~knowingly violate~~ breach any lawful rule, regulation or order of the Board or Commissioner.

~~The Commissioner may refer evidence concerning violations of this Code or of any rule or order thereunder to the Attorney General of the State of Oklahoma or to the district attorney for the county where a violation occurred in order that an information or indictment for such violations may be filed. The Attorney General or district attorney may designate and appoint a lawyer of the Department as special assistant, if available, for the purpose of assisting in or conducting criminal prosecutions arising because of the proceedings provided for in this section.~~

~~D. Unless otherwise provided in this Code, it shall be no defense to a criminal prosecution hereunder that the defendant did not know the facts establishing the criminal character of the act or omission charged if he could and should have known such facts in the proper performance of his duty.~~

~~E. This section shall not apply to specific offenses for which criminal sanctions have been imposed in other sections of this Code.~~

SECTION 147. AMENDATORY 6 O.S. 1991, Section 2005, is amended to read as follows:

Section 2005. It shall be unlawful for any individual, firm, association, or corporation to transact a Credit Union business except as authorized by the laws of the State of Oklahoma or the United States, or to use or advertise in connection with any business, other than the credit union business conducted under the

laws of this State or of the United States, the term "Credit Union," or any other term or terms calculated to deceive the public into believing that such person, firm, association, or corporation is engaged in the credit union business. Any person, firm, association, or corporation ~~violating~~ breaching any of the provisions of this section, either individually or as an interested party, in any firm, association, or corporation, shall be ~~guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum of not less than One Hundred Dollars ($100.00), nor~~ liable for an administrative violation and subject to a fine of not more than ~~Five Hundred Dollars ($500.00), or by imprisonment in the County jail for not less than thirty (30) days, nor more than six (6) months, or by both such fine and imprisonment, and it is hereby made the duty of the Attorney General to enforce the provisions of this section; and in order to prevent the violation of this section, the district court in the county wherein said credit union is located is hereby authorized and empowered to grant~~ One Thousand Dollars ($1,000.00). The Commissioner may, in order to compel compliance with and prohibit violation of this section, bring an action in the district court of Oklahoma County for an injunction and ~~to appoint~~ if the Commissioner deems necessary, for appointment of a receiver to take charge of the business and assets of any person, firm, association, or corporation ~~found guilty of violating~~ determined by the Commissioner to have breached any of the provisions of this section, and to make all necessary and proper orders to wind up such business and prevent a further violation of this section.

SECTION 148. AMENDATORY 6 O.S. 1991, Section 2103, is amended to read as follows:

Section 2103. ~~(a)~~ No person shall engage in the business of selling or issuing checks as a service or for a fee or other consideration without first securing a license to do so from the Commissioner, except that no license under this act shall be

required of any agent, subagent or representative of a licensee, or employee of such agent, subagent or representative who acts on behalf of such licensee in the sale or exchange of which the licensee is the issuer.

~~(b) Any person who violates this section shall be fined not less than Five Hundred Dollars ($500.00) or imprisoned in county jail for not more than one (1) year, or both. Each day such violation continues shall constitute a separate offense.~~

SECTION 149. AMENDATORY 6 O.S. 1991, Section 2121, is amended to read as follows:

Section 2121. Any person who ~~violates~~ breaches any provision of this act or any provision of the rules and regulations of the Commissioner ~~is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than the sum of One Hundred Dollars ($100.00) for each day of violation~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 150. AMENDATORY 7 O.S. 1991, Section 13, is amended to read as follows:

Section 13. Any person, other than a person wholly or partially blind, who shall carry a cane or walking stick such as is described in this act, contrary to the provisions of this act, or who shall ~~violate~~ breach any of the provisions of this act shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding three (3) months, or by fine not exceeding One Hundred Dollars ($100.00), or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 151. AMENDATORY 7 O.S. 1991, Section 19.2, is amended to read as follows:

Section 19.2 Any person, or persons, firm, association, or corporation, or the agent of any person, firm, association, or

corporation, who shall ~~violate~~ breach the provisions of Section 19.1 of this title shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 152. AMENDATORY 8 O.S. 1991, Section 18, is amended to read as follows:

Section 18. Any person, firm or corporation ~~violating~~ breaching any of the provisions of this Article~~,~~ shall be ~~deemed guilty of a misdemeanor, and shall, upon conviction, be fined not less than Twenty-five nor more than One Hundred Dollars ($100.00), and not less than thirty (30) days nor more than six (6) months in jail~~ prosecuted by the appropriate district attorney provided the breach is a crime under Title 21 of the Oklahoma Statutes.

SECTION 153. AMENDATORY 8 O.S. 1991, Section 169, as amended by Section 6, Chapter 218, O.S.L. 1993 (8 O.S. Supp. 1994, Section 169), is amended to read as follows:

Section 169. Any person, firm or corporation ~~violating~~ breaching any of the provisions of the Perpetual Care Fund Act shall~~, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than One Hundred Dollars ($100.00) nor~~ be liable for an administrative violation and subject to a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00). This shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 154. AMENDATORY 8 O.S. 1991, Section 184, is amended to read as follows:

Section 184. Any person who ~~wilfully violates~~ breaches any provision of this act shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and shall be subject to a fine of not ~~less than Fifty Dollars ($50.00) nor~~ more than ~~Five Hundred Dollars ($500.00), or by imprisonment in the county jail for a term not exceeding six~~

~~(6) months, or both such fine and imprisonment for each offense~~ One Thousand Dollars ($1,000.00).

SECTION 155. AMENDATORY 8 O.S. 1991, Section 231, is amended to read as follows:

Section 231. Any corporation, association, or director, trustee, officer, employee, agent or representative thereof, or any other person, who ~~willfully violates~~ breaches any provisions of this act shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and shall be subject to a fine of ~~not less than Fifty Dollars ($50.00) and~~ not more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00) for each offense.

SECTION 156. AMENDATORY 8 O.S. 1991, Section 308, as amended by Section 10, Chapter 218, O.S.L. 1993 (8 O.S. Supp. 1994, Section 308), is amended to read as follows:

Section 308. Each organization shall file an annual report with the State Banking Board on or before March 15 of each year in such form as the Board may require, showing the name of the financial institution holding the cemetery merchandise trust fund and the amount of the trust fund under each contract on the preceding December 31, and also showing the method of determination of the wholesale costs made pursuant to Section 306 of this title. The total required deposits to the cemetery merchandise trust fund during the year shall also be reported. Each cemetery is responsible for maintaining satisfactory books and records, which will adequately justify all information contained in the annual report required by this section. Any organization which has discontinued the sale of prepaid cemetery merchandise, but which still has funds deposited in a cemetery merchandise trust fund or surety, shall not be required to obtain a renewal of its permit, but it shall continue to make annual reports to the Board until all such funds have been disbursed pursuant to the Cemetery Merchandise Trust Act. A filing fee of Fifty Dollars ($50.00) shall accompany each

report. If any officer of any organization fails or refuses to file an annual report, or fails or refuses to cause it to be filed within thirty (30) days after the organization has been notified by the Board that the report is due and has not been received, he shall be ~~guilty of a misdemeanor and shall be punished~~ subject to administrative penalties as prescribed in Section 315 of this title.

SECTION 157. AMENDATORY 8 O.S. 1991, Section 315, is amended to read as follows:

Section 315. Any organization, or its officers or directors, which ~~violate~~ breach any provision of the Cemetery Merchandise Trust Act shall~~, upon conviction, be deemed guilty or a misdemeanor~~ be liable for an administrative violation and shall be subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than Two Thousand Five Hundred Dollars ($2,500.00) for each breach.

SECTION 158. AMENDATORY 10 O.S. 1991, Section 35, is amended to read as follows:

Section 35. ~~Violation~~ Breach of any of the provisions of this act shall be a ~~misdemeanor and one who is convicted of such a violation shall be punished in accordance with law~~ civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 159. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 39.1 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. It is the policy of this state to provide for the protection of children who have had physical injury inflicted upon them and who, in the absence of appropriate reports concerning their condition and circumstances, may be further threatened by the conduct of persons responsible for the care and protection of such children.

B. As used in this section:

1. "Abuse and neglect" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare;

2. "Harm or threatened harm to a child's health or welfare" includes, but is not limited to, nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment including the failure to provide adequate food, clothing, shelter, or medical care except as provided for in Section 2 of this act;

3. "Child" means a person under the age of eighteen (18) years;

4. "Person responsible for a child's health or welfare" includes a parent; a legal guardian; custodian; a foster parent; a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution or facility; or an owner, operator, or employee of a child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes;

5. "Sexual abuse" includes but is not limited to rape, incest and lewd or indecent acts or proposals, as defined by law, by a person responsible for the child's welfare; and

6. "Sexual exploitation" includes, but is not limited to, allowing, permitting, or encouraging a child to engage in prostitution, as defined by law, by a person responsible for the child's welfare or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic photographing, filming, or depicting of a child in those acts as defined by the state law, by a person responsible for the child's welfare.

SECTION 160. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 39.2 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 1. Every:

a. physician or surgeon, including doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, examining, attending or treating a child under the age of eighteen (18) years,

b. registered nurse examining, attending or treating such a child in the absence of a physician or surgeon,

c. teacher of any child under the age of eighteen (18) years, and

d. other person,

having reason to believe that a child under the age of eighteen (18) years has had physical injury or injuries inflicted upon the child by other than accidental means where the injury appears to have been caused as a result of physical abuse, sexual abuse, or neglect, shall report the matter promptly to the county office of the Department of Human Services in the county wherein the suspected injury occurred.

2. Every physician or surgeon, including licensed doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who appears to be a child born in a condition of dependence on a controlled dangerous substance shall promptly report the matter to the county office of the Department of Human Services in the county in which such birth occurred.

3. Every physician or surgeon making a report of abuse or neglect as required by this subsection or examining a child to determine the likelihood of abuse, sexual abuse, or neglect and every hospital or related institution in which the child is examined or treated shall provide copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes or records relevant to the case to law enforcement officers conducting a criminal investigation of the case

and to employees of the Department of Human Services conducting an investigation of alleged abuse or neglect in the case.

B. It shall be a civil infraction subject to a civil fine not to exceed One Thousand Dollars ($1,000.00) for any person to fail to promptly report any incident as provided in this section. If the report is not made in writing in the first instance, it shall be reduced to writing, in accordance with procedures established by the Department of Human Services, as soon as practical after it is initially made by telephone or otherwise and shall contain the following information:

1. The names and addresses of the child and the child's parents or other persons responsible for the child's care;

2. The child's age;

3. The nature and extent of the child's injuries, including any evidence of previous injuries;

4. The nature and extent of the child's dependence on a controlled dangerous substance; and

5. Any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible for the injuries if such information or any part thereof is known to the person making the report.

C. 1. The county office receiving any report as provided in this section shall investigate said report in accordance with priority guidelines established by the Department of Human Services and, if the county office finds evidence of abuse and neglect, forward its findings to the district attorney's office in the county wherein the suspected injury occurred, together with its recommendation as to disposition. In addition, a copy of the findings shall be sent to the Child Welfare Division of the Department of Human Services for the purposes set forth in subsection E of this section.

2. Whenever, after a preliminary inquiry or investigation, the Department of Human Services determines that an alleged abuse or neglect of a child:

a. was perpetrated by someone other than a person responsible for the child's health and welfare, and

b. does not appear to be attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child,

the Department shall immediately verbally notify an appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation. The verbal notification to the local law enforcement agency shall be followed by written referral. After making the referral, the Department shall not be responsible for further investigation of the case unless notice is received from the law enforcement agency as provided by paragraph 3 of this subsection. The Department of Human Services shall promulgate rules for the implementation of the provisions of this subsection. Said rules shall include but not be limited to provision for adequate and appropriate inquiry or investigation by the Department prior to notification of a local law enforcement agency.

3. Any law enforcement agency receiving a referral as provided in this subsection shall provide the local child welfare office of the Department of Human Services with a copy of the report of its investigation resulting from a referral from the Department. Whenever, in the course of a criminal investigation related to child abuse or neglect, a law enforcement agency determines that there is cause to believe that the alleged abuse or neglect was perpetrated by a person responsible for the health and welfare of the child, or is attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child, the law enforcement agency shall immediately verbally contact the local child welfare office of the Department of Human Services for

the purpose of an investigation by that office. The verbal notification to the local child welfare office shall be followed by a written referral.

D. The Child Welfare Division of the Department of Human Services shall be responsible for maintaining a permanent central registry, suitably cross-indexed, of all such reported findings. Any information contained in the central registry shall be available to any county office and to any district attorney's office or public law enforcement agency investigating a report of suspected child abuse or neglect. The Department of Human Services may promulgate rules in furtherance of the provisions of this subsection.

E. All records concerning child abuse shall be confidential and shall be open to inspection only to persons duly authorized by the state or the United States in connection with the performance of their official duties.

F. 1. Nothing in this section shall be construed to mean a child is abused or neglected for the sole reason the parent, guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

2. Nothing contained in this subsection shall prevent a court from immediately assuming custody of a child, pursuant to Section 1107 of Title 10 of the Oklahoma Statutes, and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

G. Nothing contained in this section shall be construed to exempt or prohibit any person from reporting any suspected child abuse or neglect pursuant to subsection A of this section.

H. 1. In every criminal case filed pursuant to any provision of Title 21 of the Oklahoma Statutes which requires reporting as

provided in this section or Section 159 of this act, the judge of the district court shall appoint an attorney-at-law to appear for and represent a child who is the alleged subject of child abuse in such case. The attorney may be allowed a reasonable fee for such services to be paid from the court fund to be fixed by the district court. The attorney shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section. The attorney shall be charged with the representation of the child's best interests. To that end, the attorney shall make such further investigation as the attorney deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses at the preliminary hearing and trial, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the child.

2. A court-appointed special advocate as defined by Section 1109 of Title 10 of the Oklahoma Statutes may be appointed to represent a child who is the alleged subject of child abuse or neglect. The court-appointed special advocate shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section.

3. At such time as the information maintained by the registry provided for by subsection D of this section is indexed by perpetrator and the necessary and appropriate due process procedures are established by the Department of Human Services, a court-appointed special advocate organization, in accordance with the policies and rules of the Department, may utilize the registry for the purpose of completing background screenings of volunteers with the organization.

SECTION 161. AMENDATORY 10 O.S. 1991, Section 57, is amended to read as follows:

Section 57. A. Except as otherwise provided by this section, all records of proceedings in adoption cases and all papers and books relating to such proceedings, shall be kept in a separate confidential file in the court clerks vault by the court clerk, and shall not be open to inspection or copy except upon order of a court of record for good cause shown.

B. Upon application and for good cause being shown, any court of record may, by written order reciting its findings, permit the necessary information to be released, restrict the purposes for which it shall be used.

C. No person in charge of adoption records in the district court shall disclose the names of the natural or adoptive parents of a child unless ordered to do so by a court of record.

D. 1. The Department of Human Services, any certified adoption agency or any licensed child-placing agency having custody of a child who is legally available for adoption is authorized to release the medical history, available to the Department or such agency, of the child, of the natural parents of the child and of the grandparents of the child to prospective parents of the adoptive child.

2. The release of any medical history of the natural parents of the child or the natural grandparents of the child shall be released in such a way that no person can be identified.

3. The medical history may include the information received pursuant to Section 60.5A of this title or any other medical information or records regarding the child obtained by the Department or agency during the custody of the child.

E. Any person in charge of adoption records who discloses any information pertaining to an adoption proceeding, contrary to the provisions of this section, shall be ~~guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 162. AMENDATORY 10 O.S. 1991, Section 116a, is amended to read as follows:

Section 116a. (a) A majority of the courts of record of such county shall appoint a person of good character with training and experience in probation, parole or other related form of social case work.

(b) ~~Said probation officer shall not in any manner be concerned in demanding, soliciting or receiving any assessments, subscriptions or contributions, whether voluntary or involuntary, to any political party. It shall be unlawful for any such person to be in any manner concerned with demanding or soliciting such assessments, subscriptions or contributions from any person.~~

~~Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding Five Hundred Dollars ($500.00) or imprisonment not exceeding one (1) year, or both, and in addition thereto any person so convicted shall forfeit his office or employment and shall not thereafter be employed by the courts in any capacity. It shall be the duty of the courts to dismiss from office any officer or other employee thereof who shall violate any of the provisions of this section.~~

~~(c)~~ The provisions of this act are hereby extended to all persons who, at the effective date thereof, may be on probation or parole, or eligible to be placed on probation or parole under existing laws, with the same force and effect as if this act had been in operation at the time such persons were placed on probation or parole or became eligible to be placed thereon as the case may be.

~~(d)~~ (c) Said probation officer shall have the authority to accept from the United States or any of its agencies and from the State of Oklahoma or any of its agencies, such advisory services, funds, equipment or supplies as may be made available to said

officer for any of the purposes contemplated by this act, and to enter into such contracts and agreements with the United States, or any of its agencies, the State of Oklahoma or any of its agencies, as may be necessary, proper, and convenient, not contrary to the laws of this state.

~~(c)~~ (d) Any probation officer may arrest a probationer or parolee without a warrant or may deputize any other officer with power of arrest to do so by giving him a written statement setting forth that the probationer or parolee has, in the judgment of the probation officer, violated the conditions of probation.

~~(f)~~ (e) All penal, eleemosynary or other institution under the jurisdiction of the State of Oklahoma, and any law enforcement agency or officer of the state or of any city or county within this state shall furnish said probation officer with any and all information requested by him pertaining to any person placed on probation or under his jurisdiction.

~~(g)~~ (f) Said officer shall adopt an official seal of which the courts shall take judicial notice, said seal shall be placed upon all official correspondence or papers pertaining to any case coming within his jurisdiction.

SECTION 163. AMENDATORY 10 O.S. 1991, Section 410 is amended to read as follows:

Section 410. Any person or agent, representative, or officer of any child care facility who ~~violates~~ breaches any of the provisions of this act shall~~, upon conviction, be deemed guilty of a misdemeanor and punished in accordance with the provisions of 21 O.S.1961, Section 10~~ be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Whenever any agent, representative, or officer of any child care facility shall be ~~convicted~~ liable under authority of this act, such ~~conviction~~ finding shall be sufficient ground for the revocation of the license of said licensee.

SECTION 164. AMENDATORY 10 O.S. 1991, Section 1109, as last amended by Section 37, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1109), is amended to read as follows:

Section 1109. A. No information gained by a custodial interrogation of a child nor any evidence subsequently obtained as a result of such interrogation shall be admissible into evidence against the child unless the custodial interrogation about any alleged offense by any law enforcement officer or investigative agency, or employee of the court, or employee of the Department is done in the presence of the parents, guardian, attorney, or legal custodian of the child. No such custodial interrogation shall commence until the child and his parents, or guardian, or other legal custodian have been fully advised of the constitutional and legal rights of the child, including the right to be represented by counsel at every stage of the proceedings, and the right to have counsel appointed by the court if the parties are without sufficient financial means; provided, however, that no legal aid or other public or charitable legal service shall make claim for compensation as contemplated herein. It is further provided that where private counsel is appointed in such cases, the court shall set reasonable compensation and order the payment out of the court fund. As used in this section, "custodial interrogation" means questioning of a child while that child is in law enforcement custody or while that child is being deprived of freedom of action in any significant way by a law enforcement officer, employee of the court, or employee of the Department. The term "custodial interrogation" shall not be deemed to mean questioning of a child by a public school administrator or teacher, so long as such questioning is not being conducted on behalf of a law enforcement officer, an employee of the court or an employee of the Department. Any information gained from noncustodial questioning of a child by a public school administrator

or teacher concerning a wrongful act committed on public school property shall be admissible into evidence against the child.

B. If the parents, guardian, or other legal custodian of the child requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court if a petition has been filed alleging that the child is a deprived child, a child in need of supervision, or a child in need of treatment, or if termination of parental rights is a possible remedy, provided that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the parents, guardian or other legal custodian. If the child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of Section 1103 of this title, the court shall appoint a separate attorney, who shall not be a district attorney, for the child regardless of any attempted waiver by the parent or other legal custodian of the child of the right of the child to be represented by counsel.

C. Whenever a petition is filed alleging that a child is a deprived child, a delinquent child or a child in need of supervision, the court may appoint a guardian ad litem for the child at any time subsequent to the filing of the petition and shall appoint a guardian ad litem upon the request of the child or his attorney and whenever a court-appointed special advocate is available to the court to serve as a guardian ad litem regardless of whether or not a guardian ad litem has been requested by the child or his attorney. The availability of a court-appointed special advocate shall be determined by the executive director of the court appointed special advocate program for the county.

1. The guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, an employee of the court, an employee of a juvenile bureau established pursuant to the provisions of Sections 1201 through 1210 of this title, or an

employee of any public agency having duties or responsibilities towards the child.

2. Whenever a court-appointed special advocate is available for appointment as a guardian ad litem as provided by this subsection, the court shall give priority to the appointment of a court-appointed special advocate as the guardian ad litem of a deprived child.

D. For the purpose of this section and Section 846 of Title 21 of the Oklahoma Statutes, a "court-appointed special advocate" or "CASA" means a responsible adult, other than an attorney for the parties, who has volunteered to be available for appointment by the court to serve as an officer of the court and represent any child wherein a juvenile petition has been filed, based on the availability of volunteers, until discharged by the court. It shall be the duty and responsibility of the court-appointed special advocate to advocate for the best interests of the child and to assist the child in obtaining a permanent, safe, homelike placement.

The court-appointed special advocate shall be given access to the court file and access to all records and reports relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to this section or Section 846 of Title 21 of the Oklahoma Statutes.

A court-appointed special advocate shall serve without compensation and shall have such other qualifications and duties and responsibilities as may be prescribed by rule by the Supreme Court. Any person participating in a judicial proceeding as a court-appointed special advocate shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any civil liability that otherwise might be incurred or imposed. Any person serving in positions of management of a CASA organization, including members of the Board of Directors acting in good faith, shall be immune from any civil liability or any vicarious liability for the

negligence of any CASA organization advocates, managers, or directors.

All records concerning child abuse shall be confidential and shall be open to inspection only to persons duly authorized by the state or United States in connection with the performance of their official duties. It shall be unlawful and a misdemeanor for the Commission, or any employee working under the Department of Human Services, any other public officer or employee, or any court-appointed special advocate (CASA), to furnish or permit to be taken off of the records any information therein contained for commercial, political or any other unauthorized purpose. Any violation of this subsection shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

E. The district attorney shall prepare and prosecute any case or proceeding within the purview of Chapter 51 of this title.

SECTION 165. AMENDATORY 10 O.S. 1991, Section 1125.2, as last amended by Section 2, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1125.2), is amended to read as follows:

Section 1125.2 A. Juvenile court records may be inspected, and their contents shall be disclosed, without a court order to the following upon showing of proper credentials:

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and court-appointed special advocates;

2. Members of review boards established pursuant to Sections 1115.2, 1116.2, 1116.6 and 1150.2 of this title. In addition to juvenile court records, members of such review boards may inspect, without a court order, information including but not be limited to:

a. psychological and medical records,

b. placement history and information, including the names and addresses of foster parents,

c. family assessments,

d. treatment or service plans, and

e. school records;

3. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against children;

4. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title or representing a child pursuant to subsection B of Section 846 of Title 21 of the Oklahoma Statutes. Said attorney may also access other records listed in subsection A of Section 1125.1 of this title for use in the legal representation of the child;

5. Employees of juvenile bureaus established by Section 1201 of this title in the course of their official duties pursuant to this title, and employees of the Department of Human Services in the course of their official duties pursuant to this title and Title 56 of the Oklahoma Statutes;

6. Employees of a law enforcement agency in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

7. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this paragraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation; provided, records pertaining to any alleged or

adjudicated abuse or neglect of the person shall not be inspected or disclosed;

8. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of this title;

9. The Department of Human Services or other public or private agency or individual having court-ordered custody or custody pursuant to Department of Human Services placement of the child who is the subject of the record;

10. The child who is the subject of the record and the parents, legal guardian, legal custodian or foster parent of said child; and

11. A federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act, Section 40 et seq. of this title; provided such Indian tribe, in the course of its official duties, is:

a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or

b. providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services, or

c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this subsection shall include all case records, reports, and documents as defined in Section 1125 of this title.

B. In accordance with the rules adopted for such purpose pursuant to the Serious and Habitual Juvenile Offender Act, and Section 620.6 of this title, the records listed in subsection A of Section 1125.1 of this title may be inspected and their contents disclosed without a court order to the following:

1. Participating agencies as defined by Section 1125 of this title;

2. The following, provided that the inspection of records and disclosure authorized by this paragraph may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure:

a. pursuant to the provisions of this title, a person, agency, hospital or clinic authorized or directed by the court or the Department of Human Services to care for, treat, examine, evaluate or supervise a child or to treat, examine, or evaluate the parent, legal guardian or other adult person living in the home of the child,

b. a legally recognized school that is not a participating agency in which the child who is the subject of the record is currently enrolled, and

c. individuals or agencies engaged in legitimate research for educational, scientific or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records shall be made available or disclosed unless it is essential to the research or audit purpose; and

3. The chairman of any standing or special committee of the Legislature where a subpoena, authorized by law, has been issued by the committee requesting the records.

C. Records and their contents disclosed without an order of the court as provided by this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful ~~and a misdemeanor~~ for any person to furnish any record or disclose any information contained therein for commercial, political or any other unauthorized purpose. Any violation of this subsection shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 166. AMENDATORY 11 O.S. 1991, Section 16-306, is amended to read as follows:

Section 16-306. A. Except as otherwise provided in this act, Section 16-301 et seq. of this title, the mayor shall be the presiding officer of town meetings, shall decide questions of order and shall make public declaration of votes taken. Robert's Rules of Order shall govern all town meetings, except when such rules are inconsistent with Oklahoma law. The presiding officer may establish other rules of conduct and decorum for the meetings consistent with the Oklahoma Town Meeting Act, Section 16-301 et seq. of this title. When the office of mayor is vacant or if the mayor is unable to attend the town meeting, one of the members of the governing body shall be elected by the remaining members of the governing body to preside over the town meeting.

B. The municipal clerk shall keep the minutes of the meeting. The minutes shall separately record the number of votes for and against each candidate and each question and shall record the total number of votes cast for each position. Paper ballots shall be preserved in the municipal clerk's office for a period of six (6) months following the town meeting at which said ballots were cast.

C. Officials elected at town meetings shall be nominated and elected at large by the registered voters present from nominations taken from the floor. Prior to accepting any nominations the presiding officer shall state the number of governing body offices to be elected for four-year terms and the number of governing body offices to be elected to fill unexpired terms, if any. There shall be separate nominations and balloting for each designated term. The nominee who receives a plurality of the votes cast for the office of the designated term shall be elected for that designated term. If more than one office is to be filled for a designated term, the voters shall vote for the designated number of offices to be filled and, the nominees receiving the largest pluralities shall be elected to those offices. All votes shall be taken by secret ballot; provided that if there is only one candidate for an office, he or she may be elected by acclamation upon proper motion. In case of a tie vote, the municipal clerk shall immediately select the electee or electees by lot as follows: The clerk shall write or print the names of the tied nominees on similar pieces of paper and place the papers in a container in view of the persons attending the town meeting. The clerk shall designate a person, who shall not be one of the nominees, to draw one name for each office to be filled and the nominee or nominees whose names are so drawn shall be deemed elected. All other papers in the container shall then be exposed for examination. Only a registered voter who has been a registered voter at an address within the municipality for at least six (6) months prior to the date of the town meeting at which the elections are held shall be qualified for nomination for office. To be eligible for election, any person who is nominated for office must swear under oath that he or she has been a registered voter at an address within the municipality for the last six (6) months. Only qualified registered voters who are present at the town meeting at which the elections are held shall be eligible for nomination for

municipal office, provided that a qualified registered voter who is not present may be nominated if he or she has agreed in writing to accept the office if elected and has sworn an affidavit that he or she has been a registered voter at an address within the municipality for the last six (6) months. ~~Any person who falsely swears or signs a false affidavit that he or she is qualified for municipal office shall be guilty of a felony.~~

SECTION 167. AMENDATORY 11 O.S. 1991, Section 16-307, is amended to read as follows:

Section 16-307. A. The presiding officer at a town meeting shall follow reasonable and necessary procedures to ensure that persons who are not registered voters of the town do not vote. Registered voters shall be seated in a clearly marked area separate from persons not registered to vote.

B. To be eligible to vote at a town meeting, a person must be registered with the county election board at an address located within the municipality. Before being seated in the section reserved for registered voters, each voter shall sign his or her name in a pollbook, said signature to constitute a sworn affidavit on the part of the voter that he or she is eligible to vote at the election. The pollbook shall be prepared by the municipal clerk and shall be substantially the same form as the pollbook prescribed by the State Election Board for school district elections. For such purpose, the municipal clerk or designee of the municipal clerk shall be authorized to administer the oath or affirmation contained in the affidavit. The pollbook shall be on file in the office of the municipal clerk and shall be open to public inspection during reasonable office hours; provided, however, that such pollbooks may be destroyed by the municipal clerk at the end of six (6) months from the date of the election wherein such pollbook was used. ~~Any person knowingly voting illegally or found guilty of casting more than one vote for any office or on any question considered at the~~

~~meeting shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not to exceed thirty (30) days or both such fine and imprisonment.~~

SECTION 168. AMENDATORY 11 O.S. 1991, Section 22-101.3, is amended to read as follows:

Section 22-101.3 Any person ~~convicted of violating~~ breaching any of the provisions of this act shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more that One Thousand Dollars ($1,000,00). The penalties provided for in this section shall be in addition to any criminal penalties provided for in Title 21 of the Oklahoma Statutes.

SECTION 169. AMENDATORY 11 O.S. 1991, Section 26-105, is amended to read as follows:

Section 26-105. The governing body may pass rules and ordinances to regulate, protect, and govern the cemetery, the owners of the lots therein, visitors therein, and to punish trespassers therein. The governing body may limit the number of lots which may be owned by one person, corporation or association at the same time, and may prescribe rules for enclosing, adorning and erecting monuments and tombstones on cemetery lots; but no religious test shall be made as to the ownership of lots, the burial therein, or the ornamentation of graves or lots. The governing body may prohibit any division of the use of lots and any improper adornment thereof. The officers of the municipality shall have full jurisdiction and power to enforce such rules and ordinances as if they related to the municipality itself. ~~Penalties and fines~~ Fines of not ~~exceeding One Hundred Dollars ($100.00) or thirty (30) days in jail~~ more than Five Hundred Dollars ($500.00) may be imposed for the violation of such rules and ordinances.

SECTION 170. AMENDATORY 11 O.S. 1991, Section 27-117.1, as amended by Section 1, Chapter 15, O.S.L. 1993 (11 O.S. Supp. 1994, Section 27-117.1), is amended to read as follows:

Section 27-117.1 If a resident or nonresident of a municipality having a municipal court is arrested by a law enforcement officer solely for ~~a misdemeanor~~ violation of a traffic ordinance, other than an ordinance pertaining to a parking or standing traffic violation, and the arrested person is eligible to sign a written promise to appear and be released upon personal recognizance as provided for in Section 1115.1 of Title 22 of the Oklahoma Statutes, then the procedures provided for in the State and Municipal Traffic Bail Bond Procedure Act as applied to municipalities, shall govern. A municipality, by ordinance, may prescribe a bail bond schedule for this purpose and may provide for bail to be used as payment of the fine and costs upon a plea of guilty or nolo contendere, as provided for in Section 1115.1 of Title 22 of the Oklahoma Statutes. Absent such ordinance, the municipal court may prescribe a bail bond schedule for traffic offenses. The amount of bail shall not exceed the maximum fine and costs provided by ordinance for each offense.

SECTION 171. AMENDATORY 11 O.S. 1991, Section 28-114.1, as amended by Section 2, Chapter 15, O.S.L. 1993 (11 O.S. Supp. 1994, Section 28-114.1), is amended to read as follows:

Section 28-114.1 If a resident or nonresident of a municipality served by a municipal court is arrested by a law enforcement officer solely for ~~a misdemeanor~~ violation of a traffic ordinance, other than an ordinance pertaining to a parking or standing traffic violation, and the arrested person is eligible to sign a written promise to appear and be released upon personal recognizance as provided for in Section 1115.1 of Title 22 of the Oklahoma Statutes, then the procedures provided for in the State and Municipal Traffic Bail Bond Procedure Act<u>, Section 1115 et seq. of Title 22 of the Oklahoma Statutes,</u> as applied to municipalities, shall govern. A municipality, by ordinance, may prescribe a bail bond schedule for this purpose and may provide for bail to be used as payment of the fine and costs upon a plea of guilty or nolo contendere, as provided

for in Section ~~2~~ 1115.1 of ~~this act~~ Title 22 of the Oklahoma Statutes. Absent such ordinance, the municipal court may prescribe a bail bond schedule for traffic offenses. The amount of bail shall not exceed the maximum fine and costs provided by ordinance for each offense.

SECTION 172. AMENDATORY 11 O.S. 1991, Section 39-113, is amended to read as follows:

Section 39-113. ~~A.~~ All money received by the city from any special assessment or assessment within a district shall be held in a special fund and used to:

1. Pay the cost of the improvement for which the assessment was made;

2. Reimburse the city for any work performed or cost incurred by the city in constructing the improvement; or

3. Pay the interest and principal due on any outstanding negotiable bonds.

~~B. Any person who uses money in a district fund other than as provided in this section is guilty of a felony and shall be punished by a fine not exceeding One Thousand Dollars ($1,000.00) or by imprisonment in the State Penitentiary for not more than two (2) years, or by both such fine and imprisonment, in the discretion of the court.~~

SECTION 173. AMENDATORY 11 O.S. 1991, Section 46-104, is amended to read as follows:

Section 46-104. A. Before final action shall be taken by any municipal or county government or department thereof on the location and design of any public buildings, statue, memorial, park, parkway, boulevard, playground, public grounds, or bridge, within such regional district, the question shall be submitted to the regional planning commission for investigation and report.

B. All plans, plats, or replats of land laid out in lots or blocks, and the streets, alleys, or other portions of the same

intended to be dedicated to public or private use, within such regional district, shall first be submitted to the regional planning commission and approved by it before it shall be entitled to record in the office of the county clerk. It shall be unlawful to receive or record any such plat, plan or replat in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the regional planning commission. The disapproval of any such plan, plat or replat by the regional planning commission shall be deemed a refusal of the proposed dedication shown thereon.

C. In any regional district which contains large areas of rural land not served by water and sewer facilities by any governmental entity, the use of private roadways in either platted or unplatted areas shall be recognized and authorized and building permits to property owners abutting upon the private roadways shall be issued without complying with standards as provided for dedicated streets under the following conditions:

1. The private roadway easement shall be at least fifty (50) feet in width;

2. The property abutting the private roadway shall contain not less than two (2) acres;

3. The property shall be more than one-fourth (1/4) mile from sewer and water facilities furnished by the governmental entity;

4. The private roadway shall not be dedicated to the public but reserved for future dedication and, until such future dedication, be the private roadway of the abutting property owners;

5. The private roadway shall be maintained by the owners of the property within the subdivision;

6. No municipality or county shall have responsibility for the maintenance and repair of the private roadway;

7. If the property is platted, there shall be ~~emblemized~~ <u>emblematized</u> on the face of the plat, clearly conspicuous, a notice that the streets and drives have not been dedicated to the public,

and that the streets shall be maintained by the private property owners within the subdivision, but that the streets shall always be open to police, fire, and other official vehicles of all state, federal, county and municipal agencies;

8. Every deed shall clearly acknowledge that the roadway is private and not maintained by any municipality or county;

9. Prior to the sale of any parcel in the subdivision, a conspicuous sign shall be posted at the entrance to the subdivision: "Private roadway not maintained by _____ (the municipality or county)." At any time after use of such private roadway is recognized and authorized pursuant to law, a petition of at least sixty percent (60%) of the owners, in area, to improve and dedicate the street shall bind all of the owners thereby to permanently improve the street or roadway in compliance with the applicable requirements of the municipality or county. All other ordinances and planning commission regulations pursuant to the provisions of this article relating to subdivisions not in conflict herewith shall be applicable in such cases. The provisions of any ordinance, planning commission regulation or statute relating to subdivisions which are in conflict with this section are hereby superseded; and

10. The planning commission may require the developer of such property to reserve appropriate utility easements for water, sewer and any other utility installations as may be required for present and future development.

D. Any person, partnership or corporation ~~violating~~ breaching any of the provisions of Sections 46-101 through 46-104 of this title~~, upon conviction thereof,~~ shall be ~~fined~~ subject to a fine of not ~~less than Two Hundred Dollars ($200.00) nor~~ more than ~~One Thousand Dollars ($1,000.00), or imprisoned in the county jail for a term not less than thirty (30) days, nor more than six (6) months, or may be subjected to both such fine and imprisonment~~ Five Hundred Dollars ($500.00).

SECTION 174. AMENDATORY 11 O.S. 1991, Section 51-113, is amended to read as follows:

Section 51-113. It shall be unlawful for any collective bargaining representative or member of a paid fire department or police department to strike or engage in any work stoppage; and it shall further be unlawful for any official, executive, administrator, manager, or member of a governing body exercising the authority to fix and determine the salaries, hours of work, and employment conditions of any paid fire or police department of a municipality in this state to fail to bargain in good faith in accordance with the provisions of this article. Any person or persons ~~guilty of~~ violating the provisions of this article shall be fined not ~~less than Ten Dollars ($10.00) nor~~ more than One Hundred Dollars ($100.00) for such offense, and each day during which such violation occurs or continues shall constitute a separate offense, and any such ~~conviction~~ violation shall be grounds for immediate dismissal from public employment, for any persons so employed.

SECTION 175. AMENDATORY 12 O.S. 1991, Section 38, is amended to read as follows:

Section 38. A. Every clerk of a district court shall keep a seal, to be furnished by the court, which shall contain the name of the county and the words "Oklahoma" and "District Court". The seal may be either metallic or non-metallic.

B. Every instrument, document, record, paper or other thing required to be certified by the court or by the court clerk shall contain the seal of the court clerk.

~~C. Any person who uses the seal of the court clerk with the intent to deceive or mislead any person as to the authenticity of the seal, a certification required by subsection B of this section, or the thing to which the seal is applied shall be guilty of a misdemeanor.~~

SECTION 176. AMENDATORY 12 O.S. 1991, Section 392, is amended to read as follows:

Section 392. Disobedience of a subpoena, or refusal to be sworn or to answer as a witness, when lawfully ordered, may be punished as a contempt of the court ~~or officer~~ by whom his attendance or testimony is required.

SECTION 177. AMENDATORY 12 O.S. 1991, Section 393, is amended to read as follows:

Section 393. When a witness fails to attend in obedience to a subpoena (except in case of a demand and failure to pay his fees), the court ~~or officer~~ before whom his attendance is required may issue an attachment to the sheriff, coroner or constable of the county, commanding him to arrest and bring the person therein named before the court ~~or officer~~, at a time and place to be fixed in the attachment, to give his testimony and answer for the contempt. If the attachment be not for immediately bringing the witness before the court ~~or officer~~, a sum may be fixed in which the witness may give an undertaking, with surety, for his appearance; such sum shall be endorsed on the back of the attachment; and if no sum is so fixed and endorsed, it shall be One Hundred Dollars ($100.00). If the witness be not personally served, the court may, by a rule, order him to show cause why an attachment should not issue against him.

SECTION 178. AMENDATORY 12 O.S. 1991, Section 394, is amended to read as follows:

Section 394. A. The punishment for the contempt provided in Section 393 of this title shall be as follows: When the witness fails to attend, in obedience to the subpoena, except in case of a demand and failure to pay his fees, the court ~~or officer~~ may fine the witness in a sum not exceeding Fifty Dollars ($50.00). In other cases, the court ~~or officer~~ may fine the witness in a sum not exceeding Fifty Dollars ($50.00), or may imprison him in the county jail, there to remain until he shall submit to be sworn, testify or

give his deposition. The fine imposed by the court shall be paid into the county treasury~~, and that imposed by the officer shall be for the use of the party for whom the witness was subpoenaed~~. The witness shall, also, be liable to the party injured for any damages occasioned by his failure to attend, or his refusal to be sworn, testify or give his deposition.

B. The punishment provided in this section shall not apply where the witness refuses to subscribe a deposition.

SECTION 179. AMENDATORY 12 O.S. 1991, Section 754, is amended to read as follows:

Section 754. Anyone ~~violating~~ breaching the provisions of this act shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~to exceed One Hundred Dollars ($100.00) or confinement in the county jail not to exceed thirty (30) days or both~~ more than One Thousand Dollars ($1,000.00).

SECTION 180. AMENDATORY 12 O.S. 1991, Section 1390, is amended to read as follows:

Section 1390. An injunction granted by a judge may be enforced as the act of the court. Disobedience of any injunction may be punished as a contempt, by the court or any judge who might have granted it in vacation. An attachment may be issued by the court or judge, upon being satisfied, by affidavit, of the breach of the injunction, against the party ~~guilty of~~ breaching the same, who may be required to make immediate restitution to the party injured, and give further security to obey the injunction; or, in default thereof, he may be committed to close custody, until he shall fully comply with such requirements, or be otherwise legally discharged, or be ~~punished by~~ subject to a fine of not exceeding Two Hundred Dollars ($200.00) for each day of contempt, to be paid into the court ~~fund, or by confinement in the county jail for not longer than six (6) months, or by both such fine and imprisonment~~. This act shall in no way alter the right to trial by jury.

SECTION 181. AMENDATORY 12 O.S. 1991, Section 1447.4, is amended to read as follows:

Section 1447.4 It shall be the duty of such television and/or radio broadcasting station or network to record and preserve all political utterances. Said recording ~~to~~ shall be preserved for a period of two (2) years and made available to any person or persons instituting legal actions for libel or defamation. Any person, firm or corporation ~~violating~~ breaching this section shall be ~~guilty of a misdemeanor and upon conviction thereof fined~~ liable for a civil infraction and subject to a fine of not ~~to exceed~~ more than One Thousand Dollars ($1,000.00) and costs.

SECTION 182. AMENDATORY 12 O.S. 1991, Section 1462, is amended to read as follows:

Section 1462. Whenever a peremptory mandamus is directed to any public officer, body or board, commanding the performance of any public duty specially enjoined by law, if it appear to the court that such officer, or any member of such body or board, has, without just excuse, refused or neglected to perform the duty so enjoined, the court may impose a fine, not exceeding ~~five hundred dollars~~ Five Hundred Dollars ($500.00), upon every such officer or members of such body or board. Such fine, when collected, shall be paid into the treasury of the county where the duty ought to have been performed~~; and the payment thereof is a bar to an action for any penalty incurred by such officer or member of such body or board, by reason of his refusal or neglect to perform the duty so enjoined~~. The violator may also be prosecuted as provided in Title 21 of the Oklahoma Statutes.

SECTION 183. AMENDATORY 12 O.S. 1991, Section 1571.1, is amended to read as follows:

Section 1571.1 Any person who ~~willfully and knowingly~~ damages property in which there exists a valid right to issuance of an order of delivery, or on which such order has been sought under the

provisions of this act, or who conceals ~~it, with the intent to interfere with enforcement of the order,~~ or ~~who~~ removes it from the jurisdiction of the court in which the action is pending ~~with the intention~~ for the purpose of defeating enforcement of an order of delivery, or who ~~willfully~~ refuses to disclose its location to an officer charged with executing an order for its delivery, or, if such property is in his possession, ~~willfully~~ interferes with the officer charged with executing such writ, shall be ~~guilty of a misdemeanor, and if convicted shall be~~ subject to ~~a fine of not more than One Thousand Dollars ($1,000.00) and imprisonment for a term of not more than six (6) months, or both;~~ civil contempt in this title and, in addition to such ~~criminal~~ penalties, shall be liable to the plaintiff for double the amount of damage done to the property together with a reasonable attorney's fee to be fixed by the court, which damages and fee shall be deemed based on tortious conduct and enforceable accordingly.

SECTION 184. AMENDATORY 12 O.S. 1991, Section 1636, is amended to read as follows:

Section 1636. Any person who obtains a judgment under this act, ~~willfully~~ intending to use the same for any illegal ~~or fraudulent~~ purpose, or who thereafter ~~willfully and intentionally~~ uses such judgment, or a copy thereof, for any illegal ~~or fraudulent~~ purpose, shall be ~~deemed guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 185. AMENDATORY 12A O.S. 1991, Section 9-307, is amended to read as follows:

Section 9-307. Protection of Buyers of Goods.

(1) A buyer in the ordinary course of business other than a person buying livestock from a person engaged in farming or ranching operations, hereinafter referred to as the seller for the purposes of this section, takes free of a security interest created by the

seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) A buyer other than a buyer in the ordinary course of business takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase or more than forty-five (45) days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the forty-five-day period.

(3) (a) Before issuing an instrument in payment for farm products other than livestock, a merchant purchasing such products from a seller or a commission merchant selling such products as an agent for a seller shall require said seller to execute a certificate disclosing the names of all lenders, if any, to whom security interests have been given in such farm products. If no such security interests exist, the certificate shall so state. The certificate shall include a warning that any false statement as to the identity of the lenders ~~is a felony and is punishable by imprisonment in the state penitentiary for a period not to exceed three (3) years or in the county jail for a period not to exceed one (1) year, or by a fine not to exceed Five Hundred Dollars ($500.00)~~ shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

The certificate shall be substantially in the following form:

STATE OF _____)

) SS:

COUNTY OF _____)

The undersigned is the legal owner of the farm products being sold to (through)_____("Merchant") and hereby

states that the following listed lender or lenders have been given a security interest(s) in such farm products:

_____

_____

_____

WARNING: ANY UNTRUE STATEMENT AS TO THE IDENTIFICATION OF SUCH LENDERS IS A ~~FELONY UNDER OKLAHOMA LAW AND IS PUNISHABLE BY IMPRISONMENT IN THE PENITENTIARY FOR A PERIOD NOT EXCEEDING THREE (3) YEARS OR IN THE COUNTY JAIL NOT EXCEEDING ONE (1) YEAR, OR BY A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS ($500.00)~~ VIOLATION OF CRIMINAL LAW AS PROVIDED IN TITLE 21 OF THE OKLAHOMA STATUTES.

This form may be witnessed by the merchant or an agent of the merchant or it must be notarized by a notary public.

SELLER:_____

Print Name:_____

Signature:_____

WITNESS:_____

Print Name:_____

Signature:_____ OR

Subscribed and sworn to before me this _____ day of _____, 19__.

_____

Notary Public

My Commission Expires:

_____

(b) The merchant shall enter the names of the lenders disclosed in the certificate on the instrument in payment for the farm products as joint payees. The endorsement of said lenders and the seller shall be required to negotiate said instrument. The instrument

shall be issued as the net purchase price for payment for the farm products.

(c) Any false statement as to the identity of the lenders shall ~~be deemed to be a violation of Section 1834 of Title 21 of the Oklahoma Statutes~~ subject the violator to prosecution for Mortgaged Property Fraud in Title 21 of the Oklahoma Statutes.

(d) The merchant shall retain the certificate for a period of at least three (3) years. Such certificates shall be made available to such lenders during the regular business hours of such merchant.

(e) Any merchant purchasing farm products other than livestock from a seller, or selling such farm products for a fee or commission for a seller, who does not comply with the provisions of this section is liable to the secured party for any loss sustained by such party from the sale of the farm products when payment is made by the merchant to the seller. In such situation, the merchant takes the farm products subject to any perfected security interest which may exist in such farm products.

SECTION 186. AMENDATORY 12A O.S. 1991, Section 9-307.7, is amended to read as follows:

Section 9-307.7 Written Notification Affecting Farm Products; Disclosure Requirements; Penalty.

(1) A secured party or a seller of farm products may furnish to the buyer of such farm products, commission merchant, or selling agent, within one (1) year before the sale of the farm products, a written notice of such security interest, organized according to farm products, that:

(a) is an original or reproduced copy thereof;

(b) contains:

(i) the name and address of the secured party;

(ii) the name and address of the person indebted to the secured party;

(iii) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor; and

(iv) a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable, crop year, county, and a reasonable description of the property;

(c) must be amended in writing, within ten (10) days, similarly signed and transmitted, to reflect material changes. Any such amendment shall also be filed with the Secretary of State as provided in Section 9-307.6 of this title;

(d) will lapse on the expiration period of the statement, the transmission of a notice signed by the secured party that the statement has lapsed, or distribution as provided in Section ~~6~~ 9-307.6 of this ~~act~~ title of the next ensuing master list on which the security interest is reflected, whichever occurs first; and

(e) states any payment obligations imposed on the buyer of farm products, commission merchant, or selling agent by the secured party as conditions for waiver or release of the security interest.

(2) A secured party may furnish written notice as provided in this section:

(a) only during the interval between the date on which the debtor signed the effective financing statement as

provided in Section ~~6~~ 9-307.6 of this ~~act~~ title and distribution of the next ensuing master list on which the security interest of the secured party in the farm products of such debtor is reflected; and

(b) only after filing an effective financing statement with the Secretary of State as provided in Section 9-307.6 of this title.

(3) For purposes of this section, receipt of notice shall be presumed if notice is sent by certified mail.

(4) (a) A secured party who intends to furnish written notification of the existence of a security interest in farm products as provided in this section~~,~~ shall require the person engaged in farming operations to execute a security agreement containing a provision requiring such person to furnish to the secured party a list of the buyers, commission merchants, and selling agents to or through whom such person may sell the farm products. If the person engaged in farming operations sells the farm product collateral to a buyer or through a commission merchant or selling agent not included on the list, the person engaged in farming operations shall be subject to the penalty provisions of paragraph (b) of this subsection, unless such person:

(i) has notified the secured party in writing of the identity of the buyer, commission merchant, or selling agent at least seven (7) days prior to such sale; or

(ii) has accounted to the secured party for the proceeds of such sale not later than twenty (20) days after such sale.

(b) A person ~~violating~~ breaching the provisions of paragraph (a) of this subsection shall be ~~fined~~ liable for a civil infraction and subject to a fine of Five Thousand Dollars ($5,000.00) or fifteen percent (15%) of the value or benefit received for such farm product described in the security agreement, whichever is greater.

SECTION 187. AMENDATORY 12A O.S. 1991, Section 9-307.8, is amended to read as follows:

Section 9-307.8 Protection of Buyers of Farm Products Other Than Livestock.

(1) For purposes of this section, "livestock" means a species of livestock such as cattle, hogs, sheep, horses, or poultry used or produced in farming operations, that is in the possession of a person engaged in farming operations.

(2) Before receiving an instrument in payment for farm products other than livestock, the seller shall execute a certificate disclosing the names of all lenders, if any, to whom security interests have been given in such farm products and provide such certificate to all merchants purchasing such products from the seller or commission merchants selling such products as an agent for the seller. If no such security interests exist, the certificate shall so state. The certificate shall include a warning that any false statement as to the identity of the lenders ~~is a felony and is punishable by imprisonment in the state penitentiary for a period not to exceed three (3) years or in the county jail for a period not to exceed one (1) year, or by a fine not to exceed Five Hundred Dollars ($500.00)~~ shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

The certificate shall be substantially in the following form:

STATE OF _____)

) SS:

COUNTY OF _____)

The undersigned is the legal owner of the farm products described below being sold to (through)_____("Merchant") and hereby states that the following listed lender or lenders to whom the undersigned has outstanding payment obligations have been given a security interest(s) in such farm products:

NAME:_____ADDRESS:_____

NAME:_____ADDRESS:_____

NAME:_____ADDRESS:_____

Description of farm products including the amount of the products where applicable, crop year, county, and a reasonable description of the property:

_____

_____

_____

_____

WARNING: ANY UNTRUE STATEMENT AS TO THE IDENTIFICATION OF SUCH LENDERS IS A ~~FELONY UNDER OKLAHOMA LAW AND IS PUNISHABLE BY IMPRISONMENT IN THE PENITENTIARY FOR A PERIOD NOT EXCEEDING THREE (3) YEARS OR IN THE COUNTY JAIL NOT EXCEEDING ONE (1) YEAR, OR BY A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS ($500.00)~~ VIOLATION OF CRIMINAL LAW AS PROVIDED IN TITLE 21 OF THE OKLAHOMA STATUTES.

This form may be witnessed by the merchant or an agent of the merchant or it must be notarized by a notary public.

SELLER:_____

Print Name:_____

Social Security Number or Internal Revenue Service Taxpayer Identification Number:_____

Print Address:_____

Signature:_____

WITNESS:_____

Print Name:_____

Signature:_____ OR

Subscribed and sworn to before me this _____ day of _____, 19__.

_____

Notary Public

My Commission Expires:

_____

SECTION 188. AMENDATORY 13 O.S. 1991, Section 10, is amended to read as follows:

Section 10. All agents or operators for any telegraph or telephone company doing business in this state are hereby prohibited from ~~knowingly~~ charging, collecting or receiving pay for any message sent or received by them in excess of the regular rate charged for the same.

SECTION 189. AMENDATORY 13 O.S. 1991, Section 12, is amended to read as follows:

Section 12. Any person who shall ~~violate~~ breach the provisions of Sections ~~792~~ 10 and ~~793~~ 11 of this title shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 190. AMENDATORY 13 O.S. 1991, Section 13, is amended to read as follows:

Section 13. Any agent of any railroad, express, telegraph, or telephone company who shall fail or refuse to show the schedule of rates of said company to any person or persons interested therein, and allow him or them to examine the same, shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any~~

~~sum not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 191. AMENDATORY 13 O.S. 1991, Section 155, is amended to read as follows:

Section 155. Any agent, servant or employee of any carrier who shall fail or refuse to weigh any coal at its point of destination~~, or shall knowingly or willfully make false weights of such coal~~, or in case there are no track scales at the point of destination, at the nearest track scales passed in its transit from its point of shipment, such agents, servants or employees shall be ~~deemed guilty of a misdemeanor, and shall be punished by a fine of not less than Fifty nor more than One Hundred Dollars ($100.00), or be imprisoned not less than thirty (30) days nor more than sixty (60) days or both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 192. AMENDATORY 13 O.S. 1991, Section 204, is amended to read as follows:

Section 204. Any officer, agent, or representative of any company, corporation, association or firm, or any other person who shall ~~violate~~ breach any of the provisions of this article shall be ~~guilty of a misdemeanor and be punished by~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00), nor~~ more than One Thousand Dollars ($1,000.00)~~, and by imprisonment in the county jail for a period of not less than thirty days, nor more than one (1) year~~. Any bond, contract or undertaking made in violation of the provisions of this article shall be void.

SECTION 193. AMENDATORY 14A O.S. 1991, Section 5-301, is amended to read as follows:

Section 5-301. (1) A supervised lender who ~~willfully~~ makes charges in excess of those permitted by the provisions of the

article on loans (Article 3) applying to supervised loans (Part 5) is ~~guilty of a misdemeanor and upon conviction may be sentenced to pay a fine not exceeding Five Hundred Dollars ($500.00), or to imprisonment not exceeding one (1) year, or both~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

(2) A person, other than a supervised financial organization, who ~~willfully~~ engages in the business of making supervised loans without a license in ~~violation~~ breach of the provisions of this act applying to authority to make supervised loans (Section 3-502) is ~~guilty of a misdemeanor and upon conviction may be sentenced to pay a fine not exceeding Five Thousand Dollars ($5,000.00), or to imprisonment not exceeding one (1) year, or both~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

(3) A person who ~~willfully~~ engages in the business of making consumer credit sale, consumer leases, or consumer loans, or of taking assignments of rights against debtors arising therefrom and undertakes direct collection of payments or enforcement of these rights, without complying with the provisions of this act concerning notification (Section 6-202) or payment of fees (Section 6-203), is ~~guilty of a misdemeanor and upon conviction may be sentenced to pay a fine not exceeding Five Hundred Dollars ($500.00)~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 194. AMENDATORY 14A O.S. 1991, Section 5-302, is amended to read as follows:

Section 5-302. A person is ~~guilty of a misdemeanor and upon conviction may be sentenced to pay a fine not exceeding Five Thousand Dollars ($5,000.00), or to imprisonment not exceeding one (1) year, or both, if he willfully and knowingly~~ liable for an

administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) when he:

(1) gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this act on disclosure and advertising (Part 3) of the article on credit sales (Article 2) or of the article on loans (Article 3), or of any related rule of the Administrator adopted pursuant to this act;

(2) uses any rate table or chart, the use of which is authorized by rule of the Administrator adopted pursuant to the provisions on calculation of rate to be disclosed (Section 2-304 and Section 3-304), in a manner which consistently understates the annual percentage rate determined according to those provisions; or

(3) otherwise fails to comply with any requirement of the provisions of this act on disclosure and advertising (Part 3) of the article on credit sales (Article 2) or of the article on loans (Article 3), or of any related rule of the Administrator adopted pursuant to this act.

SECTION 195. AMENDATORY 15 O.S. 1991, Section 598.4, is amended to read as follows:

Section 598.4 Any retailer who shall, in contravention of the policy of this act, advertise, offer to sell or sell at retail any item of merchandise at less than cost to the retailer as defined in this act; or any wholesaler who shall in contravention of the policy of this act, advertise, offer to sell, or sell at wholesale any item of merchandise at less than cost to the wholesaler as defined in this act, shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 196. AMENDATORY 15 O.S. 1991, Section 615, is amended to read as follows:

Section 615. Any ~~violation~~ breach of this act shall ~~constitute a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00), or not less than ten (10) days and not more than one hundred (100) days in jail, or both~~ be liable for a civil infraction and the violator shall be subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 197. AMENDATORY 15 O.S. 1991, Section 655, is amended to read as follows:

Section 655. Any person ~~willfully and knowingly violating~~ breaching any of the provisions of this law shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 198. AMENDATORY 15 O.S. 1991, Section 753, as last amended by Section 2, Chapter 235, O.S.L. 1994 (15 O.S. Supp. 1994, Section 753), is amended to read as follows:

Section 753. A. A person engages in a practice which is declared to be unlawful under the Oklahoma Consumer Protection Act, Section 751 et seq. of this title, when, in the course of his business, he:

1. Represents, knowingly or with reason to know, that the subject of a consumer transaction is of a particular make or brand, when it is of another;

2. Makes a false or misleading representation, knowingly or with reason to know, as to the source, sponsorship, approval, or certification of the subject of a consumer transaction;

3. Makes a false or misleading representation, knowingly or with reason to know, as to affiliation, connection, association with, or certification by another;

4. Makes a false or misleading representation or designation, knowingly or with reason to know, of the geographic origin of the subject of a consumer transaction;

5. Makes a false representation, knowingly or with reason to know, as to the characteristics, ingredients, uses, benefits, alterations, or quantities of the subject of a consumer transaction or a false representation as to the sponsorship, approval, status, affiliation or connection of a person therewith;

6. Represents, knowingly or with reason to know, that the subject of a consumer transaction is original or new if he knows that it is reconditioned, reclaimed, used, or secondhand;

7. Represents, knowingly or with reason to know, that the subject of a consumer transaction is of a particular standard, style or model, if it is of another;

8. Advertises, knowingly or with reason to know, the subject of a consumer transaction with intent not to sell it as advertised;

9. Advertises, knowingly or with reason to know, the subject of a consumer transaction with intent not to supply reasonably expected public demand, unless the advertisement discloses a limitation of quantity;

10. Advertises under the guise of obtaining sales personnel when in fact the purpose is to sell the subject of a consumer transaction to the sales personnel applicants;

11. Makes false or misleading statements of fact, knowingly or with reason to know, concerning the price of the subject of a consumer transaction or the reason for, existence of, or amounts of price reduction;

12. Employs "bait and switch" advertising, which consists of an offer to sell the subject of a consumer transaction which the seller does not intend to sell, which advertising is accompanied by one or more of the following practices:

a. refusal to show the subject of a consumer transaction advertised,

b. disparagement of the advertised subject of a consumer transaction or the terms of sale,

c. requiring undisclosed tie-in sales or other undisclosed conditions to be met prior to selling the advertised subject of a consumer transaction,

d. refusal to take orders for the subject of a consumer transaction advertised for delivery within a reasonable time,

e. showing or demonstrating defective subject of a consumer transaction which the seller knows is unusable or impracticable for the purpose set forth in the advertisement,

f. accepting a deposit for the subject of a consumer transaction and subsequently charging the buyer for a higher priced item, or

g. willful failure to make deliveries of the subject of a consumer transaction within a reasonable time or to make a refund therefor upon the request of the purchaser;

13. ~~Conducts a closing out sale without having first obtained a license as required in this act, Section 751 et seq. of this title~~ Commits an unfair or deceptive trade practice as defined in Section 752 of this title;

14. Resumes the business for which the closing out sale was conducted within one (1) year from the expiration date of the closing out sale license; or

15. Falsely states, knowingly or with reason to know, that services, replacements or repairs are needed~~;~~

~~16. Violates any provision of the Oklahoma Health Spa Act, Section 2000 et seq. of Title 59 of the Oklahoma Statutes;~~

~~17. Violates any provision of the Home Repair Fraud Act, Section 765.1 et seq. of this title;~~

~~18. Violates any provision of the Consumer Disclosure of Prizes and Gifts Act, Section 996.1 et seq. of Title 21 of the Oklahoma Statutes;~~

~~19. Violates any provision of Section 755.1 of this title or Section 1847a of Title 21 of the Oklahoma Statutes; or~~

~~20. Commits an unfair or deceptive trade practice as defined in Section 752 of this title~~.

B. A person who breaches the provisions of subsection A of this section shall be subject to prosecution for General Fraud in Title 21 of the Oklahoma Statutes.

C. A person who conducts a closing-out sale without having first obtained a license as required in this act, Section 751 et seq. of this title, shall be liable for a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00).

SECTION 199. AMENDATORY 15 O.S. 1991, Section 761.1, as amended by Section 4, Chapter 235, O.S.L. 1994 (15 O.S. Supp. 1994, Section 761.1), is amended to read as follows:

Section 761.1 A. The commission of any act or practice declared to be a violation of the Consumer Protection Act shall render the violator liable to the aggrieved consumer for the payment of actual damages sustained by the customer and costs of litigation including reasonable attorney's fees, and the aggrieved consumer shall have a private right of action for damages, including but not limited to, costs and attorney's fees. In any private action for damages for a violation of the Consumer Protection Act the court shall, subsequent to adjudication on the merits and upon motion of the prevailing party, determine whether a claim or defense asserted in the action by a nonprevailing party was asserted in bad faith, was not well grounded in fact, or was unwarranted by existing law or a good faith argument for the extension, modification, or reversal of existing law. Upon so finding, the court shall enter a judgment

ordering such nonprevailing party to reimburse the prevailing party an amount not to exceed Ten Thousand Dollars ($10,000.00) for reasonable costs, including attorney's fees, incurred with respect to such claim or defense.

B. The commission of any act or practice declared to be a violation of the Consumer Protection Act, if such act or practice is also found to be unconscionable, shall render the violator liable to the aggrieved customer for the payment of a civil penalty, recoverable in an individual action only, in a sum set by the court of not more than Two Thousand Dollars ($2,000.00) for each violation. In determining whether an act or practice is unconscionable the following circumstances shall be taken into consideration by the court: (1) whether the violator knowingly or with reason to know, took advantage of a consumer reasonably unable to protect his or her interests because of his or her age, physical infirmity, ignorance, illiteracy, inability to understand the language of an agreement or similar factor; (2) whether, at the time the consumer transaction was entered into, the violator knew or had reason to know that price grossly exceeded the price at which similar property or services were readily obtainable in similar transactions by like consumers; (3) whether, at the time the consumer transaction was entered into, the violator knew or had reason to know that there was no reasonable probability of payment of the obligation in full by the consumer; (4) whether the violator knew or had reason to know that the transaction he or she induced the consumer to enter into was excessively one-sided in favor of the violator.

C. Any person who is found to be in violation of the Oklahoma Consumer Protection Act in a civil action or who willfully violates the terms of any injunction or court order issued pursuant to the Consumer Protection Act shall forfeit and pay a civil penalty of not more than Ten Thousand Dollars ($10,000.00) per violation, in

addition to other penalties that may be imposed by the court, as the court shall deem necessary and proper. For the purposes of this section, the district court issuing an injunction shall retain jurisdiction, and in such cases, the Attorney General, acting in the name of the state, or a district attorney may petition for recovery of civil penalties.

D. In administering and pursuing actions under this act, the Attorney General and a district attorney are authorized to sue for and collect reasonable expenses, attorney's fees, and investigation fees as determined by the court. Civil penalties or contempt penalties sued for and recovered by the Attorney General or a district attorney shall be used for the furtherance of their duties and activities under the Consumer Protection Act.

~~E. In addition to other penalties imposed by the Oklahoma Consumer Protection Act, any person convicted in a criminal proceeding of violating the Oklahoma Consumer Protection Act shall be guilty of a misdemeanor for the first offense and upon conviction thereof shall be subject to a fine not to exceed One Thousand Dollars ($1,000.00), or imprisonment in the county jail for not more than one (1) year, or both such fine and imprisonment. If the value of the money, property or valuable thing referred to in this section is Five Hundred Dollars ($500.00) or more or if the conviction is for a second or subsequent violation of the provisions of the Oklahoma Consumer Protection Act, any person convicted pursuant to this subsection shall be deemed guilty of a felony and shall be subject to imprisonment in the State Penitentiary, for not more than ten (10) years, or a fine not to exceed Five Thousand Dollars ($5,000.00), or both such fine and imprisonment.~~

SECTION 200. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 761.2 of Title 15, unless there is created a duplication in numbering, reads as follows:

Any person violating any of the provisions of the Oklahoma Consumer Protection Act for which a specific penalty is not provided shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 201. AMENDATORY 15 O.S. 1991, Section 765.1, is amended to read as follows:

Section 765.1 Sections ~~3~~ 765.1 through ~~5~~ 765.3 of this ~~act~~ title shall constitute a part of the Oklahoma Consumer Protection Act and shall be known and may be cited as the "Home Repair Fraud Act".

~~Any violation of the Home Repair Fraud Act shall constitute an unlawful business practice and shall be subject to the provisions of the Oklahoma Consumer Protection Act.~~

SECTION 202. AMENDATORY 15 O.S. 1991, Section 767, is amended to read as follows:

Section 767. A. It shall be unlawful for any person to advertise or conduct a closing out sale unless a license is first obtained to conduct such sale. Any applicant for a closing out sale license shall file an application in writing and under oath with the clerk on an application form prescribed by the Attorney General. The application form shall contain the following information, and such other information as the Attorney General may require:

1. The name and address of the owner of the goods, wares, or merchandise to be sold;

2. A description of the place of business where the sale is to be held;

3. The name and address of the person holding or conducting the sale;

4. The nature of the occupancy of the place where the sale is to be held, whether by lease or otherwise, and the effective date of termination of the occupancy;

5. A full and complete statement of the facts regarding the proposed sale, including the reason the sale is being conducted, the manner in which the sale will be conducted, and the commencement and termination date of the sale; and

6. A complete and detailed inventory of the goods, wares, and merchandise to be offered at the sale as disclosed by the records of the applicant or a statement of both the cost and retail value of the inventory of goods, wares, and merchandise to be offered at the sale, based on the physical inventory used for the most recent federal income tax returns adjusted for sales, purchases, and markdowns of the applicant. Adjustments for sales, purchases, and markdowns shall be shown on a monthly basis to the date of the application.

B. Each application shall be accompanied by an affidavit signed by the applicant attesting to the facts in the application.

C. A fee of Twenty-five Dollars ($25.00) shall be charged by the clerk of the district court for the issuance of a license.

~~D. Any person making a false statement in the application, upon conviction, shall be guilty of a felony.~~

SECTION 203. AMENDATORY 17 O.S. 1991, Section 6.1, as amended by Section 2, Chapter 271, O.S.L. 1992 (17 O.S. Supp. 1994, Section 6.1), is amended to read as follows:

Section 6.1 A. Any person who has been determined by the Commission to have violated any provision of any rule, regulation, or order issued pursuant to the provisions of the Commission related to pipeline safety shall be liable for ~~a civil penalty~~ <u>an administrative violation and subject to a fine</u> of not more than Ten Thousand Dollars ($10,000.00) for each day that said violation continues. The maximum civil penalty shall not exceed Five Hundred Thousand Dollars ($500,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Commission pursuant to the provisions of subsection A of this

section, after notice and hearing. In determining the amount of the penalty, the Commission shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the rules and regulations of the Commission.

All penalties collected pursuant to the provisions of this section shall be deposited into the Pipeline Enforcement Fund.

C. Any person who ~~willfully and knowingly~~ maliciously injures or destroys~~, or attempts to injure or destroy,~~ any pipeline transportation system~~, upon conviction, shall be subject for each offense to a fine of not more than Twenty-five Thousand Dollars ($25,000.00) or imprisonment for a term not to exceed fifteen (15) years or both such fine and imprisonment~~ shall be subject to prosecution for Malicious Mischief in Title 21 of the Oklahoma Statutes.

SECTION 204. AMENDATORY 17 O.S. 1991, Section 14, is amended to read as follows:

Section 14. If any officer of any railroad company or other public service corporation, or of any other corporation or any other person, in ~~violation~~ breach of the provisions of Article 9, Section 28, of the Constitution of the State of Oklahoma, shall refuse to permit the Corporation Commissioners, or any person authorized thereto, to examine its books and papers, such officer or other person so refusing shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by~~ liable for an administrative violation and subject to a fine of not ~~less than Twenty-five Dollars ($25.00), nor~~ more than Five Hundred Dollars ($500.00), ~~and by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year;~~ and each day such officers or other

person shall fail or refuse to permit such examination or investigation~~,~~ shall constitute a separate offense.

SECTION 205. AMENDATORY 17 O.S. 1991, Section 15, is amended to read as follows:

Section 15. If any officer of any corporation in ~~violation~~ breach of Article II, Section 28, of the Constitution of the State of Oklahoma, shall refuse to permit any person authorized by the state, to examine its papers, books and files, such officer or other person so refusing shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by~~ liable for an administrative violation and subject to a fine of not ~~less than Twenty-five Dollars ($25.00), nor~~ more than Five Hundred Dollars ($500.00), ~~and by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year;~~ and each day such officer or other person shall fail or refuse to permit such investigation or examination shall constitute a separate offense.

SECTION 206. AMENDATORY 17 O.S. 1991, Section 44, is amended to read as follows:

Section 44. The Corporation Commission shall have the same power and authority and be charged with the duty of regulating and controlling such cotton gins in all matters relating to the performance of public duties and the charges therefor and correcting abuses and preventing unjust discrimination and extortion, as is exercised by said Commission as to transportation and transmission companies and shall have the same power to fix rates, rules, charges and regulations to be observed by such person or persons or corporation operating gins and the affording of all reasonable conveniences, facilities and services as it may impose as to transportation or transmission companies. For the purpose of carrying into effect the provisions of this act, there is hereby created a Department of Cotton Gin Utilities under the Corporation Commission. The Commission shall appoint inspectors of cotton gins,

whose functions, duties and term of office shall be regulated by the Commission. It shall be the duty of each and every corporation, company, firm or individual owning or operating a cotton gin to file a final report for the preceding year not later than ninety (90) days following the expiration of the fiscal year of the cotton gin utility. Failure to file said report shall constitute a forfeiture of license and is hereby declared to be ~~a misdemeanor and may be prosecuted as such, said~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00). The report ~~to~~ shall be in accordance with rules and regulations promulgated by the Commission from time to time.

SECTION 207. AMENDATORY 17 O.S. 1991, Section 116.9, is amended to read as follows:

Section 116.9 Violation by the owner of a motor vehicle of any rule or regulation or any amendment thereto promulgated pursuant to this act or any order issued by the Commission under Section ~~7~~ 116.7 of this ~~act~~ title, or ~~willful~~ failure to comply with such an order, is ~~a misdemeanor, and upon conviction thereof, the owner shall be punished by confinement in the county jail for not more than one (1) year, or to pay a fine not exceeding Five Hundred Dollars ($500.00) or by both such confinement and fine~~ an administrative violation and the owner is subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 208. AMENDATORY 17 O.S. 1991, Section 158.59, is amended to read as follows:

Section 158.59 A. Any person who ~~willfully and knowingly~~ does or causes to be done any act, matter or thing prohibited or declared to be unlawful by this act, or who ~~willfully and knowingly~~ omits or fails to do any act, matter or thing required by this act to be done, or ~~willfully and knowingly~~ causes such omission or failure, shall~~, upon conviction thereof, be punished by~~ be liable for an administrative violation and subject to a fine of not more than Five

Thousand Dollars ($5,000.00) ~~or by imprisonment for not more than two (2) years, or both such fine and imprisonment~~. In addition, such ~~violation~~ breach shall be ~~punished upon conviction thereof by~~ subject to a fine of not ~~exceeding~~ more than Five Hundred Dollars ($500.00) for each day during which such ~~offense~~ administrative violation occurs.

B. Any person who ~~willfully and knowingly violates~~ breaches any rule, regulation, restriction, condition or order made or imposed by the Corporation Commission under authority of this act, shall~~, in addition to any other penalties provided by law, be punished upon conviction thereof by~~ be liable for an administrative violation and subject to a fine of not ~~exceeding Five Hundred Dollars ($500.00)~~ more than One Thousand Dollars ($1,000.00) for each day during which such offense occurs.

SECTION 209. AMENDATORY 17 O.S. 1991, Section 161.1, is amended to read as follows:

Section 161.1 A. Except for any person, public utility, or public service corporation subject to the jurisdiction of the Corporation Commission, or a municipal utility, or a public trust which has as its beneficiary the municipality, no owner of any interest in real property in this state who purchases electric current or natural gas from a municipality and who resells such electric current or natural gas to any residential lessee of any interest in such real property for the purpose of heat, light or power shall charge such lessee any amount in excess of ten percent (10%) of the cost to such reseller for each billing cycle of the electricity or natural gas purchased by the reseller from the supplier. Provided the provisions of this section shall not apply to the resell of electric current or natural gas pursuant to a commercial lease.

B. The reseller shall separately disclose in its electric or gas bills to the lessee the per unit cost of its purchased power and

the actual amount of each fee or charge in dollars and cents to be paid by the lessee to the reseller.

C. Any person who ~~willfully violates~~ breaches the provisions of this act~~, upon conviction by a district court,~~ shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). In addition to the punishment prescribed by this subsection, said reseller is liable in treble damages to the lessee injured, said damages to be recovered in a civil action by the consumer so injured. Treble damages shall be based on the total amount to be paid to the reseller by the lessee for each bill which exceeds the authorized percentage pursuant to this section.

~~D. The Office of the Attorney General of this state shall have the power and duty to investigate and prosecute any violations of the provisions of this section.~~

SECTION 210. AMENDATORY 17 O.S. 1991, Section 191.11, is amended to read as follows:

Section 191.11 A. Any person who ~~willfully and knowingly~~ does or causes to be done any act, matter or thing prohibited or declared to be unlawful by this act, or who ~~willfully and knowingly~~ omits or fails to do any act, matter or thing required by this act to be done, or ~~willfully and knowingly~~ causes such omission or failure, shall~~,~~ ~~upon conviction thereof, be punished by~~ be liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00) ~~or by imprisonment for not more than two (2) years, or both~~. In addition, ~~such violation~~ the violator shall be ~~punished upon conviction thereof by~~ subject to a fine of not ~~exceeding~~ more than Five Hundred Dollars ($500.00) for each day during which such offense occurs.

B. Any person who ~~willfully and knowingly violates~~ breaches any rule, regulation, restriction, condition or order made or imposed by the Corporation Commission under authority of this act~~,~~ shall~~, in~~

~~addition to any other penalties provided by law, be punished upon conviction thereof by~~ be subject to a fine of not ~~exceeding~~ more than Five Hundred Dollars ($500.00) for each day during which such offense occurs.

SECTION 211. AMENDATORY 17 O.S. 1991, Section 311, is amended to read as follows:

Section 311. A. Any person who has been determined by the Commission to have violated any provisions of the Oklahoma Underground Storage Tank Regulation Act or any rule promulgated or order issued pursuant to the provisions of the Oklahoma Underground Storage Tank Regulation Act shall be liable for an administrative penalty of not more than Ten Thousand Dollars ($10,000.00) for each day that said violation continues.

B. 1. The amount of the penalty shall be assessed by the Commission pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Commission shall include but not be limited to consideration of the nature, circumstances and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Oklahoma Underground Storage Tank Regulation Act.

2. All penalties collected pursuant to the provisions of this subsection shall be deposited in the Oklahoma Underground Storage Tank Regulation Revolving Fund.

C. The payment, in full, of any administrative penalty, assessed pursuant to an administrative order, the completion of any corrective action taken for a release pursuant to an administrative order, and the otherwise compliance with an administrative order issued by the Commission pursuant to the Oklahoma Underground Storage Tank Regulation Act for a release shall be full and complete

satisfaction of the violation for which the administrative order was issued and shall preclude the assessment of any other administrative, civil or criminal penalty for the same known violation by any other agency of this state.

~~D. Any person who willfully and knowingly violates any provision of the Oklahoma Underground Storage Tank Regulation Act or a rule, promulgated or order issued pursuant to the provisions of the Oklahoma Underground Storage Tank Regulation Act, upon conviction, shall be guilty of a misdemeanor and may be subject for each offense to a fine of not more than Five Thousand Dollars ($5,000.00) or imprisonment for a term not to exceed one (1) year or both such fine and imprisonment. Each day of violation pursuant to this subsection shall constitute a separate violation.~~

~~E. Any person who willfully and knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be filed, or required to be maintained pursuant to the Oklahoma Underground Storage Tank Regulation Act or rules promulgated thereto, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to the Oklahoma Underground Storage Tank Regulation Act or rules promulgated thereto shall be deemed guilty of a misdemeanor and, upon conviction, may be punished by a fine of not more than Five Thousand Dollars ($5,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. Each day of violation pursuant to this subsection shall constitute a separate violation.~~

SECTION 212. AMENDATORY 18 O.S. 1991, Section 381.24a, as last amended by Section 1, Chapter 17, O.S.L. 1994 (18 O.S. Supp. 1994, Section 381.24a), is amended to read as follows:

Section 381.24a A. Definitions. As used in this section:

1. "Bank" means any bank chartered under the laws of this state or any national bank which is authorized to engage in the banking business and is located in this state.

2. "Branch" means any place of business separated from the main office of a savings association at which deposits are received, or checks paid, or money lent.

3. "Main bank" means the office location which has been designated by the State Banking Commissioner or Comptroller of the Currency as the main office of a bank.

4. "Main office" means the main office location of a savings association.

5. "Savings association" means any savings and loan association or savings bank chartered under the laws of this state or any federal savings and loan association or savings bank which is authorized to engage in the savings and loan business and is located in this state.

6. "Bank branch" means any place of business separated from the main office of a bank at which deposits are received, checks paid, or money lent.

B. Authorization to establish branches. From and after May 3, 1990, and until July 1, 1996, new association branches may be established only under the guidelines set forth in this section. From and after July 1, 1996, new association branches may be established with permission granted by order of the State Banking Commissioner without regard to the restrictions otherwise provided in this subsection. Association branches approved prior to May 3, 1990, shall be grandfathered and shall not be counted towards the two-branch limitation contained in this subsection. Association branches approved prior to May 3, 1990, may be relocated without regard to geographical restrictions contained in this subsection.

1. Any association may establish and perform any association function at no more than two branches on property owned or leased by the association as follows:

a. located within the corporate city limits where the main office is located; or

b. located within twenty-five (25) miles of the main office if located in a city or town which has no state or federal savings association and no state or national bank located in said city or town; provided however, if an application for a certificate of authority to transact savings and loan business has been filed the Commissioner shall give priority to the application for certificate of authority.

2. The Commissioner shall not grant a certificate for any branch unless it is more than three hundred thirty (330) feet from any main office or branch or another association or federal association in counties with a population of five hundred thousand (500,000) or more according to the last Federal Decennial Census unless the branch is established with the irrevocable consent of such other association or federal association. This distance limitation shall be determined by measuring along a straight line drawn between the nearest exterior wall of the appropriate main office building or branch building and the nearest exterior wall of the branch office building.

3. If at the time of acquisition of an association or federal association pursuant to subsection C of this section no other association or federal association was located in the same city or town as the acquired association or federal association, the Commissioner shall not grant any other association a certificate to establish a branch within such city or town for a period of five (5) years after the acquisition and operation of the branch.

C. Authorization to branch by acquisition. Subject to the limitations in subsection D of this section, any association may acquire and operate as branches at which any association function may be performed an unlimited number of banks or associations or federal associations or bank branches or association branches or federal association branches without restriction on location. Any such acquisition of a bank, association or federal association may include all of the assets and liabilities of the bank, association, or federal association and all branches and facilities thereof which have been established prior to the date of the acquisition as determined by the Comptroller of the Currency, the Commissioner, or the Office of Thrift Supervision.

If a bank, association or federal association acquired pursuant to this subsection had no outside-attached facilities or detached facilities permitted under Section 415 of Title 6 of the Oklahoma Statutes or Section 381.24b of this title at the time of acquisition, the acquiring association may establish such facilities after the acquisition.

D. Deposit limitation.

1. It shall be unlawful for any association to acquire any other association, federal association or bank in Oklahoma or any portion of its assets if such acquisition would result in the association having direct or indirect ownership or control of more than eleven percent (11%) of the aggregate deposits of all financial institutions located in Oklahoma which have deposits insured by the Federal Deposit Insurance Corporation and National Credit Union Administration as determined by the Commissioner on the basis of the most recent reports of such institutions to their supervisory authorities which are available at the time of the proposed acquisition.

2. The deposit limitation provided for in this subsection shall not apply to disallow an acquisition of a bank, association or

federal association if control results only by reason of ownership or control of shares of such financial institution acquired directly or indirectly:

a. in a good faith fiduciary capacity, except when such shares are held for the benefit of the acquiring association's shareholders; or

b. by an association in the regular course of securing or collecting a debt previously contracted in good faith; or

c. at the request of or in connection with the exercise of regulatory authority for the purpose of preventing imminent failure of the bank, association or federal association or to protect the depositors thereof as determined by the principal supervisory agency in its sole discretion.

Provided, however, at the end of a period of five (5) years from the date of acquisition, for the circumstances set forth in subparagraphs b and c of this paragraph, the deposits of the acquired bank or association or federal association shall be included in computing the deposit limitation and if deposits are in excess, appropriate reductions and disposition shall be made within six (6) months to meet such limitations. Further, in the circumstances set forth in subparagraph c of this paragraph, the Commissioner and the Federal Deposit Insurance Corporation shall give priority in authorizing any such acquisition to any acquiring association whose total deposits do not exceed the deposit limitation.

E. Certificate to establish and operate a branch.

1. No association shall be permitted to establish or operate a branch except upon certificate issued by the Commissioner or Office of Thrift Supervision.

2. The application for a certificate to establish or operate a branch of an association shall comply with the regulations of the Commissioner.

F. Right to operate and maintain facilities. The provisions of this section shall not be construed in derogation or denial of the right to operate and maintain facilities as provided for in Sections 381.24b, 381.24c and 381.24d of this title.

G. Sanctions. A violation of any portion of this section~~, upon conviction,~~ shall be ~~a misdemeanor punishable by~~ an administrative violation subject to a fine of not ~~exceeding Five Hundred Dollars ($500.00)~~ more than One Thousand Dollars ($1,000.00). Each day's violation shall constitute a separate offense.

H. Nothing contained in this section shall be construed to limit the authority of federal savings associations to branch in accordance with federal law and regulations.

SECTION 213. AMENDATORY 18 O.S. 1991, Section 381.24b, as amended by Section 45, Chapter 183, O.S.L. 1993 (18 O.S. Supp. 1994, Section 381.24b), is amended to read as follows:

Section 381.24b A. 1. Any association may maintain and operate, subject to the approval of the State Banking Commissioner as evidenced by its certificate, outside attached facilities and two detached facilities having one or more tellers' windows for drive-in or walk-up service or both. Of the two detached facilities, permitted by this section, one may be on property owned or leased by the association and located less than one thousand (1,000) feet from the association's main office and one may be on property owned or leased by the association located less than three (3) miles from said main office.

2. Any branch may maintain and operate, subject to the approval of the Commissioner as evidenced by its certificate, one outside attached facility having one or more tellers' windows for drive-in

or walk-up service or both on property owned or leased by the association.

3. The Commissioner shall not grant a certificate for a detached facility unless it is more than three hundred thirty (330) feet from any other existing main office or branch of another association or federal association or unless the facility is established with the irrevocable consent of such other association or federal association.

4. For purposes of this section, the distance limitation shall be determined by measuring along a straight line drawn between the nearest exterior wall of the appropriate main office building or branch building and the nearest exterior wall of the facility.

B. 1. No association shall be permitted to maintain and operate such additional outside facilities except upon certificate issued by the Commissioner. The issuance of the certificates shall rest solely as to the location in the discretion of the Commissioner.

2. The application for a certificate to maintain and operate a detached facility shall comply with the regulations of the Commissioner. An application fee shall be payable to the State Banking Department in an amount set by rule of the Commissioner.

3. Any association function may be performed at the facilities except that of making loans. Upon the recommendation of the Commissioner, the Attorney General shall bring an appropriate action to enjoin an association from conducting the making of loans at such facilities.

4. Any association validly operating a detached facility prior to May 3, 1990, shall be granted a certificate to continue its operation at such facility. Any such detached facility shall be grandfathered and shall not count against the number of detached facilities permitted by paragraph 1 of subsection A of this section, nor shall the distance limitations in that subsection be applicable.

5. The provisions of this section shall not be construed in derogation or denial of the right to operate and maintain facilities as provided for in Sections 381.24c and 381.24d of this title.

C. A ~~violation~~ breach of any portion of this section shall be ~~and constitute a misdemeanor punishable upon conviction by a fine not exceeding Five Hundred Dollars ($500.00)~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Each day's ~~violation~~ breach shall constitute a separate offense.

D. Nothing contained in this section shall be construed to limit the authority of federal savings associations to maintain and operate outside or detached facilities in accordance with federal law and regulations.

SECTION 214. AMENDATORY 18 O.S. 1991, Section 381.24c, as amended by Section 46, Chapter 183, O.S.L. 1993 (18 O.S. Supp. 1994, Section 381.24c), is amended to read as follows:

Section 381.24c A. Any association may, subject to the approval of the State Banking Commissioner as evidenced by its certificates, and subject to the approval of the military installation commander as evidenced by a letter of approval, maintain and operate a detached facility on any military installation located in the State of Oklahoma.

B. As used in this section, the term "military savings facility" shall mean a detached facility maintained by an association upon a military installation within the State of Oklahoma, provided such military savings facility must be within the confines of a military reservation and located upon property owned or leased by the United States government.

C. 1. No association shall be permitted to maintain and operate such military savings facility, except on certificate issued by the Commissioner. The issuance of such certificate shall rest solely in the discretion of the Commissioner.

2. The application for a certificate to maintain and operate a military savings facility shall comply with the regulations of the Commissioner. An application fee shall be payable to the State Banking Department in an amount set by rule of the Commissioner.

3. No association function shall be performed at the facility save that of accepting deposits, cashing checks, making change, selling bank paper, such as bank drafts, cashier's checks, money orders, traveler's checks, etc., accepting payment for personal utility bills, redeeming and selling United States Savings Bonds, and such other services as the installation commander may request, in writing, of the association. Upon the recommendation of the Commissioner, the Attorney General shall bring an appropriate action to enjoin an association from conducting association functions at such facility other than those herein granted.

D. A ~~violation~~ breach of any portion of this section shall be ~~and constitute a misdemeanor punishable upon conviction by a fine not exceeding Five Hundred Dollars ($500.00)~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000,00). Each day's ~~violation~~ breach shall constitute a separate offense.

SECTION 215. AMENDATORY 18 O.S. 1991, Section 381.73, as amended by Section 67, Chapter 183, O.S.L. 1993 (18 O.S. Supp. 1994, Section 381.73), is amended to read as follows:

Section 381.73 A. Acquisition of control. An out-of-state savings institution, upon approval by the State Banking Commissioner, may acquire direct or indirect control of an unlimited number of in-state savings institutions for operation as in-state savings institutions, and may acquire any such institutions' parent Oklahoma holding company. Any acquisition made pursuant to the provisions of this section may include assets and liabilities of the in-state savings institution or its parent Oklahoma holding company and all branches and facilities thereof.

B. Prohibited transactions.

1. No in-state savings institution which becomes a subsidiary of an out-of-state savings institution under any extraordinary acquisition provisions of federal law, or which is otherwise controlled by an out-of-state savings institution, shall be permitted to acquire direct or indirect ownership or control of, or to convert to a branch, any additional in-state savings institution or to establish additional branches or facilities, except as otherwise provided for in this section; and

2. No out-of-state savings institution may directly or indirectly acquire control of an in-state savings institution or its parent Oklahoma holding company except as otherwise permitted by this section.

C. Approval of acquisition. No acquisition provided for in this section shall be permitted unless the approval of the Commissioner required pursuant to subsection A of this section:

1. Includes, for all acquisitions, a finding that:

a. the in-state savings institution sought to be acquired or all of the savings institution subsidiaries of the parent Oklahoma holding company sought to be acquired have either been in existence and continuous operation for more than five (5) years or have been chartered before July 1, 1987, and

b. notice of intent to acquire has been published in a newspaper of general paid circulation in the county or counties where the in-state savings institution to be acquired is located and that a notice of intent to acquire has been mailed by certified mail with return receipt requested to each person owning stock in the in-state savings institution to be acquired or in its parent Oklahoma holding company or, if the in-state savings institution to be acquired is a mutual

association, notice has been given as in the case of a proceeding under Section 381.61 of this title; and

2. Includes, for any acquisition of a majority of the voting shares of a stock association or of its parent Oklahoma holding company, or for any acquisition of a mutual association by merger or purchase and assumption transaction with another in-state savings association, a finding that the acquisition has been approved by the board of directors and a majority of the stockholders of or holders of voting rights in the in-state savings institution or of its parent Oklahoma holding company, as applicable; and

3. Subjects the acquisition to any conditions, restrictions, and requirements that would be applicable to such an acquisition by an in-state savings institution of an out-of-state savings institution in the state where the out-of-state savings institution has its home office, if such state has enacted and implemented legislation authorizing the acquisition by an in-state savings institution of out-of-state savings institutions located in that state, but that would not be applicable to acquisitions in that state by an out-of-state savings institution all of whose savings institution subsidiaries are located in that state; and

4. Except when the additional acquisition is of an in-state savings institution whose stock is held as stock acquired in the course of realizing upon a security interest which secured a debt previously contracted in good faith prior to the original acquisition by the out-of-state savings institution, prohibits additional branching and further acquisitions by an in-state savings institution which is a subsidiary of an out-of-state savings institution unless and until the earlier of:

a. such time as the Commissioner determines that the state in which the out-of-state savings institution has its home office has enacted and implemented legislation authorizing in-state savings institutions

to acquire savings institutions in that state on a reciprocal basis, or

b. the expiration of a four-year period commencing on the date of acquisition by the out-of-state savings institution.

D. Branching, acquisition and conversion by subsidiaries. Any in-state savings institution or its parent Oklahoma holding company which becomes a subsidiary of an out-of-state financial institution under the extraordinary acquisition provisions of federal law, or which is otherwise deemed to be controlled by an out-of-state financial institution, may acquire direct or indirect ownership or control of any additional in-state financial institution or its parent Oklahoma holding company, establish additional branches or facilities, or convert the existing controlled in-state savings institution to branches of another in-state savings institution:

1. If the Commissioner has determined that the principal place of business of the out-of-state savings institution has enacted and implemented reciprocal acquisition legislation within the purview of this section; or

2. Upon the expiration of a four-year period commencing on the date of acquisition by the out-of-state savings institution.

E. Limitations and restrictions. All limitations and restrictions of the Oklahoma Savings and Loan Code applicable to in-state savings institutions shall apply to an in-state savings institution which becomes a direct or indirect subsidiary of an out-of-state savings institution and to the out-of-state savings institution. The provisions of this subsection shall not be construed to prohibit the acquisition by an out-of-state savings institution of all or substantially all of the shares of an in-state savings institution organized solely for the purpose of facilitating the acquisition of a savings institution which has been in existence and continuous operation as a savings institution for more than five

(5) years or has been chartered before July 1, 1987, if the acquisition has otherwise been approved pursuant to this subsection. Nor shall the provisions of this subsection be construed to prohibit an out-of-state savings institution which acquires an in-state savings institution under this section from additional acquisitions under this section, if such acquisition would otherwise be permitted.

F. Applicable law. Any out-of-state savings institution which controls an in-state savings institution shall be subject to the laws of this state and the rules of its agencies relating to the acquisition, ownership, and operation of in-state savings institutions. The Commissioner shall make such rules and regulations including the imposition of reasonable application and administration fees as it finds necessary to implement the provisions of this act.

G. Regulatory supervision. The Commissioner may enter into cooperative agreements with other regulatory agencies to facilitate the regulation of savings institutions doing business in this state. The Commissioner may accept reports of examinations and other records from such other agencies in lieu of conducting its own examinations of in-state savings institutions controlled by out-of-state savings institutions. The Commissioner may take any action jointly with other regulatory agencies having concurrent jurisdiction over savings institutions doing business in this state or may take such actions independently in order to carry out its responsibilities.

H. Divestiture. The Commissioner shall have the power to enforce the prohibitions provided for in subsection B of this section by requiring divestiture and through the imposition of fines and penalties, the issuance of cease and desist orders, and such other remedies as are provided by law.

I. Penalties. Any organization which ~~intentionally and willfully violates~~ breaches any provision of this section~~, upon conviction,~~ shall be ~~fined not less than Five Hundred Dollars ($500.00) nor~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each day during which the ~~violation~~ breach continues. Any individual who ~~intentionally and willfully~~ participates in a ~~violation~~ breach of any provision of this section~~, upon conviction,~~ shall be ~~fined~~ liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) ~~or imprisoned not more than one (1) year, or both such fine and imprisonment~~.

J. Judicial review. Any final order of the Commissioner shall be appealable pursuant to Section 207 of Title 6 of the Oklahoma Statutes.

SECTION 216. AMENDATORY 18 O.S. 1991, Section 411, is amended to read as follows:

Section 411. Thirty (30) days after the passage and approval of this bill, all chambers of commerce, commercial clubs, or any such associations organized and doing business in this state as is commonly done by such associations, shall make a report to their entire membership, setting forth and itemizing their receipts and disbursements for the year ending at the date of the passage and approval of this bill, and shall thereafter make a like report each year ending June 30th.

Every committee or individual who solicits or receives any funds from the public for such associations herein named shall make a full itemized report of all receipts and disbursements thereof. The report shall be filed with the city clerk where the committee or person soliciting such fund resides, or where the funds were collected~~; provided, that any person or committee who diverts the funds so collected from the purposes for which they were solicited or collected, shall be guilty of a felony and on conviction therefor~~

~~shall be punished by confinement in the penitentiary for a term of not less than one (1) nor more than five (5) years~~.

SECTION 217. AMENDATORY 18 O.S. 1991, Section 435, is amended to read as follows:

Section 435. No person, firm or association, nor any corporation other than such as shall be organized under this act, shall make use of the word "cooperative", in the name under which its or their business is carried on. Whoever shall ~~violate~~ breach the provisions of this act shall be ~~punishable by fine of not exceeding One Hundred Dollars ($100.00) for each offense~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). The ~~violation~~ breach of this section may furthermore be enjoined at the suit of any citizen of the state.

SECTION 218. AMENDATORY 18 O.S. 1991, Section 488, is amended to read as follows:

Section 488. Any company doing business under the provisions of this article, which shall fail to comply with any of its provisions, shall ~~forfeit to the State of Oklahoma~~ be liable for a civil infraction for every such failure and subject to a fine of not ~~less than Five Hundred Dollars ($500.00) nor~~ more than ~~Five Thousand Dollars ($5,000.00)~~ Twenty Thousand Dollars ($20,000.00) to be recovered by suit in the name of the State of Oklahoma, in the same court in which suit may be brought against such company under the provisions of this article, and such failure shall not affect the validity of any contract entered into by such company.

SECTION 219. AMENDATORY 18 O.S. 1991, Section 552.11, is amended to read as follows:

Section 552.11 ~~A. 1.~~ No charitable organization, professional fund raiser, or professional solicitor seeking to raise funds for charitable purposes, shall use the name of any other person (except that of an officer, director or trustee of the charitable organization by or for which contributions are solicited) for the

purpose of soliciting contributions in this state without the written consent of such other person. Nothing herein contained shall prevent the publication of names of contributors, without their written consent, in an annual or other periodic report issued by a charitable organization for the purpose of reporting to its membership or for the purpose of reporting contributions to contributors.

~~2.~~ No charitable organization soliciting or accepting contributions shall use a name so closely related or similar to other charitable organizations or governmental agencies or subdivisions that the use thereof would tend to confuse or mislead the public.

~~B. Any person who uses the name of or a name deceptively similar to any other person, charitable organization, professional fund raiser, professional solicitor or governmental agency or subdivision to solicit or accept contributions, money or property under false pretense, representation or promise, upon conviction, shall be guilty of a felony and punished by a fine not more than Ten Thousand Dollars ($10,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.~~

SECTION 220. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 552.19 of Title 18, unless there is created a duplication in numbering, reads as follows:

Any person violating any provision of the Oklahoma Solicitation of Charitable Contributions Act for which a specific penalty is not provided shall be liable for a civil infraction and subject to a fine of not more than Two Thousand Dollars ($2,000.00).

SECTION 221. AMENDATORY 18 O.S. 1991, Section 587, is amended to read as follows:

Section 587. Any person ~~violating~~ breaching the provisions of Sections ~~1478~~ 584 and ~~1479~~ 585 of this ~~article,~~ title shall be ~~deemed guilty of a misdemeanor, and upon upon conviction thereof,~~

~~shall be fined not exceeding Fifty Dollars ($50.00), or imprisoned in the county jail not exceeding thirty (30) days, or may be punished by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 222. AMENDATORY 18 O.S. 1991, Section 952, is amended to read as follows:

Section 952. A. Any license issued after June 1, 1971, under the Oklahoma Business Corporation Act to a foreign corporation for the purpose of engaging in farming or ranching or for the purpose of owning or leasing any interest in land to be used in the business of farming or ranching shall be revoked within five (5) years of the effective date of this act.

B. The corporate franchise of any existing domestic corporation formed under the Oklahoma Business Corporation Act after June 1, 1971, for the purpose of engaging in farming or ranching or for the purpose of owning or leasing any interest in land to be used in the business of farming or ranching shall be vacated within five (5) years of the effective date of this act unless its articles of incorporation comply with Section 951 of this title.

C. The corporate franchise of any domestic corporation governed by the Oklahoma General Corporation Act formed for the purpose of farming or ranching or for the purpose of owning or leasing any interest in land to be used in the business of farming or ranching and permitted to engage in such activity under this act shall be vacated promptly in the manner prescribed by Section 104 of this act, if the corporation has persistently violated the provisions of subsection A of Section 951 of this title.

D. The State Board of Agriculture shall initiate and prosecute civil ~~or criminal~~ actions and proceedings when deemed necessary to enforce or carry out any of the provisions of this code.

E. This act shall not require any foreign or domestic corporation to dispose of any property acquired on or before June 1, 1971.

F. Any farming or ranching corporation which ~~violates~~ breaches the provisions of Section 951 of this title shall be ~~fined an amount not to exceed Five Hundred Dollars ($500.00)~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any other person, corporation or entity who ~~knowingly violates~~ breaches such section shall be ~~deemed guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 223. AMENDATORY 18 O.S. 1991, Section 955, as last amended by Section 6, Chapter 2, O.S.L. 1994 (18 O.S. Supp. 1994, Section 955), is amended to read as follows:

Section 955. A. No person, corporation, association or any other entity shall engage in farming or ranching, or own or lease any interest in land to be used in the business of farming or ranching, except the following:

1. Natural persons and the estates of such persons;

2. Trustees of trusts; provided that:

   a. each beneficiary shall be a person or entity enumerated in paragraphs 1 through 5 of this subsection, and

   b. there shall not be more than ten beneficiaries unless the beneficiaries in excess of ten are related as lineal descendants or are or have been related by marriage or adoption to lineal descendants, and

   c. at least sixty-five percent (65%) of the trust's annual gross receipts shall be derived from farming or ranching, or from allowing others to extract minerals underlying lands held by the trust. If the trust cannot comply with the annual gross receipts test, the

trust may furnish records of its gross receipts for each of the previous five (5) years, or for each year that it has been in existence if less than five (5) years, and the average of such annual gross receipts may be used for purposes of complying with this section;

3. Corporations, as provided for in Sections 951 through 954 of this title, or as otherwise permitted by law;

4. Partnerships and limited partnerships; provided that:

a. each partner shall be a person or entity enumerated in paragraphs 1 through 5 of this subsection, and

b. there shall not be more than ten partners unless said partners in excess of ten are related as lineal descendants or are or have been related by marriage or adoption to lineal descendants, and

c. at least sixty-five percent (65%) of the partnership's annual gross receipts shall be derived from farming or ranching, or from allowing others to extract minerals underlying lands held by the partnership. If the partnership cannot comply with the annual gross receipts test, the partnership may furnish records of its gross receipts for each of the previous five (5) years, or for each year that it has been in existence if less than five (5) years, and the average of such annual gross receipts may be used for purposes of complying with this section;

5. Limited liability companies formed pursuant to the Oklahoma Limited Liability Company Act; provided that:

a. each member shall be a person or entity enumerated in paragraphs 1 through 5 of this subsection, and

b. there shall not be more than ten members unless said members in excess of ten are related as lineal

descendants or are or have been related by marriage or adoption to lineal descendants, and

c. at least sixty-five percent (65%) of the limited liability company's annual gross receipts shall be derived from farming or ranching, or from allowing others to extract minerals underlying lands held by the limited liability company. If the limited liability company cannot comply with the annual gross receipts test, the limited liability company may furnish records of its gross receipts for each of the previous five (5) years, or for each year that it has been in existence if less than five (5) years, and the average of such annual gross receipts may be used for purposes of complying with this section.

B. Any farming or ranching corporation, trust, partnership, limited partnership, limited liability company or other entity which ~~violates~~ breaches any provisions of this section shall be ~~fined an amount not to exceed Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any other person or entity who ~~knowingly violates~~ breaches this section shall be ~~deemed guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

C. The provisions of this act shall not apply to interests in land acquired prior to June 1, 1978.

SECTION 224. AMENDATORY 18 O.S. 1991, Section 1020, is amended to read as follows:

Section 1020.

LIMITATIONS UPON REAL ESTATE OWNERSHIP

A. No corporation of any sort, whether coming within the general scope of the Oklahoma General Corporation Act or not, except as provided for in this section, shall own, hold, or take any real

estate located in this state outside of any incorporated city or town, or any addition thereto.

B. The provisions of the Oklahoma General Corporation Act shall not be construed to prohibit the owning, holding or taking of:

1. Such real estate as is necessary and proper for carrying on the business for which any corporation has been lawfully formed or domesticated in this state;

2. Naked title to real estate by any trust company, as trustee, to be held solely as security for indebtedness pursuant to such trust or as trustee of an express or testamentary trust for the benefit of natural persons;

3. Any real estate mortgage held by any corporation to secure any loan or debt;

4. Any real estate acquired by any corporation upon the foreclosure of any real estate mortgage held by such corporation or acquired in the collection of any loan or debt due such corporation, except as provided for in subsection C of this section; or

5. Any real estate acquired by any corporation for lease or sale to any other corporation, if such latter corporation could have legally acquired the same in the first instance.

C. Any real estate located in this state outside of any incorporated city or town, or any addition thereto, acquired by any corporation by mortgage foreclosure or in collection of debt as provided for in paragraph 4 of subsection B of this section, shall be sold and disposed of within seven (7) years from such acquisition.

D. The provisions of subsections A through C of this section shall not apply to religious, educational, charitable or scientific corporations, owning or holding taxable property.

E. 1. Any person who takes or holds any real estate for the use or benefit of any corporation ~~with the intent of evading~~ in violation of the provisions of this section~~,~~ shall~~, upon conviction,~~

be ~~deemed guilty of a misdemeanor and punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Fifty Dollars ($50.00) nor~~ more than ~~Five Hundred Dollars ($500.00) or by imprisonment in the county jail for a term not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00).

2. Any corporation that fails or refuses to file a statement as required by the provisions of subsection F of this section shall~~, upon conviction, be deemed guilty of a misdemeanor and punished by a fine not exceeding One Thousand Dollars ($1,000.00)~~ be liable for a civil infraction and subject to a fine of not more than Two Thousand Dollars ($2,000.00).

F. 1. On or before the first day of April of each year, every corporation holding any real estate in contravention of the provisions of this section shall file in the office of the county clerk of each county where such real estate is located, a statement in duplicate containing the legal description of each tract, piece, or parcel of real estate so owned or acquired, the date of the acquisition of each tract, piece, or parcel, the amount of the last preceding assessed valuation thereof and the purpose and method of the acquisition thereof. The statement shall be verified by the oath of an officer or duly appointed agent of the corporation.

2. The county clerk shall keep a permanent index and record of each statement filed by corporations pursuant to the provisions of this subsection in a permanent record book, which shall be in the form prescribed by the State Auditor and Inspector. One copy of each statement so filed shall be retained as a part of the permanent records of the office of the county clerk.

3. Within thirty (30) days after the statement provided for in paragraph 1 of this subsection is filed, the county clerk shall deliver the other duplicate to the district attorney of such county.

G. 1. Any corporation owning or holding any real estate in violation of the provisions of subsections A through E of this section, in addition to other penalties provided for in the Oklahoma General Corporation Act, shall be required to pay, for each year, or fraction thereof, during which such title or interest is thus unlawfully owned or held, the following penalties:

a. For the first year, one percent (1%) of the assessed value of such real estate unlawfully owned or held;

b. For the second year, two percent (2%) thereof;

c. For the third year, three percent (3%) thereof;

d. For the fourth year, four percent (4%) thereof;

e. For the fifth year, five percent (5%) thereof;

f. For the sixth year, six percent (6%) thereof; and

g. For each year thereafter, six percent (6%) thereof.

2. Provided, however, that no corporation shall be subject to more than one penalty, for each calendar year, for each tract, piece or parcel of real estate thus held in violation of the provisions of this section, but the penalties provided for in paragraph 1 of this subsection shall be cumulative.

3. In determining the penalty under this subsection, the assessed value of the real estate fixed for the purpose of levying ad valorem taxes, which last shall have become due and payable preceding the date of the accrual of such penalty, shall be taken.

4. The penalties, upon collection, shall be immediately paid over to the Commissioners of the Land Office for credit to the permanent school fund of this state created pursuant to Section 2 of Article XI of the Oklahoma Constitution.

5. The state shall have a lien against any piece, parcel or tract of real estate to secure the payment of all penalties, interest, and fees accruing from such unlawful owning or holding of any such real estate; provided, that such lien shall not attach thereto, or in any way affect the title thereof, until an action to

subject such real estate to such lien and a foreclosure thereof has been instituted in the district court of the county where such real estate is located. Filing of such action shall be notice lis pendens and anyone thereafter acquiring any such real estate shall take it subject to such lien.

H. 1. Whenever the district attorney of any county has reason to believe that any real estate located in such county is owned or held by a corporation in violation of the provisions of this section, the district attorney shall give written notice to such corporation that:

a. it is subject to the penalties provided for in this section;

b. such penalties must be paid to the district attorney within thirty (30) days from the date of such notice; and

c. there is additionally due and payable to the district attorney a collection fee equal to fifteen percent (15%) of the total penalties collected as to any tract, piece or parcel of real estate which is unlawfully owned or held. If the institution of an action is necessary to procure a judgment for the collection of such penalties, the collection fee shall be increased to twenty-five percent (25%) of the penalty recovered, and in no event less than One Hundred Dollars ($100.00). Such fee shall be retained by the district attorney as remuneration for services rendered in collecting such penalties, which shall be in addition to any compensation otherwise provided for by law.

2. In the event such penalty shall not be paid within thirty (30) days from the date of such notice, the district attorney shall institute an action in the name of the state in the district court

of the county where such real estate is located for the recovery of the penalties, together with interest thereon at the rate of ten percent (10%) per annum from the date of such notice, the collection fee provided for in paragraph 1 of this subsection, all costs of the action, and for a further judgment establishing and foreclosing any lien created pursuant to the provisions of paragraph 5 of subsection G of this section, unless the real estate which is alleged to have been unlawfully owned or held, is disposed of prior to the commencement of the action.

a. The petition in such case shall set forth:

(1) a description of the real estate which is alleged to have been unlawfully owned or held;

(2) the names, as defendants, of the corporation and all persons alleged to be unlawfully holding the real estate;

(3) if the establishment and foreclosure of a lien upon such real estate is sought in the action, the names as defendants, of all persons claiming real estate, including all tenants and persons in actual possession thereof; and

(4) the facts and circumstances in consequence of which it is alleged that such real estate is owned or held in violation of the provisions of this section.

b. The filing of such petition, and all other procedures relating thereto, in all respects shall be governed by and subject to the same laws as in other civil actions.

c. If the state recovers a judgment against such corporation in such action, the judgment shall include and be entered for:

(1) the amount of the penalties for which the corporation is found liable pursuant to the provisions of this section;

(2) interest on such penalties at the rate of ten percent (10%) per annum from the date such penalties become due and receivable pursuant to the written notice provided for in paragraph 1 of this subsection;

(3) a collection fee of twenty-five percent (25%) of such penalties recovered, which fee shall not be less than One Hundred Dollars ($100.00);

(4) the entire costs of the action; and

(5) if the establishment and foreclosure of a lien upon the real estate is prayed for in the petition, a decree establishing such lien upon such real estate and an order of foreclosure.

d. Upon the judgment becoming final, an execution shall issue for the collection thereof.

SECTION 225. AMENDATORY 18 O.S. 1991, Section 1072, is amended to read as follows:

Section 1072.

POWERS OF COURT IN ELECTIONS OF DIRECTORS

A. The district court, in any proceeding instituted pursuant to the provisions of Section ~~56~~ 1056, ~~60~~ 1060 or ~~70~~ 1070 of this ~~act~~ title, may determine the right and power of persons claiming to own stock, or in the case of a corporation without capital stock, of the persons claiming to be members, to vote at any meeting of the shareholders or members.

B. The district court may appoint a master to hold any election provided for in Section ~~56~~ 1056, ~~60~~ 1060 or ~~70~~ 1070 of this ~~act~~ title under such orders and powers as it deems proper; and it may punish any officer or director for contempt in case of disobedience

of any order made by the court; and, in case of disobedience by a corporation of any order made by the court, may enter a decree against such corporation for a ~~penalty~~ fine of not more than Five Thousand Dollars ($5,000.00).

SECTION 226. AMENDATORY 18 O.S. 1991, Section 1134, is amended to read as follows:

Section 1134.

VIOLATIONS AND PENALTIES

A. Any foreign corporation doing business of any kind in this state without first having complied with any provision of the Oklahoma General Corporation Act applicable to it~~,~~ shall be ~~fined not less than Two Hundred Dollars ($200.00) nor~~ liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00) for each such offense. Any agent of any foreign corporation that shall do any business in this state for any foreign corporation before the foreign corporation has complied with any provision of the Oklahoma General Corporation Act applicable to it~~,~~ shall be ~~fined not less than One Hundred Dollars ($100.00) nor~~ liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00) for each such offense.

B. If any foreign corporation fails to file or cause to be filed a certificate as provided for in paragraphs 11 and 13 of subsection A of Section 1142 of this title or fails to pay to the Secretary of State any additional fees shown to be due by the certificate provided for in paragraph 13 of subsection A of Section 1142 of this title, the corporation:

1. May be ousted from this state by the Secretary of State and its certificate of authority to do business in this state revoked and canceled. Before such revocation the Secretary of State shall give not less than thirty (30) days' notice sent by mail duly addressed to such corporation at its principal place of business or

last address shown on the records of the Secretary of State of the Secretary of State's intent to revoke the corporation's authority to transact business in this state; and

2. After notice required in paragraph 1 above, shall be subject to a penalty and shall forfeit to the state for each day it fails to comply with the provisions of this subsection, the sum of Twenty-five Dollars ($25.00) per day but not more than Five Hundred Dollars ($500.00) for each such offense.

C. All fines and penalties provided for by this section may be recovered in a suit brought therefor by the Attorney General, in the name of the state, against the corporation, in any district court of the state. Fines and penalties received or collected pursuant to this section by the Attorney General as a result of an action brought in the name of the state by the Attorney General, shall be paid into the State Treasury provided that twenty-five percent (25%) thereof shall be deposited in the Attorney General's Evidence Fund. Such fines and penalties shall be properly accounted for and paid monthly by the Secretary of State to the State Treasurer for deposit into the General Revenue Fund.

SECTION 227. AMENDATORY 18 O.S. 1991, Section 2006, as amended by Section 4, Chapter 366, O.S.L. 1993 (18 O.S. Supp. 1994, Section 2006), is amended to read as follows:

Section 2006. A. Articles required by this act to be filed with the Office of the Secretary of State shall be executed in the following manner:

1. Articles of organization must be signed by at least one person who need not be a member of the limited liability company; and

2. Articles of amendment, correction or dissolution must be signed by a manager.

B. Any person may sign any articles by an attorney in fact. Powers of attorney relating to the signing of articles by an

attorney in fact need not be sworn to, verified or acknowledged, and need not be filed with the Office of the Secretary of State.

C. The execution of any articles under this act constitutes an affirmation ~~under the penalties of perjury~~ that the facts stated therein are true.

D. Any signature on any instrument authorized to be filed with the Secretary of State under this act may be a facsimile.

SECTION 228. AMENDATORY 19 O.S. 1991, Section 29, is amended to read as follows:

Section 29. ~~Any~~ It shall be unlawful for any person or corporation ~~offering~~ to offer money or other thing of value, either directly or indirectly, for the purpose of influencing any voter for or against any proposition in such election~~,~~ shall be ~~deemed guilty of bribery~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 229. AMENDATORY 19 O.S. 1991, Section 90, is amended to read as follows:

Section 90. Any city, town or place, being a candidate for the location of any county seat in any such election, may appoint and designate one qualified elector in any precinct or voting place to act as challenger at such precinct; and may appoint and designate one poll book holder and one special watcher in any such precinct or voting place: Provided, that the challenger, poll-book holder and watcher shall perform duties as provided by law governing any general election. Any such city, town or place may appoint in writing by, the mayor or president of the board of trustees thereof or the president of the organization representing such place one qualified elector of the county for each precinct who shall have the right to be present in the room where the election is held at the precinct to which such person is assigned, and during all the time of the receipt and counting of the tickets or ballots, and until the vote is fully canvassed by such election officers, and the returns

certified by the inspector, judges and clerks, and to whom the inspector, judges and clerks shall deliver a certificate, signed by each of them, of the vote received at said election by each candidate~~, and the refusal of any such inspector, judge or clerk, or other person to extend and enforce the right herein granted, shall constitute a felony, punishable as provided by the laws of said state for felonies~~. Such person shall deliver such written appointment to the special election commissioner of such election in proof of his authority to represent his town as aforesaid at such election.

SECTION 230. AMENDATORY 19 O.S. 1991, Section 92, is amended to read as follows:

Section 92. ~~Any~~ It shall be unlawful for any person or corporation ~~offering~~ to offer money or other thing of value, either directly or indirectly, for the purpose of influencing any voter for or against any competing city, town or place in such election ~~shall be deemed guilty of bribery~~.

SECTION 231. AMENDATORY 19 O.S. 1991, Section 120, is amended to read as follows:

Section 120. If any such treasurer or clerk shall ~~wilfully~~ disregard any of the provisions of this article, he shall be ~~fined in a sum not exceeding five hundred dollars~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) and be ~~removed~~ subject to removal from office.

SECTION 232. AMENDATORY 19 O.S. 1991, Section 180.43, as last amended by Section 1, Chapter 91, O.S.L. 1994 (19 O.S. Supp. 1994, Section 180.43), is amended to read as follows:

Section 180.43 A. Each sheriff shall be paid actual expenses by the county for keeping, feeding, and maintaining prisoners, not to exceed the sum of Three Dollars and fifty cents ($3.50) per day for each prisoner for the first twenty prisoners and Two Dollars ($2.00) per day for each additional prisoner. The claim for said

expenses shall be filed with and approved or disapproved by the board of county commissioners as other claims, and the sheriff shall receive no other compensation for said services. The sheriff shall file an annual report with the board of county commissioners not later than January 15 of each year. The State Auditor and Inspector shall conduct an audit of the report as on other public records of the county.

B. Each county sheriff may contract with the Department of Justice of the United States of America, the Department of Corrections, or any municipality of this state for the feeding, care, housing, and upkeep of federal, state, or municipal prisoners, or alien detainees incarcerated in the county jail. Any funds received pursuant to said contract shall be the funds of the county where the federal, state, or municipal prisoners, or alien detainees are incarcerated and shall be deposited in a separate revolving fund with the county treasurer. All purchases made pursuant to the provisions of this subsection shall be made pursuant to the purchasing procedures specified in Sections 1500 through 1505 of this title, including the use of blanket purchase orders as provided for in Section 310.8 of Title 62 of the Oklahoma Statutes. The sheriff shall be permitted to expend any surplus in the revolving fund for administering expenses for salaries, training, equipment, or travel, or for capital expenditures.

The claim for said expenses shall be filed with and allowed by the board of county commissioners as other claims. The sheriff shall receive no compensation for said services. The sheriff shall file an annual report with the board of county commissioners not later than January 15 of each year. The State Auditor and Inspector shall conduct an audit of the report as on other public records of the county.

C. In lieu of the travel reimbursement or monthly travel allowance provided for by law, the board of county commissioners may

purchase and provide for the operation, maintenance, insurance, equipping, and repair of an automobile for each county commissioner to be used in performing the duties of his office. In lieu of the travel reimbursement or monthly travel allowance provided for by law, the board of county commissioners, with the concurrence of the county sheriff, may purchase and provide for the operation, maintenance, insurance, equipping, and repair of automobiles for the use of the sheriff in performing the duties of his office. Any automobile purchased pursuant to the authority granted in this section shall be purchased by competitive bids. The use of any said automobile for private or personal purposes is hereby prohibited. In any county having a population of at least three hundred fifty thousand (350,000), where it is determined by the sheriff to be more economical and advantageous to the county, the sheriff may establish a monthly automobile allowance of not more than Four Hundred Dollars ($400.00) per month in lieu of the mileage per mile for in-county driving as authorized in this section. Any travel reimbursement other than in-county driving as provided for in this section shall be for actual and necessary expenses as provided for in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. Any person violating the provisions of this subsection, ~~upon conviction,~~ shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and ~~shall be punished by~~ subject to a fine of not more than ~~One Hundred Dollars ($100.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both said fine and imprisonment~~ One Thousand Dollars ($1,000.00), and in addition thereto shall be discharged from county employment.

D. Each county sheriff may operate, or contract the operation of, a commissary for the benefit of persons lawfully confined in the county jail under the custody of the county sheriff. Any funds received pursuant to said operations shall be the funds of the county where the persons are incarcerated and shall be deposited in

the Sheriff's Commissary Account. The sheriff shall be permitted to expend the funds to improve or provide jail services. The sheriff shall be permitted to expend any surplus in the Sheriff's Commissary Account for administering expenses for training equipment, travel or for capital expenditures. The claims for expenses shall be filed with and allowed by the board of county commissioners in the same manner as other claims. The sheriff shall receive no compensation for the operation of said commissary. The sheriff shall file an annual report on any said commissary under his or her operation no later than January 15 of each year. The State Auditor and Inspector shall conduct an audit of the report in the same manner as other public records of the county. Nothing in this subsection shall circumvent the provisions of Section 73 of Title 7 of the Oklahoma Statutes.

E. Each county sheriff may operate, or contract the operation of, a telephone system for the benefit of persons lawfully confined in the county jail under the custody of the county sheriff. Any funds received pursuant to said operations shall be the funds of the county where the persons are incarcerated and shall be deposited in the Sheriff's Service Fee Account. Such funds may be expended according to the guidelines previously established for expenditures from the general fund. The claims for expenses shall be filed with and allowed by the board of county commissioners in the same manner as other claims.

SECTION 233. AMENDATORY 19 O.S. 1991, Section 257, is amended to read as follows:

Section 257. The county clerk shall annually on the fourth Monday of January prepare and file in the office of the Secretary of State, a list of the officers of the county, elected at the last preceding general election, which list shall contain the genuine signatures of all county officers, and the county clerk shall certify under the seal of his office, that such signatures are the

genuine signatures of the respective officers, and that they were attached in his presence: Provided, that in case of any vacancy in any county office, the county clerk shall immediately transmit to the Secretary of State the genuine signature of the person elected or appointed to fill such vacancy: Provided, further, that any county clerk failing or refusing to comply with the provisions of this article, shall be ~~deemed guilty of a misdemeanor and punished by a fine of not less than ten nor more than fifty dollars~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 234. AMENDATORY 19 O.S. 1991, Section 333.1, is amended to read as follows:

Section 333.1 Any county commissioner or person who shall ~~knowingly or wilfully~~ fail or refuse to comply with the provisions of this act shall be ~~guilty of a felony~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 235. AMENDATORY 19 O.S. 1991, Section 340, is amended to read as follows:

Section 340. The board of county commissioners is hereby vested with full power to inquire into and investigate the accounts, disbursements, bills and expenses of any county, district, or township officer, and to that end may subpoena witnesses and in case any witness fails or refuses to obey any lawful order of the board of county commissioners he shall be ~~deemed guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00), but in no case shall the board of county commissioners allow any compensation, fee, salary, bills or expenses to any officer or person except when expressly allowed by law.

SECTION 236. AMENDATORY 19 O.S. 1991, Section 522, is amended to read as follows:

Section 522. No sheriff, undersheriff, deputy sheriff, or person by either of them deputed to do any special act, shall, directly or indirectly, by himself or through others in any way suggest or indicate to, or advise any person having any proceeding or about to have any proceeding in any court, or other matter, that any attorney or firm of attorneys is desirable, or successful practitioners, or in any way do any act liable to influence or direct such person in his choice of attorneys. Nor shall any such sheriff, undersheriff, or deputy sheriff, appear or advise as attorney or counselor in the case, or in any court. Any sheriff, undersheriff, deputy sheriff, or person so specially deputed, who shall ~~violate~~ breach any one of the provisions of this section shall be ~~deemed guilty of a misdemeanor, and for the first offense shall be fined ten dollars, and on the second conviction shall be fined not less than twenty-five dollars~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00); and for the third offense, he shall be removed from office. The sheriff shall keep posted in each cell of the jail a list of the attorneys practicing in his county.

SECTION 237. AMENDATORY 19 O.S. 1991, Section 523, is amended to read as follows:

Section 523. Whenever any sheriff shall neglect to make due return of any writ or process delivered to him to be executed, or shall ~~be guilty of~~ commit any default or engage in any misconduct in relation thereto, he shall be liable ~~to a fine or attachment, or both at the discretion of the court, subject to appeal; such fine, however, not to exceed two hundred dollars~~ for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00); and also an action for damages to the party so aggrieved.

SECTION 238. AMENDATORY 19 O.S. 1991, Section 591.1, is amended to read as follows:

Section 591.1 A. Any person who ~~knowingly removes,~~ relocates, changes, ~~obliterates~~ or makes unintelligible a survey monument shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) and in addition shall be liable for the cost of reestablishing and resetting the monument and for any actual damages incurred as a result of such actions.

B. At such time as it may be necessary to remove, obliterate, cover or destroy any monument, the county surveyor or any other qualified land surveyor shall set new monuments from which may be established the location of the original monument and a new survey report shall be recorded as provided for original survey reports.

C. All corners as required by this act that are included within the definitions of the Corner Perpetuation and Filing Act ~~(65SS3-116 through 65SS3-123)~~, Section 3-116 et seq. of Title 65 of the Oklahoma Statutes, shall be recorded with the Oklahoma Department of Libraries, State Archives and the county clerk.

SECTION 239. AMENDATORY 19 O.S. 1991, Section 686, is amended to read as follows:

Section 686. Any official or employee thereof or any member or employee of any county board or county commission who shall fail, neglect or refuse to comply with the requirements of section ~~two (2) hereof~~ 682 of this title, or any other provision of this act, shall ~~forfeit and pay to the use of the county the sum of Ten Dollars ($10.00)~~ be liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00) per day for each and every day that he shall so fail, neglect or refuse to comply with the requirements of said act, and shall forfeit and be removed from office~~; and, any such official who shall issue, sign, attest or utter any false or illegal voucher against any monies deposited, as in this act provided, shall be liable to the county on his official bond for a sum double in amount of any such illegal or fraudulent~~

~~voucher, and shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine in a sum of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) and by imprisonment in the State Penitentiary for a term of not less than one nor more than five years~~.

SECTION 240. AMENDATORY 19 O.S. 1991, Section 795, is amended to read as follows:

Section 795. Any person ~~violating~~ breaching any provision of this act shall be removed from any office that he holds in connection with such county hospital by a court of competent jurisdiction and, in addition thereto, shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 241. AMENDATORY 19 O.S. 1991, Section 863.28, is amended to read as follows:

Section 863.28 A ~~violation~~ breach of this act or of any order or regulation adopted under authority of this act shall be ~~deemed a misdemeanor and shall be punishable by fine or by imprisonment or both, as now provided by law for misdemeanors, and jurisdiction~~ a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Jurisdiction is hereby conferred upon any municipal~~, criminal, or police~~ court in the municipality, over offenses occurring within the five-mile area surrounding the municipality, which jurisdiction shall be concurrent with that of any other court having jurisdiction thereof. The proper authorities or any person, the value or use of whose property is or may be affected by such ~~violation~~ breach, in addition to the other remedies, may also institute any appropriate action or proceedings to prevent or remove such violation.

SECTION 242. AMENDATORY 19 O.S. 1991, Section 863.37, is amended to read as follows:

Section 863.37 No person, firm or corporation shall engage in the business of wiring, rewiring, installing, repairing or altering any electrical wiring, or installing or repairing any electrical apparatus, appliances or fixtures of any kind or description, as an electrical contractor within the limits of any city or county within the provisions of this act without securing from the Joint Electrical Examining and Appeal Board herein created, a license. Said applicant shall file with the Electrical Inspector, an application showing the name of the person, firm or corporation in whose name it is desired that the license be issued, the kind of license applied for, the name of the certificate holder, the number and date of such certificate, and such further and other information as may be required by the Electrical Inspector. Said application shall be signed by the applicant, or a member of the firm, or an authorized officer of the corporation making the application and shall also be signed by the holder of the certificate and shall be attached to the application. The Electrical Inspector, if said application is correct, shall approve said application and retain for his file, the certificate of the Joint Electrical Examining and Appeal Board, upon furnishing the applicant with a proper receipt therefor; if such certificate is withdrawn by the owner thereof, said license shall become inoperative and no further permits shall be issued by the Electrical Inspector under such license. Such license may be reinstated and rendered operative by the filing with the Electrical Inspector, of another proper certificate of the Joint Electrical Examining and Appeal Board.

~~Violation~~ Breach of any of the provisions of this act shall ~~constitute a misdemeanor and shall be punished as provided by a maximum fine of One Hundred Dollars ($100.00) upon conviction thereof~~ be a civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00). The Electrical Inspector shall be entitled to bring any action at law or equity to restrain the

threatened or continued ~~violation~~ breach of any of the provisions of that portion of this act relating to electrical codes.

SECTION 243. AMENDATORY 19 O.S. 1991, Section 863.44E, is amended to read as follows:

Section 863.44E ~~Violation~~ Breach of this act shall be punishable by a ~~penalty of One Hundred Dollars ($100.00)~~ civil infraction subject to a fine of not more than Five Hundred Dollars ($500.00). Each day such ~~violation~~ breach continues shall be considered a separate ~~and continuing violation~~ breach. Such ~~penalty~~ fine shall be payable by the record owner of said building and upon failure to pay such penalty and after being reduced to judgment in a court of competent jurisdiction, such sum including all reasonable costs of the court action may become a lien to be levied against said property. Any monies collected under the terms of this act shall be paid into the General Revenue Fund. The Attorney General is hereby authorized to institute and prosecute such action upon receiving a request of the State Fire Marshal to initiate such court action.

SECTION 244. AMENDATORY 19 O.S. 1991, Section 863.48, is amended to read as follows:

Section 863.48 ~~Violation~~ Breach of any of the provisions or conditions of this act or of any building and/or fire code adopted hereunder shall be ~~punishable by a maximum fine of One Hundred Dollars ($100.00) and/or imprisonment for a maximum period of thirty (30) days upon conviction thereof~~ a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00). Each day shall constitute a separate ~~violation~~ breach.

The board of county commissioners or the building inspector shall be entitled to bring any action at law or equity including action for injunction to restrain, restrict and/or prohibit the threatened or existing violation of any of the provisions of this act or of any building and/or fire code adopted hereunder.

SECTION 245. AMENDATORY 19 O.S. 1991, Section 864.15, is amended to read as follows:

Section 864.15 ~~Violation~~ Breach of any of the provisions or conditions of this act shall ~~constitute a misdemeanor and shall be punishable by a maximum fine of One Hundred Dollars ($100.00) upon conviction thereof~~ be a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00). Each day shall constitute a separate ~~violation~~ breach. The electrical inspector shall be entitled to bring any action at law or equity to restrain the threatened or continued ~~violation~~ breach of any of the provisions of this act relating to electrical codes.

It shall be unlawful for any person, firm or corporation to hold himself out, by publication or other means, as qualified to perform work restricted by the terms of this act, unless they are, in fact, so qualified.

SECTION 246. AMENDATORY 19 O.S. 1991, Section 865.67, is amended to read as follows:

Section 865.67 A ~~violation~~ breach of this act or of any order or regulation adopted under authority of this act shall be ~~deemed a misdemeanor and shall be punishable by fine or by imprisonment or both, as now provided by law for misdemeanors~~ a civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 247. AMENDATORY 19 O.S. 1991, Section 866.32, is amended to read as follows:

Section 866.32 A ~~violation~~ breach of this act or of any order or regulation adopted under authority of this act shall be ~~deemed a misdemeanor and shall be punishable by fine or by imprisonment or both, as now provided by law for misdemeanors , and jurisdiction~~ a civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00). Jurisdiction is hereby conferred upon any municipal~~, criminal, or police~~ court in the municipality over offenses occurring within the municipality, which jurisdiction shall

be concurrent with that of any other court having jurisdiction thereof.

SECTION 248. AMENDATORY 19 O.S. 1991, Section 868.21, is amended to read as follows:

Section 868.21 A ~~violation~~ breach of this act or of any order or regulation adopted under authority of this act shall be ~~deemed a misdemeanor and shall be punishable by fine or imprisonment or both, as now provided by law for misdemeanors~~ a civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00). The proper county authorities or any person, the value or use of whose property is or may be affected by such ~~violation~~ breach, in addition to other remedies, may also institute any appropriate action including injunctive relief or proceedings to prevent or remove such ~~violation~~ breach.

SECTION 249. AMENDATORY 19 O.S. 1991, Section 869.7, is amended to read as follows:

Section 869.7 A ~~violation~~ breach of this act or any order or regulation adopted under authority of this act shall be ~~deemed a misdemeanor and shall be punishable by fine or by imprisonment or both, as provided by Section 10 of Title 21~~ a civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 250. AMENDATORY 19 O.S. 1991, Section 942, is amended to read as follows:

Section 942. Any person parking a motor or other vehicle in such a parking lot without paying the parking fee, as provided for and fixed in said resolution, shall be ~~guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than Five Dollars ($5.00)~~ liable for a civil infraction and subject to a fine of not more than Twenty-five Dollars ($25.00).

SECTION 251. AMENDATORY 19 O.S. 1991, Section 1501, as last amended by Section 4, Chapter 6, O.S.L. 1994 (19 O.S. Supp. 1994, Section 1501), is amended to read as follows:

Section 1501. A. The county purchasing agent:

1. Shall, within the amount of the unencumbered balance, make all purchases that are paid from county funds for the various institutions, departments, officers, and employees of the county, except as otherwise provided for by law;

2. May make purchases for political subdivisions of this state within the county if authorized by appropriate action of the governing board or body of the political subdivision affected;

3. Shall make purchases and rental or lease-purchase agreements only after following the bidding procedures as provided for by law, except:

a. when the purchase does not exceed Two Thousand Five Hundred Dollars ($2,500.00). All purchases made pursuant to this subparagraph shall be by a single purchase order. Splitting purchase orders which would result in paying an amount in excess of the limitations specified in this subparagraph is expressly prohibited~~. Any person convicted of violating the provisions of this subparagraph shall be guilty of a misdemeanor and such person shall forfeit the person's position or office~~,

b. when the total payments of a rental or lease-purchase agreement do not exceed Two Thousand Five Hundred Dollars ($2,500.00),

c. when articles and items are covered by single source contracts,

d. service or maintenance contracts on equipment or machinery which are entered into at the time of the purchase of the equipment or machinery,

e. purchases made pursuant to a blanket purchase order as provided for in Section 310.8 of Title 62 of the Oklahoma Statutes,

f. when unprocessed native materials for road or bridge improvements do not exceed Two Dollars ($2.00) per yard or per ton,

g. purchases of fuel if the county purchasing agent obtains telephone quotes from at least three vendors prior to the purchase and the lowest and best quote is selected. Documentation of these quotes shall be recorded in the permanent records of the clerk,

h. purchases of products available to the county through a General Services Administration contract or other federal contract if the item is not on current state contract or the terms of such contract are more favorable to the county than the terms of a state contract for the same products,

i. purchases of tools, apparatus, machinery or equipment from a state agency or a political subdivision of the state as provided for in subsection C of Section 421.1 of this title,

j. purchases of food for prisoners incarcerated in the county jail; provided, in counties having a population in excess of one hundred thousand (100,000) persons, the county purchasing agent shall follow bidding procedures as provided by law unless the county purchasing agent obtains telephone quotes pursuant to the whole total of food items requisitioned prior to the purchase and the lowest and best quote is selected. Documentation of these quotes shall be recorded in the permanent records of the county clerk,

k. when a county solicits bids for the purchase of processed native materials for road and bridge improvements, the county may accept all bids received, with the lowest and best bid from those accepted to be

selected at the time of opening of any construction project. The selection of the bid shall be based upon availability, bid price, plus transportation costs,

l. when a vendor has been selected as the lowest and best bidder to furnish a particular item or items to the county during a specified time period and in the event the vendor is unable to perform, the purchasing agent may solicit telephone quotes for the item or items needed from the list of qualified bidders and provide for the purchase of the items at the lowest and best quote available,

m. when considering the purchase of an item or items from the state bid list as provided by the Department of Central Services, if the same exact item is available from a local vendor at or below the price listed on the state bid list, the item may be obtained from the vendor, or

n. any item or items bid by the Department of Central Services which may be purchased by the county, provided the vendor is willing to supply the item or items to the county at the bid price.

The purchases shall be paid by attaching properly itemized invoices, as described in Section 1505 of this title, to a purchase order which has been prepared by the county purchasing agent and submitting both to the county clerk for filing, encumbering, and consideration for payment by the board of county commissioners;

4. Shall not furnish any supplies, materials, equipment, or other articles, except upon receipt of a requisition signed by a county officer. Written requisitions will not be required for blanket purchase orders as provided for in Section 310.8 of Title 62 of the Oklahoma Statutes. Each county officer may designate not more than two employees who also shall be authorized to sign

requisitions in the absence of the county officer. A written designation of said employees shall be filed with the county clerk and shall be entered in the minutes of the board of county commissioners;

5. Shall make lease or lease-purchase agreements for road machinery and equipment if the county has adequate funds appropriated during any fiscal year for such purpose and only after following the bidding procedures as provided for in Section 1505 of this title. The term of any lease or lease-purchase agreement authorized pursuant to this paragraph may be for any period up to one (1) year, provided, the term shall not extend beyond the end of any fiscal year, with an option to renew such agreement subject to the requirement that adequate funds are appropriated during the fiscal year by the county for such purpose. The State Auditor and Inspector's office shall be notified by the county of the terms and conditions of a lease or lease-purchase agreement authorized pursuant to this paragraph before any such agreement is made by the county purchasing agent; and

6. Shall perform such other duties as may be delegated to him by the appointing authority or as may be provided for by law.

B. Each department of county government needing repairs to equipment, machinery or vehicles shall make estimates and requisition a purchase order from the county purchasing agent for repairs not in excess of Two Thousand Five Hundred Dollars ($2,500.00). Repairs in excess of Two Thousand Five Hundred Dollars ($2,500.00) shall be submitted on a blanket purchase order as provided in Section 310.8 of Title 62 of the Oklahoma Statutes.

SECTION 252. AMENDATORY Section 2, Chapter 146, O.S.L. 1992 (22 O.S. Supp. 1994, Section 34.2), is amended to read as follows:

Section 34.2 A. Any peace officer, except a newly employed officer during such officer's probationary period, who, in pursuance

of such officer's law enforcement duties, witnesses another peace officer, in pursuance of such other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, use physical force which exceeds the degree of physical force permitted by law or by the policies and guidelines of the law enforcement entity, shall report such use of excessive force to such officer's immediate supervisor.

B. At a minimum, the report required by this section shall include:

1. The date, time, and place of the occurrence;

2. The identity, if known, and description of the participants;

3. A description of the events and the force used.

C. A copy of an arrest report or other similar report required as a part of a peace officer's duties can be substituted for the report required by this section, as long as it includes the information specified in subsection B of this section. The report shall be made in writing within ten (10) days of the occurrence of the use of such force.

~~D. Any peace officer who fails to report such use of excessive force in the manner prescribed in this section, or who knowingly makes a materially false statement which the officer does not believe to be true in any report made pursuant to this section, upon conviction, shall be guilty of a misdemeanor.~~

SECTION 253. AMENDATORY 22 O.S. 1991, Section 60.6, as last amended by Section 59, Chapter 290, O.S.L. 1994 (22 O.S. Supp. 1994, Section 60.6), is amended to read as follows:

Section 60.6 A. ~~Except as otherwise provided by this section any person who has been served with an ex parte or final protective order and is in violation of such protective order, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of~~

~~not more than One Thousand Dollars ($1,000.00) or by a term of imprisonment in the county jail of not more than one (1) year, or both such fine and imprisonment.~~

~~B. Any person who after a previous conviction of a violation of a protective order is convicted of a second or subsequent offense pursuant to the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail of not less than ten (10) days and not more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine of not less than Five Hundred Dollars ($500.00) and not more than One Thousand Dollars ($1,000.00).~~

~~C. 1. Any person who has been served with an ex parte or final protective order who violates said protective order and without justifiable excuse causes physical injury or physical impairment to the plaintiff or to any other person named in said protective order shall, upon conviction, be guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail for not less than ten (10) days nor more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine not to exceed Five Thousand Dollars ($5,000.00).~~

~~2. In determining the term of imprisonment required by this section, the jury or sentencing judge shall consider the degree of physical injury or physical impairment to the victim.~~

~~3. The provisions of this subsection shall not affect the applicability of Sections 644, 645, 647 and 652 of Title 21 of the Oklahoma Statutes.~~

~~D. The minimum sentence of imprisonment issued pursuant to the provisions of subsections B and C of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation, provided the court may subject any remaining~~

~~penalty under the jurisdiction of the court to the statutory provisions for suspended sentences, deferred sentences or probation.~~

~~E. In addition to any other penalty specified by this section, the court may require a defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim or to bring about the cessation of stalking or harassment of the victim.~~

~~F.~~ Ex parte and final protective orders shall include a notice ~~of these penalties~~ that any person who has been served with an ex parte or final protective order and who is in violation of such order is subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

~~C.~~ B. When a minor child violates the provisions of any protective order, the court may, if the violation is to be heard in a juvenile proceeding, order the child to participate in counseling services necessary to bring about the cessation of domestic abuse against the victim and order community service hours to be performed in lieu of any fine or imprisonment authorized by this section.

SECTION 254. AMENDATORY 22 O.S. 1991, Section 209, is amended to read as follows:

Section 209. (1) A law enforcement officer who has arrested a person on a misdemeanor charge or violation of city ordinance, without a warrant, may issue a citation to such person to appear in court.

(2) In issuing a citation hereunder the officer shall proceed as follows:

(a) He shall prepare a written citation to appear in court, containing the name and address of the cited person and the offense charged, and stating when the person shall appear in court. Unless the person requests an earlier date, the time specified in the citation to appear shall be at least five (5) days after the issuance of the citation.

(b) One copy of the citation to appear shall be delivered to the person cited, and such person shall sign a duplicate written citation which shall be retained by the officer.

(c) The officer shall thereupon release the cited person from any custody.

(d) As soon as practicable, the officer shall file one copy of the citation with the court specified therein and shall deliver one copy to the prosecuting attorney.

(3) In any case in which the judicial officer finds sufficient grounds for issuing a warrant, he may issue a summons commanding the defendant to appear in lieu of a warrant.

~~(4) If a person summoned fails to appear in response to the summons, a warrant for his arrest shall issue, and any person who willfully fails to appear in response to a summons is guilty of a misdemeanor.~~

SECTION 255. AMENDATORY 22 O.S. 1991, Section 305.5, is amended to read as follows:

Section 305.5 A. Information received and collected by any service agency while the accused participates in the deferred prosecution program shall not be released to any agency or individual that will use the information for dissemination to the general public or be recorded in a computer system that has the potential for connection with national computer files, or be used by a law enforcement agency for the purposes of surveillance and investigation.

B. Any information obtained in the course of investigating the suitability of the accused for inclusion in a deferred prosecution program shall remain confidential except for purposes of deferred prosecution programs and shall not be released by any individual or agency without permission from the accused, being advised by counsel.

C. If the deferred prosecution program is terminated before successful completion of the agreement, no information obtained as a result of the participation of the accused in the deferred prosecution program shall be admissible, in any subsequent proceeding against the advantage of the accused, except if said information could have been routinely gathered in the police investigation of the crime of the accused.

~~D. Any person releasing any information required by this section to be kept confidential shall be guilty of a misdemeanor, and shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00) or be imprisoned for not more than six (6) months, or both.~~

SECTION 256. AMENDATORY 22 O.S. 1991, Section 1111, is amended to read as follows:

Section 1111. Any person arrested by a law enforcement officer for any violation of any statute relating to water safety or for any misdemeanor violation of the Oklahoma Wildlife Conservation Code, or for commission of an offense as provided by Section 1112 of this title, in addition to other provisions of law for posting bail, shall be admitted to bail as follows:

(a) post cash bail, of an amount as indicated in Section 1112 of this title, in an envelope addressed to the court clerk of the district court of the appropriate jurisdiction. The defendant, in the presence of the arresting officers, shall deposit the envelope containing the citation, on which the date of the hearing has been indicated by the arresting officers, and the bail bond for his appearance at such time and place, in the United States mail. The arresting officers shall furnish a receipt to the person. For the purpose of this section, cashier's checks, postal money orders, instruments commonly known as traveler's checks, certified checks, and personal checks shall be considered as cash. Any person who does not post a cash bail shall deposit with the arresting officer a

valid license to operate a motor vehicle; provided that an out-of-state arrestee posting cash by personal check shall deposit with the arresting officer a valid license to operate a motor vehicle as provided in subsection (b) of this section, except the receipt shall cease to operate as an operator's license if the personal check is not honored after the last presentment. The court clerk shall supply the sheriff's office, Oklahoma Department of Public Safety and the Oklahoma Department of Wildlife Conservation with postage paid preaddressed envelopes. The cost of the envelopes and postage shall be paid from the court fund; or

(b) deposit with the arresting officer a valid license to operate a motor vehicle, in exchange for an official receipt issued by the arresting officer. The operator's license and citation shall be transmitted by the arresting officer to the clerk of the court having jurisdiction over the offense.

~~Application for a duplicate license to operate a motor vehicle during the period when the original license is posted in lieu of cash bail shall be a misdemeanor and upon conviction shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not less than seven (7) days nor more than six (6) months, or by both such fine and imprisonment. Provided, that notice~~ Notice of the fine and punishment shall be printed on the receipt issued for deposit of a driver's license in lieu of cash bail. The receipt for posting bail by depositing a valid operator's license shall be on forms approved by the Commissioner of Public Safety. The receipt shall be recognized as an operator's license and authorize the operation of a motor vehicle until the date of arraignment but not exceeding twenty (20) days.

SECTION 257. AMENDATORY 24 O.S. 1991, Section 17, is amended to read as follows:

Section 17. Any person, firm, company or corporation violating any of the provisions of ~~this act~~ Section 13 or 15 of this title

shall be ~~guilty of a misdemeanor and upon conviction thereof shall be fined not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 258. AMENDATORY 24 O.S. 1991, Section 83, is amended to read as follows:

Section 83. A. Any person, firm or corporation who ~~knowingly and willfully~~ introduces, attempts to introduce or causes to be introduced false information into the files of a consumer reporting agency or credit bureau for the purpose of wrongfully damaging or wrongfully enhancing the credit information of any individual, shall be ~~guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one (1) year or by~~ liable for a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00)~~, or by both such fine and imprisonment~~.

B. Any person, firm or corporation who ~~knowingly~~ promulgates or publishes a false opinion or statement in any book or list as to the credit or financial standing of any person, and circulates such book or list among wholesale or retail business concerns, shall be liable in damages to the person about whom the false opinion or statement is made, for the full amount of injury sustained, and in addition thereto for exemplary damages in any sum to be fixed by the jury, and shall also be ~~guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one (1) year or by~~ liable for a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00)~~, or by both such fine and imprisonment~~ in addition to any criminal penalties which may be provided for in Title 21 of the Oklahoma Statutes.

SECTION 259. AMENDATORY 24 O.S. 1991, Section 84, is amended to read as follows:

Section 84. Whenever a credit or financial rating of any person is contained in any book or list which was circulated among retail business concerns for the purpose of establishing a financial or credit rating of consumers, any person, firm or corporation having such book or list in his or its possession, custody or control shall, upon demand made in person, produce and show such rating to the person so rated; and any person, firm or corporation failing or refusing to comply with the above requirements shall be ~~guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than Twenty-five Dollars ($25.00) nor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 260. AMENDATORY 24 O.S. 1991, Section 85, is amended to read as follows:

Section 85. Every person, firm or corporation, or the agent, clerk or employee thereof, who knowingly makes, causes to be made, or permits to be made, any false credit statement to any wholesale dealer, for the purpose of establishing credit in general or with such dealer, or to any person, firm or corporation engaged in furnishing credit statements to wholesale merchants in general or to any particular person, firm or corporation engaged in the wholesale business, shall be ~~guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one (1) year or by~~ liable for a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00)~~, or by both such fine and imprisonment~~ in addition to any criminal penalties which may be provided in Title 21 of the Oklahoma Statutes.

SECTION 261. AMENDATORY 24 O.S. 1991, Section 91, is amended to read as follows:

Section 91. Whosoever, whether principal, agent or attorney, sends or causes to be sent to persons, companies or corporations out of the State of Oklahoma, any claim for debt to be collected by proceedings in attachment, garnishment, or other mesne process, or which is thereafter attempted to be collected, when the creditor, debtor and person or corporation owing for the earnings intended to be reached by such proceedings in attachment or garnishment, are all within the jurisdiction of the courts of the State of Oklahoma, shall be ~~deemed guilty of a misdemeanor and upon conviction thereof be fined for every claim so sent in a sum of~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00)~~, nor less than Five Hundred Dollars ($500.00)~~.

SECTION 262. AMENDATORY 24 O.S. 1991, Section 92, is amended to read as follows:

Section 92. Whosoever, directly or indirectly, assigns or transfers any claim or debt against a citizen of Oklahoma for the purpose of having the same collected by proceedings in attachment, garnishment or other process, or which is thereafter attempted to be so collected out of the wages or personal earnings of the debtor, in courts outside of the State of Oklahoma, when the creditor, the debtor, and the person or corporation owing the money intended to be reached by the proceedings in attachment or garnishment, are all within the jurisdiction of the courts of the State of Oklahoma, shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00)~~, nor less than Five Hundred Dollars ($500.00) or imprisonment in the county jail of not less than thirty (30) days, nor more than one (1) year, or both such fine and imprisonment~~.

SECTION 263. AMENDATORY 24 O.S. 1991, Section 138, is amended to read as follows:

Section 138. A. Any waiver by a buyer of any part of this act is void. Any attempt by a credit services organization to have a buyer waive rights given by this act is a violation of this act.

B. In any proceeding involving this act, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

C. Any person who ~~violates~~ breaches this act is ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any district court of this state has jurisdiction in equity to restrain and enjoin the ~~violation~~ breach of this act.

D. This section does not prohibit the enforcement by any person of any right provided by this or any other law.

SECTION 264. AMENDATORY 25 O.S. 1991, Section 157, is amended to read as follows:

Section 157. Any person, firm, association, lodge, fraternity, or club who shall fail to comply with the provisions of this act shall be ~~guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than Ten Dollars ($10.00) nor~~ liable for a civil infraction and subject to a fine of not more than ~~One Hundred Dollars ($100.00)~~ One Thousand Dollars ($1,000.00).

SECTION 265. AMENDATORY 25 O.S. 1991, Section 314, is amended to read as follows:

Section 314. Any person or persons ~~willfully~~ violating any of the provisions of this act shall be ~~guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Five Hundred Dollars ($500.00) or by imprisonment in the county jail for a period not exceeding one (1) year or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 266. AMENDATORY 25 O.S. 1991, Section 1506.9, is amended to read as follows:

Section 1506.9 A. A person commits an offense if the person, whether or not acting under color of law, by force or threat of force, intentionally intimidates or interferes with a person:

1. Because of the person's race, color, religion, gender, handicap, familial status, or national origin and because the person is or has been selling, purchasing, renting, financing, occupying, contracting, or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings; or

2. Because the person is or has been, or has attempted to intimidate the person from:

a. participating, without discrimination because of race, color, religion, gender, handicap, familial status, or national origin, in an activity, service, organization, or facility described in paragraph 1 of this subsection,

b. affording another person opportunity or protection to so participate, or

c. lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, religion, gender, handicap, familial status, or national origin, in an activity, service, organization, or facility described in paragraph 1 of this subsection.

B. ~~An~~ Any person who commits an offense pursuant to this section ~~is a misdemeanor~~ shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 267. AMENDATORY 26 O.S. 1991, Section 7-101, is amended to read as follows:

Section 7-101. Every corporation, firm, association or individual hereinafter referred to as "employer" who, on election

day, has a registered voter employed or in his service, shall grant said employee two (2) hours of time during the period when the election is open in which to vote, and if such employee be in the county or at such distance from the voting place that more than two (2) hours are required in which to attend such elections, then he shall be allowed a sufficient time in which to cast his ballot. No such employee shall be entitled to such time to vote unless he notifies orally or in writing an employer's representative of his intention to be absent, on the day preceding the election day. Upon proof of voting, such employee shall not be subject to any loss of compensation or other penalty for such absence. Such employer shall select the hours which such employees are to be allowed in which to attend such elections, and shall notify each of the employees which hours they are to have in which to vote. This section shall not apply to an employee whose work day begins three (3) hours or more subsequent to the time of opening of the polls, or ends three (3) hours or more prior to the time of closing the polls. The employer may change the work hours to allow such three (3) hours before the beginning of work or after the work hours. This act shall not apply to school board or bond elections. Any employer who fails to comply with this section shall be ~~deemed guilty of a misdemeanor, and upon conviction shall be fined not less than Fifty Dollars ($50.00) nor more than One Hundred Dollars ($100.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 268. AMENDATORY 26 O.S. 1991, Section 10-109, is amended to read as follows:

Section 10-109. Any Presidential Elector who violates his oath as a Presidential Elector shall be ~~guilty of a misdemeanor and, upon conviction thereof, shall be punished by~~ liable for a civil infraction and subject to a fine of not more than ~~One Thousand Dollars ($1,000.00)~~ Five Thousand Dollars ($5,000.00).

SECTION 269. AMENDATORY 26 O.S. 1991, Section 16-111, is amended to read as follows:

Section 16-111. Any person who electioneers within three hundred (300) feet of any ballot box while an election is in progress, and any person except election officials and other persons authorized by law who remains within fifty (50) feet of any ballot box while an election is in progress shall be ~~deemed guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 270. AMENDATORY 26 O.S. 1991, Section 16-112, is amended to read as follows:

Section 16-112. Any person who takes intoxicating liquors of any kind or quantity to within ~~one-half (1/2) mile~~ three hundred (300) feet of any polling place on an election day shall be ~~deemed guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 271. AMENDATORY 26 O.S. 1991, Section 16-115, is amended to read as follows:

Section 16-115. Any person who, within the election enclosure, discloses to any other person how he voted shall be ~~deemed guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 272. AMENDATORY Section 26, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-3-502), is amended to read as follows:

Section 2-3-502. A. If upon inspection or investigation, or whenever the Department determines that there are reasonable grounds to believe that any person is in violation of this Code or any rule promulgated thereunder or of any order, permit or license issued pursuant thereto, the Department may give written notice to the alleged violator of the specific violation and of the alleged violator's duty to correct such violation immediately or within a

set time period or both and that the failure to do so will result in the issuance of a compliance order.

B. In addition to any other remedies provided by law, the Department may, after service of the notice of violation, issue a proposed compliance order to such person. A proposed compliance order shall become a final order unless, no later than fifteen (15) days after the order is served, any respondent named therein requests an administrative enforcement hearing.

1. The proposed compliance order may, pursuant to subsection K of this section:

a. assess ~~an administrative penalty~~ a fine for past administrative violations of this Code, rules promulgated thereunder, or the terms and conditions of permits or licenses issued pursuant thereto, and

b. propose the assessment of ~~an~~ a fine for an administrative ~~penalty~~ violation for each day the respondent fails to comply with the compliance order.

2. Such proposed order may specify compliance requirements and schedules, or mandate corrective action, or both.

C. Failure to comply with a final compliance order, in part or in whole, may result in the issuance of an assessment order ~~assessing~~ for an administrative ~~penalty~~ violation as authorized by law, or a supplementary order imposing additional requirements, or both. Any proposed order issued pursuant to this subsection shall become final unless, no later than seven (7) days after its service, any respondent named therein requests an administrative enforcement hearing.

D. Notwithstanding the provisions of subsection A and B of this section, the Executive Director, after notice and opportunity for an administrative hearing, may revoke, modify or suspend the holder's permit or license in part or in whole for cause, including but not limited to the holder's:

1. Flagrant or consistent violations of this Code, of rules promulgated thereunder or of final orders, permits or licenses issued pursuant thereto;

2. Reckless disregard for the protection of the public and the environment as demonstrated by noncompliance with environmental laws and rules resulting in endangerment of human health or the environment; or

3. Actions causing, continuing, or contributing to the release or threatened release of pollutants or contaminants to the environment.

E. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health or welfare or the environment, the Executive Director may without notice or hearing issue an order, effective upon issuance, reciting the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency. Any person to whom such an order is directed shall comply therewith immediately but may request an administrative enforcement hearing thereon within fifteen (15) days after the order is served. Such hearing shall be held by the Department within ten (10) days after receipt of the request. On the basis of the hearing record, the Executive Director shall sustain or modify such order.

F. Except as otherwise expressly provided by law, any notice of violation, order, or other instrument issued by or pursuant to authority of the Department may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by certified mail return-receipt requested directed to such person at his last-known post office address as shown by the files or records of the Department. Proof of service shall be made as in the case of service of a summons or by publication in a civil action. Such proof of service shall be filed in the Office of Administrative Hearings.

G. Every certificate or affidavit of service made and filed shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.

H. 1. The administrative hearings provided for in this section shall be conducted as individual proceedings in accordance with, and a record thereof maintained pursuant to, Article II of the Administrative Procedures Act, this Code and rules promulgated thereunder. When a hearing is timely requested by a respondent pursuant to this section, the Department shall promptly conduct such hearing.

2. Such hearing shall be conducted by an Administrative Law Judge or by the Executive Director. When an Administrative Law Judge holds the hearing, such Judge shall prepare a proposed order and shall:

a. serve it on the parties, by regular mail, and may offer an opportunity for parties to file exceptions to the proposed order before a final order is entered in the event the Executive Director does not review the record, and

b. present the proposed order, the exceptions, if any, and the record of the matter to the Executive Director, or

c. present the proposed order and the record of the matter to the Executive Director for review and entry of a final order for any default, failure to appear at the hearing or if the parties by written stipulation waive compliance with subparagraph a of this paragraph.

3. For administrative proceedings conducted by an Administrative Law Judge pursuant to this section, the Executive Director may adopt, amend or reject any findings or conclusions of the Administrative Law Judge or exceptions of any party and issue a

final order accordingly, or may in his discretion remand the proceeding for additional argument or the introduction of additional evidence at a hearing held for the purpose. A final order shall not be issued by the Executive Director until after:

a. the opportunity for exceptions has lapsed without receiving exceptions, or after exceptions, briefs and oral arguments, if any, are made, or

b. review of the record.

4. Any order issued by the Department shall become final upon service.

I. Any party aggrieved by a final order may petition the Department for rehearing, reopening or reconsideration within ten (10) days from the date of the entry of the final order. Any party aggrieved by a final order, including the Attorney General on behalf of the state, may, pursuant to the Administrative Procedures Act, petition for a judicial review thereof.

J. If the Attorney General seeks redress on behalf of the state, as provided for in subsection I of this section, the Executive Director is empowered to appoint a special counsel for such proceedings.

K. 1. Unless specified otherwise in this Code, any penalty <u>or fine</u> assessed or proposed in an order shall not exceed Ten Thousand Dollars ($10,000.00) per day of noncompliance.

2. The determination of the amount of an administrative penalty <u>or fine</u> shall include, but not be limited to, the consideration of such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the respondent from the violation, the history of such violations and respondent's degree of culpability and good faith compliance efforts. For purposes of this section, each day, or part of a day, upon which such violation occurs shall constitute a separate violation.

L. Notwithstanding the provisions of subsections A and B of this section, the Department may, within three (3) years of discovery, apply for the assessment of a fine for an administrative ~~penalty for any~~ violation of this Code, or rules promulgated thereunder or permits or licenses issued pursuant thereto.

M. Any order issued pursuant to this section may require that corrective action be taken. If corrective action must be taken on adjoining property, the owner of such adjoining property shall not give up any right to recover damages from the responsible party by allowing corrective action to occur.

SECTION 273. AMENDATORY Section 28, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-3-504), is amended to read as follows:

Section 2-3-504. A. Except as otherwise specifically provided by law, any person who violates any of the provisions of, or who fails to perform any duty imposed by, this Code or who violates any order, permit or license issued by the Department or rule promulgated by the Board pursuant to this Code:

1. Shall be ~~guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not less than Two Hundred Dollars ($200.00) for each violation and not~~ liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) for each violation ~~or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment~~;

2. May be punished in civil proceedings in district court by assessment of a civil penalty of not more than Ten Thousand Dollars ($10,000.00) for each violation;

3. May be assessed an administrative penalty pursuant to Section ~~26~~ 2-3-502 of this ~~act~~ title not to exceed Ten Thousand Dollars ($10,000.00) per day of noncompliance; or

4. May be subject to injunctive relief granted by a district court. A district court may grant injunctive relief to prevent a violation of, or to compel a compliance with, any of the provisions of this Code or any rule promulgated thereunder or order, license or permit issued pursuant to this Code.

B. Nothing in this part shall preclude the Department from seeking penalties in District Court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum civil ~~or criminal~~ penalties for violations of this Code.

C. Any person assessed an administrative or civil penalty shall be required to pay, in addition to such penalty amount and interest thereon, attorneys fees and costs associated with the collection of such penalties.

D. For purposes of this section, each day or part of a day upon which such violation occurs shall constitute a separate violation.

E. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of this Code or any rule promulgated thereunder, or order, license or permit issued pursuant thereto.

F. 1. Any action for injunctive relief to redress or restrain a violation by any person of this Code or for any rule promulgated thereunder, or order, license, or permit issued pursuant thereto or recovery of any administrative or civil penalty assessed pursuant to this Code may be brought by:

a. the district attorney of the appropriate district court of the State of Oklahoma,

b. the Attorney General on behalf of the State of Oklahoma, or

c. the Department on behalf of the State of Oklahoma.

2. The court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

3. It shall be the duty of the Attorney General and district attorney if requested by the Executive Director to bring such actions.

G. Except as otherwise provided by law, administrative and civil penalties shall be paid into the Department of Environmental Quality Revolving Fund.

H. In determining the amount of a civil penalty the court shall consider such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the defendant from the violation, the history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the defendant, the defendant's degree of culpability, and such other matters as justice may require.

I. In addition to or in lieu of any administrative enforcement proceedings available to the Department, the Department may take or request civil action ~~or request criminal prosecution, or both,~~ as provided by law for any violation of this Code, rules promulgated thereunder, or orders issued, or conditions of permits, licenses, certificates or other authorizations prescribed pursuant thereto.

SECTION 274. AMENDATORY Section 29, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-3-505), is amended to read as follows:

Section 2-3-505. ~~In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation or certification in, or omits material data from, any application for a permit, license, certificate or other authorization,or~~ A person violating a provision of any notice,

analyses or report required by this Code, rules promulgated thereunder or any permit, license, certificate or other authorization issued pursuant thereto, ~~or knowingly~~ misrepresents or omits material data in such report to any person relying on such report ~~or who alters any sample or knowingly renders inaccurate any monitoring device or method required to be maintained by such Code, rules, permits, licenses, certificates or authorization, or with regard to owners and employees of laboratories certified by the Department, misrepresents or omits material data from any report or analyses submitted to any person relying on such data because of the laboratory's certification shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each such violation~~ shall be liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each violation.

SECTION 275. AMENDATORY Section 30, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-3-506), is amended to read as follows:

Section 2-3-506. A. It is the purpose of this Code to provide additional and cumulative remedies to prevent, abate and control pollution. Nothing contained in this Code shall be construed to abridge or alter rights of action or remedies under the common law or statutory law, criminal or civil; nor shall any provision of this Code, or any act done by virtue thereof, be construed as estopping the state, or any municipality or person in the exercise of their rights under the common law to suppress nuisances or to abate pollution. Nothing in this Code shall in any way impair or affect a person's right to recover damages for pollution.

B. Nothing in this Code shall be construed to preclude the disposition of any matter by stipulation, agreed settlement, consent order or default.

C. Unless otherwise specified, the violations, remedies and penalties contained in this Code are in addition to those in ~~the Environmental Crimes Act~~ Title 21 and other Oklahoma law. The specific enforcement provisions of other articles of this Code shall control over the provisions of this part when inconsistent.

D. The provisions of this part shall extend to all programs administered by the Department regardless of whether the statutes creating such program are codified in Title 27A of the Oklahoma Statutes.

SECTION 276. AMENDATORY Section 9, Chapter 215, O.S.L. 1992, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 12, Chapter 324, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-5-109), is amended to read as follows:

Section 2-5-109. A. Any person seeking a variance from any provision of the Oklahoma Clean Air Act, or from any applicable air quality rule, shall do so by filing a petition for variance with the Department, who shall promptly investigate such petition and make a recommendation to the Council as to the disposition thereof. Upon receiving the recommendation of the Department, the Council may, in its discretion, determine whether or not an administrative hearing is necessary in granting a variance. Such hearing shall be held as provided in the Administrative Procedures Act, except the burden of proof shall be on the petitioner. The petitioner shall be notified by the Department of the time and place of the administrative hearing.

B. The Council may grant individual variances beyond the limitations prescribed in the Oklahoma Clean Air Act, whenever it is found, upon presentation of adequate proof, that compliance with any provision of the Oklahoma Clean Air Act, or any rule promulgated thereunder, will result in an arbitrary and unreasonable taking of property or in the practical closing and elimination of any lawful business, occupation or activity, in either case without sufficient

corresponding benefit or advantage to the people, the environment or to public health. The Council may also propose rules applicable to such variances.

C. In determining under what conditions and to what extent a variance from the Oklahoma Clean Air Act or any rule promulgated thereunder may be granted, the Council shall give due recognition to the progress which the person requesting such variance shall have made in eliminating or preventing air pollution. In such a case, the Council shall consider the reasonableness of granting a variance conditioned upon such person effecting a partial abatement of the particular air pollution over a period of time which it shall consider reasonable under the circumstances.

D. If the Council deems proper, such an incremental compliance schedule may be imposed and shall contain a date or dates certain by which compliance with otherwise applicable rules or provisions of the Oklahoma Clean Air Act shall be achieved. The Council may also ~~include provisions whereby a penalty of up to~~ find a person liable for an administrative violation and a fine of not more than Ten Thousand Dollars ($10,000.00) per day may be assessed for failure to achieve compliance by the date(s) specified in the compliance schedule, if any, and taking into account conditions beyond the control of the applicant.

E. The Council, in conformity with the intent and purpose of the Oklahoma Clean Air Act to protect health, welfare and property, may also prescribe other and different requirements with which the person who receives such variance shall comply.

F. Any variance granted pursuant to the provisions of this section shall constitute a final order, shall be in writing, and shall be granted for a period of time not to exceed three (3) years. Any variance so granted shall require to be submitted to the Department such periodic reports as the Council shall specify as to the progress which such person shall have made toward compliance

with any rule as to which a variance has been granted. Such variance may, for good cause shown, be extended on a year-to-year basis by affirmative action of the Council.

G. Nothing in this section shall be construed to preclude the informal disposition of any matter by stipulation, agreed settlement, consent order or default.

SECTION 277. AMENDATORY Section 10, Chapter 215, O.S.L. 1992, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 13, Chapter 324, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-5-110), is amended to read as follows:

Section 2-5-110. A. In addition to any other remedy provided for by law, the Department may issue a written order to any person whom the Department has reason to believe has violated, or is presently in violation of, the Oklahoma Clean Air Act or any rule promulgated by the Board, any order of the Department or Council, or any condition of any permit issued by the Department pursuant to the Oklahoma Clean Air Act, and to whom the Department has served, no less than fifteen (15) days previously, a written notice of violation. The Department shall by conference, conciliation and persuasion provide the person a reasonable opportunity to eliminate such violations, but may, however, reduce the fifteen-day notice period as in the opinion of the Department may be necessary to render the order reasonably effectual.

B. Such order may require compliance immediately or within a specified time period or both. The order, notwithstanding any restriction contained in subsection A of this section, may also assess ~~an administrative~~ a penalty for past administrative violations ~~occurring no more than one hundred eighty (180) days prior to the date the order is filed with the Department, and for each day or part of a day that such person fails to comply with the order~~.

C. Any order issued pursuant to this section shall state with specificity the nature of the violation or violations, and may impose such requirements, procedures or conditions as may be necessary to correct the violations. The Department may also order any environmental contamination having the potential to adversely affect the public health, when caused by the violations, to be corrected by the person or persons responsible.

D. Any penalty assessed in the order shall not exceed Ten Thousand Dollars ($10,000.00) per day for each administrative violation. In assessing such penalties, the Department shall consider the seriousness of the administrative violation or violations, any good faith efforts to comply, and other factors determined by rule to be relevant. A final order following an enforcement hearing may assess ~~an administrative~~ a penalty of an amount based upon consideration of the evidence but not exceeding the amount stated in the written order.

E. Any order issued pursuant to this section shall become a final order, unless no later than fifteen (15) days after the order is served the person or persons named therein request in writing an enforcement hearing. Said order shall contain language to that effect. Upon such request the enforcement hearing shall promptly be set before the Department unless the respondent requests that the hearing be held before the Air Quality Council. In such case, the Department shall schedule the enforcement hearing before the Council and notify the respondent and the Department.

F. At all proceedings with respect to any alleged administrative violation of the Oklahoma Clean Air Act, or any rule promulgated thereunder, the burden of proof shall be upon the Department.

G. Nothing in this section shall be construed to limit the authority of the Department to enter into an agreed settlement or consent order with any respondent.

SECTION 278. AMENDATORY Section 11, Chapter 215, O.S.L. 1992, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 14, Chapter 324, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-5-111), is amended to read as follows:

Section 2-5-111. A. The Department shall have the authority, pursuant to rules of the Board, to implement a field citation program establishing appropriate administrative violations for which field citations assessing ~~administrative penalties~~ fines may be issued. No citation shall assess a ~~penalty in excess~~ fine of One Thousand Dollars ($1,000.00) per day, or part of a day, per violation, nor exceed a combined limit of Five Thousand Dollars ($5,000.00) per day. Provided further, no field citation shall be valid unless reviewed for legal sufficiency within ten (10) days of issuance.

1. Any person to whom a field citation is issued may elect to pay the penalty assessment or to request an enforcement hearing. The assessment shall become final and payable unless the request for hearing is made in writing within fifteen (15) days of the citation. Upon such request, the enforcement hearing shall be promptly set before the Department unless the respondent requests that the enforcement hearing be set before the Council. In such case the Department shall schedule the enforcement hearing before the Council and notify the respondent.

2. Payment of a ~~penalty~~ fine required by a field citation shall not be construed as an admission of liability ~~or guilt~~ and shall preclude further assessment of administrative ~~penalties~~ fines for the same violation. It shall not, however, be a defense to further enforcement by the Department for a subsequent violation or to an assessment of the statutory maximum penalty for criminal violations pursuant to other authority in the Oklahoma Clean Air Act.

3. In determining the amount of any ~~penalty~~ fine to be assessed pursuant to this section, the person issuing a field citation shall

take into account the seriousness of the violation, any good faith efforts to comply with applicable requirements and other factors determined by rule to be relevant.

B. Qualifications of persons authorized to issue field citations shall be set by the Department, but shall include as a minimum:

1. Completion of a special course of study developed by the Department specifically for the training of persons for this purpose;

2. A minimum of three (3) years' experience in the air quality service enforcement program;

3. A job classification commensurate with the duties and responsibilities of the individual; and

4. Approval by the Executive Director.

SECTION 279. AMENDATORY Section 16, Chapter 215, O.S.L. 1992, as amended by Section 53, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-5-116), is amended to read as follows:

Section 2-5-116. A. Any person who ~~knowingly and willfully~~:

1. Violates any applicable provision of the Oklahoma Clean Air Act or any rule or standard promulgated thereunder;

2. Violates any order issued or permit condition prescribed pursuant to the Oklahoma Clean Air Act;

3. Violates any emission limitation or any substantive provision or condition of any permit;

4. ~~Makes any false material statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or fails to file or maintain any notice, application, record, report, plan or other document, except for monitoring data, required pursuant to the Oklahoma Clean Air Act to be either filed or maintained;~~

~~5.~~ Fails to notify or report as required by the Oklahoma Clean Air Act, rules promulgated thereunder or orders or permits issued pursuant thereto; or

~~6.~~ 5. Fails to install any monitoring device or method required to be maintained or followed pursuant to the Oklahoma Clean Air Act; shall~~, upon conviction, be guilty of a misdemeanor and be punished by a fine not to exceed Twenty-five Thousand Dollars ($25,000.00) per day of violation or for not more than one (1) year imprisonment in the county jail, or both such fine and imprisonment~~ be liable for an administrative violation and subject to a fine of not more than Twenty-five Thousand Dollars ($25,000.00) per day of violation.

B. Any person who makes any false material statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or fails to file or maintain any notice, application, record, report, plan or other document, except for monitoring data, required pursuant to the Oklahoma Clean Air Act to be either filed or maintained shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

C. Any person who ~~knowingly and willfully~~:

1. Violates any applicable provision of the Oklahoma Clean Air Act or any rule promulgated thereunder, or any order of the Department or any emission limitation or substantive provision or condition of any permit, and ~~who knows at the time that he thereby places another in danger of death or serious bodily injury~~ by an act or omission which is imminently dangerous to another person or to others and which manifests an extreme indifference to the value of human life;

2. Tampers with or renders inaccurate any monitoring device or falsifies any monitoring information required to be maintained or submitted to the Department pursuant to the Oklahoma Clean Air Act; or

3. Falsifies any monitoring information required to be maintained or submitted to the Department pursuant to the Oklahoma Clean Air Act;

shall~~, upon conviction, be guilty of a felony and subject to a fine of not more than Two Hundred Fifty Thousand Dollars ($250,000.00) or for not more than ten (10) years imprisonment, or both such fine and imprisonment~~ be subject to criminal prosecution as provided for in Title 21 of the Oklahoma Statutes.

SECTION 280. AMENDATORY Section 17, Chapter 215, O.S.L. 1992, as amended by Section 54, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-5-117), is amended to read as follows:

Section 2-5-117. A. The Department shall have the authority to commence a civil action for a permanent or temporary injunction or other appropriate relief, or to require abatement of any emission or correction of any contamination, or to seek and recover a civil penalty of not more than Ten Thousand Dollars ($10,000.00) per day for each administrative violation, or all of the above, in any of the following instances:

1. Whenever any person has violated or is in violation of any applicable provision of the Oklahoma Clean Air Act, or any rule promulgated thereunder;

2. Whenever any person has commenced construction, modification or operation of any source, or operates any source in violation of the requirement to have a permit, or violates or is in violation of any substantive provision or condition of any permit issued pursuant to the Oklahoma Clean Air Act; or

3. Whenever any person has violated any order of the Department or the Council or any requirement to pay any fee, fine or penalty owed to the state pursuant to the Oklahoma Clean Air Act.

B. The district attorney or attorneys having jurisdiction shall have primary authority and responsibility for prosecution of any

civil or criminal violations under the Oklahoma Clean Air Act and for the collection of any delinquent fees, penalties or fines assessed pursuant to the Oklahoma Clean Air Act and shall be entitled to recover reasonable costs of collection, including attorney fees, and an appropriate fee of up to fifty percent (50%) for collecting delinquent fees, penalties or fines.

SECTION 281. AMENDATORY Section 17, Chapter 398, O.S.L. 1992, as amended by Section 66, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-6-205), is amended to read as follows:

Section 2-6-205. A. Except as otherwise provided in subsection B of this section, it shall be unlawful for any facility, activity or entity regulated by the Department pursuant to the Oklahoma Pollutant Discharge Elimination System Act to discharge any pollutant into waters of the state or elsewhere without first obtaining a permit from the Executive Director. Any person violating this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. The Board shall promulgate rules which prescribe permit requirements applicable to discharges composed entirely of stormwater. Such rules may require permits on a case-by-case basis, exempt categories of discharges, or provide a schedule for obtaining such permit, provided however, that no later than the date that the Department is to receive authorization to administer a state National Pollutant Discharge Elimination Systems program, the Board shall have promulgated rules for stormwater discharges which comply with Environmental Protection Agency requirements for approval of the state National Pollutant Discharge Elimination Systems program.

SECTION 282. AMENDATORY Section 18, Chapter 398, O.S.L. 1992, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 24, Chapter 324, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-6-206), is amended to read as follows:

Section 2-6-206. A. Whenever there are reasonable grounds to believe that there has been a violation of any of the provisions of the Oklahoma Pollutant Discharge Elimination System Act, any permit, any rule, or any order of the Executive Director, the Executive Director shall have the authority and powers to proceed as specified in the Administrative Procedures Act unless otherwise provided herein. Provided, however, that provisions of this section for written notice, enforcement hearing, and administrative orders shall not be conditions precedent for the Department to seek action in the district court as provided by the Oklahoma Pollutant Discharge Elimination System Act or other applicable provisions of law.

B. The Oklahoma Pollutant Discharge Elimination System Act shall not in any way impair or in any way affect a person's right to recover damages for pollution in a court of competent jurisdiction. Any person having any interest connected with the geographic area or waters or water system affected, including but not limited to any aesthetic, recreational, health, environmental, pecuniary or property interest, which interest is or may be adversely affected, shall have the right to intervene as a party in any administrative proceeding before the Department, or in any civil proceeding, relating to violations of the Oklahoma Pollutant Discharge Elimination System Act or rules, permits or orders issued hereunder.

C. Whenever on the basis of any information available, the Department finds that any person or entity regulated by the Department is in violation of any act, rule, order, permit, condition or limitation implementing the Oklahoma Pollutant Discharge Elimination System Act, or any previously issued discharge permit, the Executive Director shall issue an order requiring such person or entity to comply with such provision or requirement, commence appropriate administrative enforcement proceedings, or bring a civil action. Provided, however, the issuance of a compliance order or suspension or revocation of a permit shall not

be considered a condition precedent to the accrual or imposition of penalties or fines in any administrative, civil or criminal proceeding.

D. A copy of any order issued pursuant to this section shall be sent immediately to the violator. In any case in which an order or notice to a violator is issued to a corporation, a copy of such order shall be served on any appropriate corporate officers.

Any order issued pursuant to this section shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty (30) days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a reasonable time in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. Any order or notice issued by the Executive Director may be served in any manner allowed by Oklahoma Rules of Civil Procedures applicable to a civil summons.

E. Whenever on the basis of any information available the Executive Director finds that any person regulated by the Department has violated any of the provisions of the Oklahoma Pollutant Discharge Elimination System Act, or any permit, rule, order or condition or limitation implementing any of such sections, or previously issued discharge permit or related order, the ~~Executive Director may, after providing notice and opportunity for an enforcement hearing to the alleged violator, assess~~ violator shall be liable for an administrative ~~fine~~ violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) per day of violation, for each day during which the violation continues. The total amount of such fine shall not exceed One Hundred Twenty-five Thousand Dollars ($125,000.00) per violation. In determining the amount of any penalty assessed under this subsection, the Executive Director shall take into account the nature, circumstances, extent

and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit savings, if any, resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation. Enforcement hearings shall be conducted in accordance with the procedures set out in the Administrative Procedures Act.

F. 1. The Executive Director is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection C of this section.

2. Any person who violates any provision of the Oklahoma Pollutant Discharge Elimination System Act, or any permit condition or limitation implementing any of such provisions in a permit issued under the Oklahoma Pollutant Discharge Elimination System Act, or any requirement imposed in a pretreatment program approved under the Oklahoma Pollutant Discharge Elimination System Act, and any person who violates any order issued by the Executive Director under subsection C of this section, shall be <u>liable for a civil infraction and</u> subject to a ~~civil penalty~~ <u>fine of</u> not ~~to exceed~~ <u>more than</u> Ten Thousand Dollars ($10,000.00) per day for each violation. In determining the amount of the civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit, if any, resulting from the violation, any history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

3. Any action pursuant to this subsection may be brought in the district court for the district in which the property or defendant is located or defendant resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance.

4. The prior revocation of a permit shall not be a condition precedent to the filing of a civil action under the Oklahoma Pollutant Discharge Elimination System Act.

G. 1. Any person who:

a. negligently violates any provision of the Oklahoma Pollutant Discharge Elimination System Act, or any order issued by the Executive Director hereunder, or any permit condition or limitation in a permit issued or any requirement imposed in a pretreatment program authorized pursuant to the Oklahoma Pollutant Discharge Elimination System Act, or

b. negligently introduces into the waters of the state or a treatment works discharging into the waters of the state any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state or local requirements or permits, which causes such treatment work to violate any effluent limitation or condition in a permit issued to the treatment works pursuant to the Oklahoma Pollutant Discharge Elimination System Act,

shall be ~~punished by~~ <u>liable for an administrative violation and subject to</u> a fine of not ~~less than Two Thousand Five Hundred Dollars ($2,500.00) nor~~ more than Twenty-five Thousand Dollars ($25,000.00) per day of violation~~, or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment. If a~~

~~conviction of a person is for a violation committed after a first conviction of such person~~. A person who violates this paragraph after having previously been found liable for an administrative violation under this paragraph~~, punishment~~ shall be liable for this administrative violation and subject to a fine of not more than Fifty Thousand Dollars ($50,000.00) per day of violation~~, or by imprisonment in the State Penitentiary for not more than two (2) years, or by both~~.

2. Any person who:

a. ~~knowingly~~ violates any provision of the Oklahoma Pollutant Discharge Elimination System Act for which a specific penalty is not provided, shall be liable for an administrative violation and subject to a fine of not more than Fifty Thousand Dollars ($50,000.00) for a first violation and not more than One Hundred Thousand Dollars ($100,000.00) for a second or subsequent violation, or

b. violates any order issued by the Executive Director hereunder, or any permit condition or limitation in a permit issued or any requirement imposed in a pretreatment program authorized pursuant to the Oklahoma Pollutant Discharge Elimination System Act, or

~~b.~~ c. ~~knowingly~~ introduces into the waters of the state or a treatment works discharging into the waters of the state any pollutant or hazardous substance which such person ~~knew or reasonably should have known~~ could cause personal injury or property damage or, other than in compliance with all applicable federal, state or local requirements or permits, which causes such treatment work to violate any effluent limitation or condition in a permit issued to the treatment works

under the Oklahoma Pollutant Discharge Elimination System Act,

shall be ~~punished by a fine of not less than Five Thousand Dollars ($5,000.00) nor more than Fifty Thousand Dollars ($50,000.00) per day of violation, or by imprisonment in the county jail for not more than three (3) years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be a fine of not more than One Hundred Thousand Dollars ($100,000.00) per day of violation, or by imprisonment in the State Penitentiary for not more than six (6) years, or by both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

3. a. Any person who ~~knowingly~~ violates any provision of the Oklahoma Pollutant Discharge Elimination System Act, or any permit condition or limitation in a permit issued hereunder by the Executive Director, and who ~~knows at that time that he~~ thereby places another person in imminent danger of death or serious bodily injury, shall ~~upon conviction be subject to a fine of not more than Two Hundred Fifty Thousand Dollars ($250,000.00) or imprisonment in the State Penitentiary for not more than fifteen (15) years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than One Million Dollars ($1,000,000.00). If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

b. For the purpose of subparagraph a of this paragraph:

(1) in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury, a person shall be responsible only for actual awareness or actual belief that he possessed, and knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant; provided however that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information,

(2) it is an affirmative defense to prosecution under this subsection that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of an occupation, business, profession or of a medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent, and such defense may be established under this subparagraph by a preponderance of the evidence.

4. Any person who ~~knowingly~~ makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Oklahoma Pollutant Discharge Elimination System Act or who ~~knowingly~~ falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the Oklahoma Pollutant Discharge Elimination System Act, shall ~~upon conviction be punished~~

~~by a fine of not more than Ten Thousand Dollars ($10,000.00), or by imprisonment for not more than two (2) years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than Twenty Thousand Dollars ($20,000.00) per day of violation, or by imprisonment for not more than four (4) years, or by both~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

5. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

H. Whenever, on the basis of information available to him, the Department finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of the Oklahoma Pollutant Discharge Elimination System Act or any requirement, rule, permit or order issued under the Oklahoma Pollutant Discharge Elimination System Act, the Department shall notify the owner or operator of such treatment works of such violation. If the owner or operator of the treatment works does not commence appropriate enforcement action within thirty (30) days of the date of such notification, the Department may commence a civil action for appropriate relief, including but not limited to a permanent or temporary injunction, against the owner or operator of such treatment works. In any such civil action the Department shall join the owner or operator of such source as a party to the action. Such action shall be brought in the district court in the county in which the treatment works is located. Such court shall have jurisdiction to restrain such violation and to require the owner or operator of the treatment works and the owner or operator of the source to take such action as may be necessary to come into compliance with the Oklahoma Pollutant Discharge Elimination System Act. Nothing in this subsection shall be construed to limit or

prohibit any other authority the Department may have under this section.

I. 1. Any person against whom an administrative compliance or penalty order is issued under this section may obtain review of such order by filing a petition for review in district court pursuant to the Administrative Procedures Act. Such court shall not set aside or remand such order unless there is not substantial evidence in the administrative record, taken as a whole, to support the finding of a violation or unless the assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the assessment of the penalty constitutes an abuse of discretion. No stay of an administrative penalty order shall be granted until the amount of penalty assessed has been deposited with the reviewing district court pending resolution of the petition for review.

2. If any person fails to pay an assessment of an administrative penalty:

a. after the order making the assessment has become final, or

b. after a court in an action brought under paragraph 1 of this subsection has entered a final judgment in favor of the Department, as the case may be,

the Department may commence or may request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

3. Any person who fails to pay on a timely basis the amount of an assessment of an administrative or civil penalty shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceeding and quarterly nonpayment

penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

SECTION 283. AMENDATORY 63 O.S. 1991, Section 1-910, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 16, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-6-403), is amended to read as follows:

Section 2-6-403. A. No small public sewage system or private individual sewage disposal system shall be constructed or operated unless such system, when constructed, complies with requirements prescribed by the Board as determined by an inspection performed by the Department or a person authorized by the Department. Provided, that upon reinspection of an approved system, performed at the request of the lot owner, the Department or a person authorized by the Department shall not require that the system be uncovered unless there is evidence that the system has not functioned properly.

B. Any person, corporation or other legal entity which creates or intends to create a residential development outside the corporate limits of a city or town shall file a plan describing the methods of sewage disposal for such residential development with the Department. Approval of the plan shall be obtained prior to recording any plat or certificate, offering a lot or lots for sale or beginning construction within such residential development.

1. The plan shall be in a form required by the Board and shall include a plan of the residential development and a description of the methods for providing water supply and sewage disposal.

2. If individual wells or sewage disposal systems are to be used, the plan shall be drawn to show streets, building lines, lot dimensions, lot numbers, contours, percolation tests, core tests,

and the locations where water wells and sewage disposal systems may be properly installed.

3. Upon approval the plan and either the plat or the certificate provided for in subsection E of this section, of the residential development shall be imprinted with the stamp of the Department bearing the word "approved", restrictions, if any, signature of the Department or the Department's local representative and the date. Approval of the plat or certificate shall be made effective thirty (30) days after the same is filed with the Department unless specifically rejected prior to the expiration of the said thirty-day period of time.

4. The office of county clerk shall not record a plat containing any lot of less than two and one-half (2 1/2) acres situated outside the corporate limits of a municipality unless said instrument bears the "approved" stamp of the Department. The Department shall have no authority to disapprove and shall approve plats of tracts that are being developed for individual residence in which no single tract is less than two and one-half (2 1/2) acres.

C. In addition to filing plans of residential developments with the Department or the Department's local representative, persons creating or intending to create a residential development shall obtain a certificate or cause a plat to be made and, after receiving the stamp of approval from the Department or the Department's local representative, shall file such certificate or plat in the land records of the county where the residential development is to be situated.

D. A residential development occurs when a platted lot is split or, within any quarter section, unplatted land is subdivided and such subdivision causes there to be at least three parcels of land:

1. Which, within the preceding five (5) years, had a common grantor; and

2. Of which at least one of such parcels of land contains less than two and one-half (2 1/2) acres of land; and

3. Of which at least two of such parcels of land are being used, or are intended to be used, for residential purposes.

E. A person intending to create a residential development without recording an approved plat, in lieu of a plat or a plan and prior to conveying or offering to convey any tract of land in such residential development, shall obtain from the Department or the Department's local representative and file in the land records of the county wherein the land is situated, a certificate of either approval or disapproval of the tract of land for private sewage disposal systems.

F. Any person who ~~knowingly~~ creates a residential development without receiving the approval of the Department or the Department's local representative of a plan or without filing of record either a plat or a certificate in violation of this section, or who installs a private sewage disposal system on a lot for which disapproval of a private sewage disposal system has previously been filed of record shall be ~~deemed guilty of a misdemeanor~~ liable for an administrative violation and ~~upon conviction shall be punished by~~ subject to a fine of not ~~less than Five Hundred Dollars ($500.00) nor~~ more than Five Thousand Dollars ($5,000.00) for each violation.

SECTION 284. AMENDATORY Section 83, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-6-901), is amended to read as follows:

Section 2-6-901. A. In addition to other penalties as may be imposed by law, any person who shall violate any of the provisions of, or who fails to perform any duty imposed by this article, or who violates any rule promulgated thereunder, or the terms of any order, permit, license or certification issued thereunder, ~~shall, upon conviction, be guilty of a misdemeanor and in addition thereto~~ may be enjoined from continuing such violation. In addition to other

penalties or liabilities as may be imposed by law, ~~violations may be punishable in civil proceedings by assessment of a civil penalty~~ violators shall be liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) for each violation ~~or, in criminal proceedings, by a fine of not less than Two Hundred Dollars ($200.00) and not more than Ten Thousand Dollars ($10,000.00) for each violation or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment~~. Each day upon which such violation occurs shall constitute a separate violation.

B. Part 5 of Article III of Chapter 2 of this act shall apply to violations under this article except when inconsistent with the provisions of the Oklahoma Pollutant Discharge Elimination System Act.

C. The provisions of subsection A of this section shall not apply to the Oklahoma Pollutant Discharge Elimination System Act or hazardous waste injection wells.

SECTION 285. AMENDATORY Section 3, Chapter 201, O.S.L. 1992, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 18, Chapter 373, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-7-109), is amended to read as follows:

Section 2-7-109. A. In order to protect the public health and safety and the environment of this state, the Department, pursuant to the Oklahoma Hazardous Waste Management Act, shall not issue, renew, or transfer a permit for a hazardous waste facility for treatment, storage, recycling or disposal to any person who:

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to the generation, storage, transportation, treatment, recycling or disposal of "hazardous waste", as such term is defined by the Oklahoma Hazardous Waste Management Act, or by the United States Environmental Protection

Agency pursuant to the federal Resource Conservation and Recovery Act;

2. Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and rules resulting in endangerment of human health or the environment; or

3. Has as an affiliated person any person who is described by paragraph 1 or 2 of this subsection.

B. 1. Except as provided in paragraph 2 of this subsection, all applicants for the issuance, renewal or transfer of any hazardous waste permit, license, certification or operational authority issued by the Department shall file a disclosure statement with their applications.

2. If the applicant is a publicly held company required to file periodic reports under the Securities and Exchange Act of 1934, or a wholly owned subsidiary of a publicly held company, the applicant shall not be required to submit a disclosure statement, but shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission, which provide information regarding legal proceedings in which the applicant has been involved. The applicant shall submit such other relevant information as the Department may require that relates to the competency, reliability, or responsibility of the applicant and affiliated persons.

C. The Department is authorized to revoke, or to refuse to issue, to renew, or to transfer a permit for a hazardous waste facility for treatment, storage, recycling or disposal to any person who:

1. Is not, due solely to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court of record

secured by the Department issued pursuant to the provisions of the Oklahoma Hazardous Waste Management Act;

2. Is not, due solely to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court of record secured by any state or federal agency, as determined by that agency, relating to the generation, storage, transportation, treatment, recycling or disposal of any "hazardous waste", as such term is defined by the Oklahoma Hazardous Waste Management Act, or by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act;

3. Has evidenced a history of a reckless disregard for the protection of the public health and safety or the environment through a history of noncompliance with state or federal environmental laws, including without limitation the rules of the Department or the United States Environmental Protection Agency regarding the generation, storage, transportation, treatment, recycling or disposal of any "hazardous waste", as such term is defined by the Oklahoma Hazardous Waste Management Act, or by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act; or

4. Has as an affiliated person any person who is described by paragraphs 1, 2 or 3 of this subsection.

D. 1. An application for a permit for a hazardous waste facility for treatment, storage, recycling or disposal or a renewal thereof shall be signed under oath by the applicant.

2. The Department may refuse to renew, or may suspend or revoke, a permit issued pursuant to the Oklahoma Hazardous Waste Management Act for a hazardous waste facility for treatment, storage, recycling or disposal to any person who has failed to disclose or states falsely any information required pursuant to the provisions of this section. Any person who willfully fails to

disclose or states falsely any such information~~, upon conviction,~~ shall be ~~guilty of a felony and may be punished by imprisonment for not more than five (5) years or fined not more than One Hundred Thousand Dollars ($100,000.00) or both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

E. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of such final order or judgment shall not be considered a final order or judgment for the purposes of this section.

F. The Board shall promulgate rules pursuant to the Administrative Procedures Act as may be necessary and appropriate to implement the provisions of this section.

G. The provisions of this section shall apply to:

1. Any pending or future application for a permit for land disposal or treatment of hazardous waste, except treatment at a facility accepting hazardous waste exclusively for the purpose of conducting research and design tests; and

2. Any application for a permit for hazardous waste treatment, storage, recycling or disposal which is initially submitted to the Department after July 31, 1992, or which has not been determined by the Department to be technically complete by December 31, 1993, regardless of the initial submittal date.

SECTION 286. AMENDATORY 63 O.S. 1991, Section 1-2012.1, as last amended by Section 109, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-7-126), is amended to read as follows:

Section 2-7-126. In addition to any other remedies provided in the Oklahoma Hazardous Waste Management Act, the Department may issue a written order to any person whom the Department has reason to believe has violated or is presently in violation of the Oklahoma Hazardous Waste Management Act, or any rule promulgated thereunder.

1. Such order may require compliance with the Oklahoma Hazardous Waste Management Act or such rule immediately or within a specified time period or both. Such order may also assess an administrative ~~penalty~~ violation for any past or current ~~violation~~ breach of the Oklahoma Hazardous Waste Management Act or the rules and for each day or part of a day that such person fails to comply with such order.

a. Any order issued pursuant to this section shall state with specificity the nature of the violation or violations.

b. Any penalty assessed in the order shall not exceed Twenty-five Thousand Dollars ($25,000.00) per day of noncompliance for each violation of the Oklahoma Hazardous Waste Management Act, the rules or the order. In assessing such penalties, the Executive Director shall consider the seriousness of the violation or violations and any good faith efforts to comply with applicable requirements.

2. Any order issued pursuant to this section shall become a final order unless, no later than fifteen (15) days after the order is served, the person or persons named therein request an administrative enforcement hearing. Upon such request the Department shall promptly provide for the hearing. The Department shall dismiss such proceedings where past and current compliance with the Oklahoma Hazardous Waste Management Act, the rules and the order is demonstrated.

a. Orders and hearings are subject to the Administrative Procedures Act.

b. A final order following an enforcement hearing may assess an administrative penalty of an amount based upon consideration of the evidence but not exceeding the amount stated in the written order.

c. The Department may adopt procedural rules as necessary and appropriate to implement the provisions of this section.

3. Any order issued pursuant to this section may require that corrective action be taken beyond the hazardous waste facility boundary where necessary to protect human health and the environment, unless the owner or operator of the facility demonstrates that, despite the owner's or operator's best efforts, the owner or operator is unable to obtain the necessary permission to undertake such action.

SECTION 287. AMENDATORY 63 O.S. 1991, Section 1-2012, as last amended by Section 112, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-7-129), is amended to read as follows:

Section 2-7-129. In addition to any other remedies provided in the Oklahoma Hazardous Waste Management Act, the Department may:

1. Temporarily suspend the permit of any operator of a hazardous waste facility until such facility conforms to the provisions of the Oklahoma Hazardous Waste Management Act and the rules promulgated thereunder;

2. Revoke the operating permit or license of any person who flagrantly and/or consistently violates the provisions of the Oklahoma Hazardous Waste Management Act or the rules promulgated thereunder, or who operates in such a manner as to cause or to continue in existence an environmentally unsafe condition. Such revocation may only take place following proper hearing, and shall conform to provisions of the Administrative Procedures Act. Such person shall not be eligible for reissuance of a license when finally adjudicated as guilty of flagrant and consistent violations of the Oklahoma Hazardous Waste Management Act or rules promulgated thereunder;

3. Cause proceedings to be instituted in the district court having jurisdiction in the area where the alleged violation occurs seeking an injunction to restrain a violation of the Oklahoma Hazardous Waste Management Act or the rules promulgated thereunder or to restrain the maintenance of a public nuisance; and

4. Cause proceedings to be instituted in the district court having jurisdiction in the area where the alleged administrative violation of the Oklahoma Hazardous Waste Management Act or the rules promulgated thereunder occurs seeking a civil penalty of not more than Twenty-five Thousand Dollars ($25,000.00) per day or part of a day such violation occurs.

SECTION 288. AMENDATORY 63 O.S. 1991, Section 1-2011, as amended by Section 113, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-7-130), is amended to read as follows:

Section 2-7-130. Except as otherwise provided by the Oklahoma Hazardous Waste Management Act or other law, any person who ~~violates~~ breaches any of the provisions of the Oklahoma Hazardous Waste Management Act or rules promulgated thereunder shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment in the county jail for not more than six (6) months, or~~ liable for an administrative violation and subject to a fine of not ~~less than Two Hundred Dollars ($200.00) nor~~ more than Twenty-five Thousand Dollars ($25,000.00)~~, or by both such fine and imprisonment~~. Each day or part of a day during which such ~~violation~~ breach is continued or repeated shall constitute a new and separate offense. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 289. AMENDATORY Section 7, Chapter 50, O.S.L. 1992, as amended by Section 147, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-10-302), is amended to read as follows:

Section 2-10-302. A. 1. Except as provided in paragraph 2 of this subsection, all applicants for the issuance, amendment, modification or transfer of any solid waste permit, license, certification or operational authority shall file a disclosure statement with their applications.

2. If the applicant is a publicly held company required to file periodic reports under the Securities and Exchange Act of 1934, or a wholly owned subsidiary of a publicly held company, the applicant shall not be required to submit a disclosure statement, but shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission, which provide information regarding legal proceedings in which the applicant has been involved. The applicant shall submit such other information as the Department may require pursuant to this section that relates to the competency, reliability, or responsibility of the applicant and affiliated persons.

B. The Department is authorized to revoke or to refuse to issue, amend, modify, renew or transfer a permit for the disposal of solid waste from or to any person or an affiliated person who:

1. Is not, due solely to the applicant's actions or inactions, in substantial compliance with any final agency order or final order or judgment of a court of record secured by the Department issued pursuant to the provisions of the Oklahoma Solid Waste Management Act; or

2. Is not in substantial compliance with any final agency order or final order or judgment of a court of record secured by any state or federal agency, as determined by that agency, relating to the storage, transfer, transportation, treatment or disposal of any solid waste; or

3. Has evidenced a history of a reckless disregard for the protection of the public health and safety or the environment through a history of noncompliance with state or federal

environmental laws, including without limitation the rules of the Department, regarding the storage, transfer, transportation, treatment or disposal of any solid or controlled industrial waste.

C. The application shall be signed under oath by the applicant.

D. The Department may suspend or revoke a permit issued pursuant to the Oklahoma Solid Waste Management Act to any person who has failed to disclose or states falsely any information required pursuant to the provisions of this section.

E. Any person who ~~willfully~~ fails to disclose or states falsely any such information~~, upon conviction,~~ shall be ~~guilty of a felony and may be punished by imprisonment for not more than five (5) years or a fine of not more than One Hundred Thousand Dollars ($100,000.00) or both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

F. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of such final order or judgment shall not be considered a final order or judgment for the purposes of this section.

SECTION 290. AMENDATORY 63 O.S. 1991, Section 1-2413, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 5, Chapter 338, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-10-1001), is amended to read as follows:

Section 2-10-1001. A. The board of county commissioners in each county of the state shall develop a plan, subject to the approval of the Department of Environmental Quality, to provide a solid waste management system to handle adequately solid wastes generated or existing within the boundaries of such county. The plan must be submitted to the Department for approval no later than July 1, 1996. By agreement or contractual arrangement the board of county commissioners may assume responsibility for solid wastes generated within incorporated cities or towns whether within their counties or other counties. The board of county commissioners of a

county may enter into agreements with other counties, one or more towns or cities, governmental agencies, with private persons, trusts or with any combination thereof to provide a solid waste management system for the county or any portion thereof.

B. The county commissioners shall have the authority to levy and collect such fees and charges and require such licenses as may be appropriate to discharge their responsibility for a solid waste management system or any portion thereof. Such fees, charges and licenses shall be based on a fee schedule contained in an official resolution of the board of county commissioners and may be invoiced and collected by other public or private utility services in the normal course of their business.

C. The board of county commissioners may accept and disburse funds derived from federal or state grants or from private sources or from monies that may be appropriated from the General Revenue Fund for the installation and operation of a solid waste management system.

D. The board of county commissioners is authorized to contract for the lease or purchase of land, facilities and vehicles for the operation of a solid waste management system either for the county or as a party to a regional solid waste management district.

E. The board of county commissioners of a county shall have the right to establish written policies in compliance with the plan approved by the Department for the operation of a solid waste management system including hours of operation, amount, character and kind of waste accepted at the solid waste container sites or any disposal site, and such other rules as may be necessary for the safety of the operating personnel, persons using the sites and the general public.

F. The board of county commissioners of a county is authorized to hire such persons, including peace officers, as may be necessary to administer the county solid waste management system, enforce

policies established pursuant to the solid waste plan and issue citations for violation of the solid waste laws of the State of Oklahoma.

G. Any person who violates any policy established by the board of county commissioners for the operation of a solid waste management system created pursuant to the provisions of this section, shall be ~~subject to a civil penalty not to exceed~~ liable for an administrative violation and subject to a fine of not more than Five Hundred Dollars ($500.00) per day. Each violation shall constitute a separate offense.

H. The provisions of this section requiring approval of the Department for plans providing for a solid waste management system, shall not apply to counties having a solid waste management system plan in effect on July 1, 1992. For any county having a solid waste management system plan in effect on July 1, 1992, the county commissioners may charge and collect reasonable service and disposal fees as necessary for any nonhazardous industrial solid waste collection and disposal system. In determining reasonable fees for any nonhazardous industrial solid waste collection and disposal system, the county may take into account the damage and repair of access roads, litter control, surveillance, civil defense, and such other costs and expenditures deemed necessary by the county. Any person subject to the assessment of such fees who is aggrieved at the action of the commissioners in determining the amount of such fees, may appeal the action of the commissioners to the district court of the county for a review as to the reasonableness of the fees. The decision of the court shall be final and binding upon the commissioners, provided that any such order of the commissioners assessing the fees shall be binding until reversed by the court.

SECTION 291. AMENDATORY 63 O.S. 1991, Section 3001.2, as amended by Section 203, Chapter 145, O.S.L. 1993, and as renumbered

by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-503), is amended to read as follows:

Section 2-11-503. A. No person shall distribute, receive for sale or offer for sale in this state any plastic bottle or rigid plastic container unless such container is labeled with a code identifying the appropriate resin type used to produce the structure of the container.

B. The code shall consist of a number placed within three triangulated arrows and letters placed below the triangle of arrows. The triangulated arrows shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer (arrowhead) of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number. The numbers and letters used shall be as follows:

1. = PETE (polyethylene terephthalate);

2. = HDPE (high density polyethylene);

3. = V (vinyl);

4. = LDPE (low density polyethylene);

5. = PP (polypropylene);

6. = PS (polystyrene);

7. = OTHER.

C. The Department shall maintain a list of the label codes provided in subsection B of this section and shall provide a copy of that list to any person upon request.

D. The Board may promulgate by rule a different plastic container labeling system than the one specified in this statute if there is any change in the nationally recognized standard codified herein.

E. Any person ~~convicted of violating~~ determined to have breached the provisions of the Plastic Container Labeling Act shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 292. AMENDATORY 63 O.S. 1991, Section 689.1, as amended by Section 242, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 4-2-102), is amended to read as follows:

Section 4-2-102. A. For purposes of implementing the provisions of Title III of the federal Superfund Amendments and Reauthorization Act of 1986, the Governor shall appoint or designate the members of the Oklahoma Hazardous Materials Emergency Response Commission.

B. The Oklahoma Hazardous Materials Emergency Response Commission, shall include at a minimum:

1. The Secretary of Safety and Security or designee;

2. The Commissioner of the Department of Public Safety or designee;

3. The State Fire Marshal;

4. The Executive Director of the Department of Environmental Quality or designee;

5. The Director of the Department of Civil Emergency Management or designee;

6. One member representing the response community for a term of three (3) years; and

7. One member representing regulated industries for a three-year term, except the initial appointment shall only be for a two-year term.

C. An appointment shall be made by the Governor within ninety (90) days after the expiration of the term of any member due to resignation, death, or any cause resulting in an unexpired term. If

no appointment is made within that ninety-day period, the Commission may appoint a provisional member to serve in the interim until the Governor acts.

D. The Commission shall have the power and duty to:

1. Appoint a chairman and vice-chairman;

2. Execute a Memorandum of Understanding subject to the Administrative Procedures Act with each member agency to designate responsibilities and conduct studies;

3. Require reports or plans from member agencies;

4. Advise, consult and coordinate with other agencies of the state and federal government;

5. Ensure that the State of Oklahoma remains in compliance with the requirements of Title III of the Superfund Amendments and Reauthorization Act;

6. Coordinate administrative penalties;

7. Coordinate development of annual budgets for each member agency's respective costs for administration and implementation of its responsibilities pursuant to the Oklahoma Hazardous Materials Planning and Notification Act; and

8. Supervise and coordinate the activities of the local emergency planning committees.

E. On behalf of the Oklahoma Hazardous Materials Emergency Response Commission, member agencies shall have the following responsibilities:

1. The Oklahoma Department of Environmental Quality shall:

a. provide administrative support to the Oklahoma Hazardous Materials Emergency Response Commission,

b. review the activities of the local emergency planning committees, and serve as liaison between the Oklahoma Hazardous Materials Emergency Response Commission, the local emergency planning committees, and federal

agencies, except as related to training funds from the federal emergency management agency,

c. administer a notification program pursuant to federal requirements for emergency releases of extremely hazardous substances and hazardous substances as identified by the federal Environmental Protection Agency. Such notification shall include immediate notice of the release and written follow-up notice of response actions taken, risk analyses, and advice concerning medical treatment for exposure, and shall include releases from facilities subject to Title III of the Superfund Amendments and Reauthorization Act. Such notification requirements shall be in addition to those required by other agencies,

d. administer and enforce the reporting requirements of Title III of the Superfund Amendments and Reauthorization Act pertaining to emergency planning notification, material safety data sheets, chemical lists, emergency and hazardous chemical inventory forms, and toxic chemical release forms,

e. serve as the industrial liaison and the repository for required information,

f. perform such environmental services as are necessary to validate required reports, and

g. receive and respond to requests for information under the Oklahoma Open Records Act;

2. The Oklahoma Department of Civil Emergency Management shall:

a. administer and enforce the planning requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986,

b. receive and review emergency plans submitted by local emergency planning committees, make recommendations on

revisions to such plans for coordination purposes, and facilitate the training for and the implementation of such plans, and

c. facilitate emergency training programs for local emergency planning committees.

F. Each member agency of the Oklahoma Hazardous Materials Emergency Response Commission shall have the power and duty, relative to its respective Commission responsibilities, to:

1. Require reports and plans;

2. Prescribe rules and regulations consistent with Title III of the Superfund Amendments and Reauthorization Act. Any rule or regulation promulgated by any member agency pursuant to the Oklahoma Hazardous Materials Planning and Notification Act shall not be more stringent than any such federal act;

3. Adopt federal rules. Any rule or regulation promulgated by any member agency pursuant to the provisions of the Oklahoma Hazardous Materials Planning and Notification Act shall not be more stringent than any such federal rules;

4. Cause investigations, inquiries and inspections;

5. Prescribe penalties;

6. Assess administrative penalties;

7. Cause prosecution;

8. Accept, use, disburse and administer grants, allotments, gifts, devises for the purposes of facilitating emergency response performance in the state;

9. Provide public information as requested regarding emergency response implementation in the state; and

10. Work with other agencies where applicable, to eliminate redundancy in the reporting requirements of the various state, federal and local agencies enforcing hazardous materials handling, storage, spills and training.

G. Any person violating any provision of the Oklahoma Hazardous Materials Planning and Notification Act shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than Ten Thousand Dollars ($10,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment~~ subject to prosecution for any applicable crime in Title 21 of the Oklahoma Statutes.

H. The Oklahoma Hazardous Materials Emergency Response Commission shall:

1. Designate emergency planning districts to facilitate preparation and implementation of emergency plans; and

2. Appoint members of a local emergency planning committee for each emergency planning district.

SECTION 293. AMENDATORY 28 O.S. 1991, Section 3, is amended to read as follows:

Section 3. Any county, township and district officer who is required by law to make monthly or quarterly reports to the board of county commissioners who fails or refuses to make such reports, or who makes a false or fraudulent report, shall be ~~deemed guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) and in addition ~~to his punishment~~ he shall forfeit his office~~; and when any such officer shall fail or refuse to account for or to pay over any money in his official capacity, he shall be deemed guilty of embezzlement,~~ and in no case shall any county officer retain any perquisites of his office; and if any officer neglect or refuse to charge the fees provided by law, he shall forfeit double the amount thereof to be deducted from his salary, or to be collected by civil action against any such officer or his bondsmen.

SECTION 294. AMENDATORY 28 O.S. 1991, Section 5, is amended to read as follows:

Section 5. No person authorized to administer oaths, shall be allowed to charge any discharged soldier or seaman, or widow, orphan or legal representative thereof, any fee for administering any oath or the giving of any certificate for the procuring of any pension, bounty, or back pay, nor for administering any oath or oaths and giving the certificate required upon any voucher for collection of periodical dues from the pension agent for any services rendered in perfecting any voucher; and any such officer who may charge any fee for any such services shall be ~~deemed guilty of a misdemeanor, and fined in any sum not less than Ten Dollars ($10.00) nor~~ liable for a civil infraction and subject to a fine of not more than ~~Twenty-five Dollars ($25.00)~~ One Thousand Dollars ($1,000.00).

SECTION 295. AMENDATORY 28 O.S. 1991, Section 10, is amended to read as follows:

Section 10. Any county, township or district officer who shall ~~knowingly~~ charge, receive or collect any fees for constructive service or mileage shall be ~~deemed guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00), and in addition to his punishment shall forfeit his office and thereafter be forever barred from holding any office of honor, trust or profit in this state.

SECTION 296. AMENDATORY 29 O.S. 1991, Section 3-201, is amended to read as follows:

Section 3-201. A. All things being equal, veterans of World War II, the Korean, the Vietnam and Persian Gulf Wars shall be appointed as game wardens when vacancies shall occur.

B. All persons appointed game wardens shall be and have the full powers of peace officers of the State of Oklahoma in the enforcement of the provisions of this Code. Game wardens shall have the authority to enforce all state laws on Department-owned or -managed lands. Game wardens shall also enforce all other laws of

this state when authorized by the Governor of the State of Oklahoma. Moreover, game wardens specifically:

1. ~~Are vested with the power and authority of sheriffs in making arrests for wildlife conservation violations and nonconservation- related crimes in cooperation with other law enforcement officers and agencies as authorized by the Director and approved by the Governor of the State of Oklahoma;~~

~~2.~~ May take into possession any and all protected wildlife, or any part thereof, killed, taken, shipped or had in possession contrary to the law, such wildlife or parts thereof to be disposed of as may be determined by the Director or any court of competent jurisdiction;

~~3.~~ 2. May make a complaint and cause proceedings to be commenced against any person for violation of any of the laws for the protection and propagation of wildlife, with the sanction of the prosecuting or district attorney of the county in which such proceedings are brought, and shall not be required to give security for costs;

~~4.~~ 3. May be an authorized agent of the Commission or Department under Section 3-202 of this title in addition to his duties as a game warden; and

~~5.~~ 4. May assist in enforcement of the state fire laws, upon request of the Department of Agriculture.

C. 1. Pursuant to the provisions of this subsection, a game warden may operate a vehicle owned or leased by the Department upon a roadway during the hours of darkness without lighted headlamps, clearance lamps, or other illuminating devices. As used in this paragraph, "roadway" shall include any street or highway in this state except an interstate highway, a limited access highway, a state trunk highway, or any street or highway within the limits of an incorporated area.

2. Pursuant to the provisions of this subsection, a game warden may operate a vessel upon any waters of this state during the hours of darkness without the illuminating devices required by Section 4207 of Title 63 of the Oklahoma Statutes.

3. A game warden may operate such vehicle or vessel without the illuminating devices specified in paragraphs 1 and 2 of this subsection only if such operation:

a. is made in the performance of the duties of the game warden pursuant to the provisions of the Code, and

b. (1) will aid in the accomplishment of a lawful arrest for any violation of the Oklahoma Wildlife Code or any rule or regulation promulgated thereto, or

(2) will aid in ascertaining whether a violation of the Oklahoma Wildlife Conservation Code or any rule or regulation promulgated thereto has been or is about to be committed.

~~D. Any person who refuses to stop a vehicle or boat when requested to do so by a game warden in the performance of the duties of such game warden is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00).~~

~~E. Any game warden who solicits or accepts any bribe or money or other thing of value in connection with the performance of the duties entrusted to him shall be guilty of a felony and, upon conviction, shall be sentenced to a term not less than two (2) years nor more than seven (7) years in the State Penitentiary and shall be summarily removed from office.~~

SECTION 297. AMENDATORY 29 O.S. 1991, Section 3-202, is amended to read as follows:

Section 3-202. ~~A.~~ No person shall represent himself to be an authorized agent of the Commission, the Department or the Director unless such person has been so appointed by written order of the

Director or the Commission, which order shall specifically state the purpose and limits of authority to be exercised by such agent.

~~B. Any person so representing himself and who in fact is not duly appointed shall, upon conviction, be punished by a fine not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment.~~

SECTION 298. AMENDATORY 29 O.S. 1991, Section 4-101, is amended to read as follows:

Section 4-101. A. All licenses and permits issued by the Director, the Department or by any of its agents shall be used only in conformity with the provisions of this title and the rules and regulations promulgated by the Commission.

B. All persons making application for any licenses required by this section shall produce a valid license to operate a motor vehicle or other positive proof of identification, age and residency, and any such license issued shall show such data as well as the date and time of issuance.

C. All licenses are nontransferable. No person shall alter, change, lend or transfer any license. No person shall use or borrow a license which has not been issued to him by the Director, the Department or by any of its agents pursuant to the provisions of this section.

D. No person may engage in activities requiring a license without that person's carrying such license on his person and producing the same for an inspection upon the demand of any Oklahoma citizen or game warden.

E. Any person required to produce his license must also identify himself as the person to whom such license was issued, and failure or refusal to comply shall be deemed prima facie evidence of a violation of this section.

F. Unless otherwise provided in this Code:

1. All licenses shall terminate December 31 for the year issued;

2. All licenses may be revoked by the Department or by a court of competent jurisdiction for a period up to one (1) year if the licensee is convicted of violating any of the provisions of this title.

G. Should licenses provided under Sections 4-110, 4-112 or 4-113 of this title be lost or destroyed, duplicates will be issued by the Department at a fee of One Dollar and fifty cents ($1.50).

H. Any person ~~convicted of violating~~ breaching the provisions of this section ~~or of making a false statement or giving any false information in order to acquire any license or permit, pursuant to the provisions of this section, shall be punishable by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00), or by imprisonment in the county jail for a period not to exceed ten (10) days, or by both such fine and imprisonment~~ shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 299. AMENDATORY 29 O.S. 1991, Section 4-102, is amended to read as follows:

Section 4-102. A. No person may engage in the private commercial production of catfish, minnows, fingerlings, fish, frogs or other water species without having first procured a license for such from the Director.

B. The fee for a license under this section, and the fee for the renewal of such license, shall be Ten Dollars ($10.00).

C. All licenses may be renewed so long as the applicant remains in operation and in the production of a particular species.

D. Nothing in this act shall be construed to provide for the importation or exportation of minnows and other fish species which are provided for specifically in Sections 4-105, 4-115 and 7-602.

~~E. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00), or by imprisonment in the county jail for a period not to exceed ten (10) days, or by both such fine and imprisonment.~~

SECTION 300. AMENDATORY 29 O.S. 1991, Section 4-103, as amended by Section 3, Chapter 318, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-103), is amended to read as follows:

Section 4-103. A. No person may take for commercial purposes, by the use of nets, traps, seines and other similar devices, nongame fish from the waters of this state without having first procured a license for such from the Director.

B. Prior to the issuance of each license, the applicant must file with the Director:

1. A true inventory of the equipment to be utilized in the operations of that fisherman;

2. Under special management or research conditions, the Commission may require a good and sufficient surety bond to the Department, by a surety company licensed to do business in this state, in the sum of One Thousand Dollars ($1,000.00) conditioned upon the observance and the compliance with the provisions of this section and Sections 6-201 and 6-202 of this Code, which bond shall be subject to forfeiture upon the conviction of the violation of any of the provisions of this Code, as provided in paragraph 2, subsection F of Section 4-101 of this Code.

C. The fee for a license under this section shall be Seventy-five Dollars ($75.00) for residents and Two Hundred Dollars ($200.00) for nonresidents of the State of Oklahoma.

D. ~~Any person convicted of violating the provisions of this section shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00), or by~~

~~imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment.~~

~~E.~~ Commercial fishermen whose licenses have been revoked under subsection F of Section 4-101 of this Code may not engage in commercial fishing operations in any manner during such revocation.

SECTION 301. AMENDATORY 29 O.S. 1991, Section 4-104, is amended to read as follows:

Section 4-104. A. No person may employ any helper or assistant in any commercial fishing operation without having first procured from the Director a license for each such person.

B. Such license shall be in the form of a John Doe license and will be valid for the helper or assistant only so long as the helper or assistant works in the presence of the commercial fisherman.

C. The fee for a license under this section shall be Fifty Dollars ($50.00).

D. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 302. AMENDATORY 29 O.S. 1991, Section 4-105, is amended to read as follows:

Section 4-105. ~~A.~~ No person may transport or sell nongame fish outside the state without having first procured a commercial fishing license under Section 4-103 of this Code, and without also having first procured from the Director a special permit for transporting or selling such fish.

~~B. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00), or by~~

~~imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment.~~

SECTION 303. AMENDATORY 29 O.S. 1991, Section 4-106, as amended by Section 3, Chapter 402, O.S.L. 1992 (29 O.S. Supp. 1994, Section 4-106), is amended to read as follows:

Section 4-106. A. No person may propagate or hold in captivity any wildlife or domesticated animals hunted for sport for commercial hunting area purposes without having procured a license for such from the Director. Licenses shall be classified as big game, upland game, or a combination of big game and upland game.

1. A big game license shall be required for legally acquired exotic ungulates, domesticated animals so designated by the Oklahoma Wildlife Conservation Commission, exotic swine, and legally acquired whitetail and mule deer, turkey and other species of big game lawfully taken under the provisions of subsection A of Section 5-411 and Section 5-401 of this title. Wildlife that has been crossbred with exotic wildlife shall be considered native and not exotic unless documentation shows otherwise.

2. An upland game license shall be required for legally acquired captive raised pheasants, all species of quail, Indian chukars, water fowl, and other similar or suitable gallinaceous birds; and shall include turkey if no other big game species are listed on the license/application.

B. Before obtaining such license or a renewal of such license the applicant shall:

1. Submit proof that such wildlife or domesticated animals hunted for sport will be or have been secured from a source other than the wild stock in this state. Any person obtaining or renewing such license shall submit a true and complete inventory of said animals before such license shall be approved;

2. Such license shall specifically list the different species and/or subspecies to be hunted on the listed hunting area or premises; and

3. Submit proof of being an Oklahoma resident.

C. Any game warden of the Oklahoma Department of Wildlife Conservation shall have authority to inspect any and all records and invoices pertaining to the commercial hunting operations of any person licensed or requesting licensure pursuant to this section and additionally shall have the authority to inspect any and all facilities, equipment and property connected to the hunting operation of any person licensed or requesting licensure pursuant to this section.

D. 1. The annual fee for a commercial hunting area license for upland game under this section shall be One Hundred Dollars ($100.00).

2. The annual fee for a commercial hunting area license for big game or a combination of big game and upland game pursuant to this section shall be Two Hundred Dollars ($200.00).

E. Exemptions from this license requirement shall be operators of running pens used for the performance test or training of dogs. Operators of such running pens may acquire coyotes from wild stock without having to possess a fur dealer's license for such purpose and no license shall be required of those involved in performance testing or training dogs in such running pens so long as no other wildlife are taken or hunted in any manner.

F. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Five Hundred Dollars ($500.00) nor~~ more than One Thousand Five Hundred Dollars ($1,500.00)~~, or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment~~.

G. Any person ~~convicted of violating~~ breaching the provisions of this section shall have his license revoked. No new license shall be issued for a period of six (6) months from and after the date on which the revocation order becomes effective. This section shall be in addition to any appropriate punishment provided in Title 21 of the Oklahoma Statutes.

H. The Department is authorized to promulgate rules pertaining to commercial hunting areas.

SECTION 304. AMENDATORY 29 O.S. 1991, Section 4-107, as last amended by Section 1, Chapter 151, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-107), is amended to read as follows:

Section 4-107. A. Except as otherwise provided for in this title, no person may breed, possess or raise native wildlife, except fish, amphibians, aquatic reptiles or aquatic invertebrates, for commercial purposes without having first procured a license for such from the Director.

B. No person licensed under this section may sell cats specified in subsection D of this section or bears to any person who does not possess a commercial wildlife breeder's license or noncommercial wildlife breeder's license.

C. Such license may be issued to any person whom the Director believes to be acting in good faith, and whom he believes does not intend to use such license for the purpose of violating any of the laws of the State of Oklahoma, and who proves that the brood stock he uses will be obtained in a lawful manner.

D. Without exception, any person shall be licensed under this section who keeps or maintains on premises any bear or cat that will grow to reach the weight of fifty (50) pounds or more and shall at all times keep such wildlife confined, controlled and restrained in such manner so the life, limb or property of any person lawfully entering such premises shall not be endangered.

E. The fees for a license under this section, and all renewals of such license, shall be Forty-eight Dollars ($48.00).

F. Any person ~~convicted of~~ violating the provisions of this section ~~shall be punished by a fine of not less than One Hundred Dollars ($100.00); and~~, if applicable, shall have his wildlife license revoked. No such person whose license has been revoked shall be eligible to obtain a new license until after the date on which the revoked license would have expired.

SECTION 305. AMENDATORY 29 O.S. 1991, Section 4-108, is amended to read as follows:

Section 4-108. A. No person may use hawks, owls or eagles to hunt, chase or take game without having first procured a license for such from the Director.

B. All falconers shall have the falconer's license and an annual Oklahoma hunting license unless legally exempt.

C. The fee for a falconer's license under this section shall be Forty-five Dollars ($45.00) for a resident and One Hundred Dollars ($100.00) for a nonresident. Said license shall be valid for a period of three (3) years from date of issuance.

D. In lieu of the provisions of subsection C of this section, the Department is authorized to issue a temporary falconer's license for nonresidents not to exceed ten (10) days. The fee for such temporary license shall be Twenty-five Dollars ($25.00).

E. Any person with a falconer's license whose hunting raptor accidentally kills a wildlife that is out of season or of the wrong species or sex shall leave the dead wildlife where it lies, except that the raptor may feed upon the wildlife prior to leaving the site of the kill.

F. Any person ~~convicted of violating~~ breaching any provision of this section shall be ~~punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00)~~

liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 306. AMENDATORY 29 O.S. 1991, Section 4-110, as last amended by Section 1, Chapter 372, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-110), is amended to read as follows:

Section 4-110. A. Except as otherwise provided in the Oklahoma Wildlife Conservation Code, no person shall fish, pursue, harass, catch, kill, take in any manner, use, have in possession, sell, or transport all or any portion of fish without having first procured a license for such from the Director or from any of the authorized agents of the Department. The Commission may designate two (2) days per year in which residents and nonresidents may fish without first procuring a fishing license pursuant to the provisions of this section.

B. Pursuant to the provisions of this Code, persons excepted from the license requirements of this section are:

1. Legal residents under sixteen (16) years of age on the first day of the current calendar year and nonresidents under sixteen (16) years of age from states which do not require nonresident fishing licenses for persons under sixteen (16) years of age;

2. Legal residents sixty-four (64) years of age or older and nonresidents sixty-four (64) years of age or older from states which do not require nonresident fishing licenses for persons sixty-four (64) years of age or older, provided such resident has obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title;

3. Legal resident veterans having a disability of sixty percent (60%) or more;

4. Legal resident owners or tenants, their spouses, parents, grandparents, children and their spouses, grandchildren and their spouses who fish in private ponds on land owned or leased by them;

5. Every Oklahoma citizen who is serving in a branch of the United States Armed Forces, is on properly authorized leave of absence from military duty, has in his possession proper written evidence showing such authorized leave, and is serving outside the State of Oklahoma at the time of such fishing;

6. Any patient of an institution of the State of Oklahoma established for the care and treatment of mental illness or alcohol or drug dependency or any developmentally disabled person residing in any group home or other institution or developmentally disabled persons when accompanied by an attendant of such institution or legal guardian of said patient, or when fishing on institutional property;

7. Any person under eighteen (18) years of age who is in the legal and physical custody of the State of Oklahoma or one of its agencies by court order;

8. Any person who is legally blind or who has any other physical impairment, as certified by a duly qualified physician, which prevents him from properly using fishing apparatus without the assistance of another person, and any one person actually accompanying and actually assisting such legally blind or otherwise physically impaired person while the latter is fishing. This certification shall be carried by the individual while fishing;

9. Nonresidents under fourteen (14) years of age;

10. Job Corps trainees of this state, provided that such trainees shall have on their persons a duly authorized identification card issued by their respective Job Corps Center and shall present such card upon request, in lieu of a fishing license. The trainees shall return their cards to their respective Job Corps Center when the trainees leave their respective Job Corps training programs;

11. Any legal resident having a proven disability which renders him nonambulatory and confines him to a wheelchair as certified by a duly qualified physician; and

12. Any person who is fishing with a pole and line, trotline, or throwline in streams, natural lakes, natural ponds, and mine pits in the county in which he is a resident, or in streams, natural lakes, natural ponds, and mine pits which form a part of the boundary line of the county in which he is a resident, when using any bait other than commercial or artificial bait, blood, stink bait, cut fish, and shrimp.

C. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, the fee for an annual license issued pursuant to the provisions of this section shall be:

1. For legal residents, Eleven Dollars and fifty cents ($11.50); and

2. For nonresidents, Twenty-seven Dollars and fifty cents ($27.50), provided the Commission may enter into reciprocity agreements with states wherein nonresident license fees shall be in conformity with such reciprocal agreements. For a fourteen-day nonresident permit license, Nineteen Dollars ($19.00). For a five-day nonresident permit license, Nine Dollars ($9.00). Of the amount of monies collected pursuant to the provisions of this paragraph, Five Dollars ($5.00) of the license fee for nonresidents, Two Dollars and fifty cents ($2.50) of the fourteen-day nonresident permit fee and One Dollar and fifty cents ($1.50) of the five-day nonresident permit fee shall be deposited in the Wildlife Habitat Fund created pursuant to the provisions of Section 4-132 of this title.

D. Legal residents who have resided in this state for at least six (6) months and who are receiving Social Security Disability benefits or Supplemental Security Income benefits or both may

purchase a disability fishing license from the Director for Ten Dollars ($10.00) for five (5) years.

E. Any person ~~arrested~~ stopped while violating the provisions of this section who does not meet the requirements of subsection H of this section, may purchase a substitute temporary thirty-day license from the ~~arresting~~ game warden ~~in lieu of posting bond~~. The fee for a substitute license purchased pursuant to the provisions of this subsection shall be:

1. For legal residents, Thirty-five Dollars ($35.00); and

2. For nonresidents, Seventy-five Dollars ($75.00).

The fees from licenses purchased pursuant to the provisions of this subsection shall be deposited in the Wildlife Conservation Fund to be used exclusively for developing, managing, preserving, and protecting wildlife and wildlife habitat.

F. Unless a substitute license is purchased as provided for by subsection E of this section, any resident of this state ~~convicted of~~ violating the provisions of this section shall be ~~punished by the imposition of~~ liable for a civil infraction and subject to a fine of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00) ~~or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment~~.

G. Unless a substitute license is purchased as provided for by subsection E of this section, any nonresident ~~convicted of~~ violating this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of ~~not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00) or by imprisonment in the county jail for a period~~ not more than ~~thirty (30) days, or by both such fine and imprisonment~~ Two Hundred Dollars ($200.00).

H. Any person producing proof in court that a current fishing license issued by the Department of Wildlife Conservation to such person was in force at the time of the alleged offense shall be entitled to dismissal of a charge of violating this section upon

payment of court costs; however, if proof of fishing license is presented to the court or district attorney within seventy-two (72) hours after the violation, the charge shall be dismissed without payment of court costs.

SECTION 307. AMENDATORY 29 O.S. 1991, Section 4-111, is amended to read as follows:

Section 4-111. A. No person may buy, barter or deal in any fur or pelt of furbearers in this state without having first procured a license for such from the Director.

B. Fur dealers must provide advance notice of each and every place where such business is transacted. Such notice shall be to the Director in the manner prescribed by the Commission.

C. ~~It shall be illegal and punishable under the provisions of this section, for anyone not having a current fur dealer's license to sell, barter or deal in any fur or pelt of furbearers in this state for shipment of said fur or pelt out of state without having obtained a current license and without reporting said sale to the Director.~~

~~D.~~ The fee for a license under this section shall be:

1. For residents, Sixty-eight Dollars ($68.00); and

2. For nonresidents, Three Hundred Twenty-five Dollars ($325.00).

~~E.~~ D. All licenses issued pursuant to this section shall expire on June 30 of each year.

~~F. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than Two Hundred Fifty Dollars ($250.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment.~~

SECTION 308. AMENDATORY 29 O.S. 1991, Section 4-112, as last amended by Section 2, Chapter 372, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-112), is amended to read as follows:

Section 4-112. A. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, no person may hunt, pursue, trap, harass, catch, kill, take or attempt to take in any manner, use, have in possession, sell, or transport all or any portion of any wildlife except fish, without having first procured a license for such from the Director or from any authorized agents of the Department.

B. Pursuant to the provisions of this Code, persons excepted from the license requirement of this section are:

1. Legal residents of Oklahoma under sixteen (16) years of age on the first day of the current calendar year;

2. Legal residents of Oklahoma sixty-four (64) years of age or older provided such persons have obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title;

3. Legal resident veterans having a disability of sixty percent (60%) or more;

4. Legal resident owners or tenants who hunt on land owned or leased by them;

5. Every citizen of Oklahoma serving in a branch of the United States Armed Forces, who is on properly authorized leave from military duty, who has in his possession proper written evidence showing such authorized leave, and who is serving outside the State of Oklahoma at the time of such hunting;

6. Any nonresident under fourteen (14) years of age; and

7. Legal residents having a proven disability which renders them nonambulatory and confines them to a wheelchair, as certified by a medical doctor duly licensed to practice medicine in this state.

C. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, the fees for licenses listed in this subsection are:

1. a. Annual hunting licenses for nonresidents hunting game other than deer, antelope, or elk, Eighty-four Dollars ($84.00); for deer, Two Hundred Dollars ($200.00); for antelope and elk, Two Hundred Fifty Dollars ($250.00). There shall be no exemptions for deer, antelope, elk, or turkey. For a five-day nonresident hunting license to hunt game other than deer, antelope, elk, turkey, or pheasant, the fee shall be Thirty-four Dollars ($34.00).

b. Of the amount of monies collected pursuant to the provisions of this paragraph, Five Dollars ($5.00) of the license fee for hunting game other than deer, antelope and elk, Five Dollars ($5.00) of the license fee for hunting deer, Five Dollars ($5.00) of the license fee for hunting antelope and elk and Two Dollars and fifty cents ($2.50) of the five-day hunting license shall be deposited in the Wildlife Habitat Fund created pursuant to the provisions of Section 4-132 of this title.

c. The Oklahoma Wildlife Department shall not issue any nonresident deer, antelope, or elk licenses to residents of any other state which has a deer season but does not allow Oklahoma residents the opportunity to purchase nonresident licenses in their state.

2. Disability hunting license, residents of this state for at least six (6) months and who are receiving Social Security Disability benefits or Supplemental Security Income benefits or both may purchase a disability hunting license from the Director for Ten Dollars ($10.00) for five (5) years.

3. Deer gun hunting license, residents, Fifteen Dollars and seventy-five cents ($15.75). There shall be no exemptions except for residents sixty-four (64) years of age or older provided such

residents have obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title and for legal residents of Oklahoma under eighteen (18) years of age provided such residents shall be required to pay a deer gun hunting license fee of Thirteen Dollars and seventy-five cents ($13.75). In addition, veterans who are totally disabled as certified by the U.S. Veterans Administration shall be exempt from the fees specified pursuant to this paragraph.

4. Deer archery hunting license, residents, Fifteen Dollars and seventy-five cents ($15.75). No exemptions.

5. Primitive firearms license, residents, Fifteen Dollars and seventy-five cents ($15.75). No exemptions.

6. Elk or antelope hunting license, residents, Thirty-four Dollars and twenty-five cents ($34.25). No exemptions.

7. Bonus, special or second deer gun hunting license, residents, Fifteen Dollars and seventy-five cents ($15.75). No exemptions except for residents sixty-five (65) years of age or older provided such residents have obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title. In addition, veterans who are totally disabled, if certified by the U.S. Veterans Administration shall be exempt from the fees specified pursuant to this paragraph.

D. The fees for hunting licenses, except as provided for in the Oklahoma Wildlife Conservation Code, are:

1. Legal residents, Eleven Dollars and fifty cents ($11.50); and

2. Commercial hunting area ten-day permit, resident or nonresident, Five Dollars ($5.00).

E. The provisions of this section shall not be construed to require a hunting license, resident or nonresident, of any person merely because he participates, as owner or handler of an entry, as an official, or as a spectator in the conduct of a field trial or

performance test of dogs, whether he is a resident or nonresident of the State of Oklahoma. No license to hunt shall be required of any person engaged in training or working dogs, provided said person is in no way engaged in hunting and does not take or attempt to take in any manner any game.

F. Any person ~~arrested~~ stopped for hunting game other than deer, antelope, elk, or turkey without a valid hunting license as required by the provisions of subsection A of this section may purchase a substitute temporary thirty-day license from the ~~arresting~~ game warden ~~in lieu of posting bond~~. Proof of hunter safety certification will not be required for such temporary substitute license. The fee for a substitute license purchased pursuant to the provisions of this subsection shall be:

1. For legal residents, Thirty-five Dollars ($35.00); and

2. For nonresidents, One Hundred Thirty Dollars ($130.00).

The fees from licenses purchased pursuant to the provisions of this subsection shall be deposited in the Wildlife Conservation Fund to be used exclusively for developing, managing, preserving, and protecting wildlife and wildlife habitat.

G. Any person producing proof in court that a current hunting license issued by the Department of Wildlife Conservation to such person was in force at the time of the alleged offense shall be entitled to dismissal of a charge of violating this section upon payment of court costs; however, if proof of hunting license is presented to the court or district attorney within seventy-two (72) hours after the violation, the charge shall be dismissed without payment of court costs.

H. Unless a substitute license is purchased as provided for by subsection F of this section, any resident ~~convicted of~~ violating the provisions of this section shall be ~~punished by the imposition of~~ liable for a civil infraction and subject to a fine of not ~~less than Twenty-five Dollars ($25.00) nor~~ more than ~~One Hundred Dollars~~

~~($100.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment~~ One Thousand Dollars ($1,000.00).

I. Unless a substitute license is purchased as provided for by subsection F of this section, any nonresident ~~convicted of~~ violating the provisions of this section shall be ~~punished by the imposition of~~ liable for a civil infraction and subject to a fine of not ~~less than Two Hundred Dollars ($200.00) nor~~ more than ~~Five Hundred Dollars ($500.00), or by imprisonment in the county jail for a period not to exceed six (6) months, or by both said fine and imprisonment~~ One Thousand Dollars ($1,000.00).

SECTION 309. AMENDATORY 29 O.S. 1991, Section 4-112A, as amended by Section 5, Chapter 214, O.S.L. 1993 (29 O.S. Supp. 1994, Section 4-112A), is amended to read as follows:

Section 4-112A. A. On and after January 1, 1987, no person born on or after January 1, 1972, upon reaching sixteen (16) years of age and through thirty-five (35) years of age, may purchase or receive any hunting license or hunting tag unless said person possesses and can exhibit a certificate of competency and safety in the use and handling of firearms from the Department of Wildlife Conservation. The Department shall charge no fee for the issuance of such certificates. A hunter safety certificate issued by another state or country and approved by the Department of Wildlife Conservation shall be deemed to meet the requirements of this section. No person under sixteen (16) years of age may purchase a gun deer tag or hunt large game with any firearm without first obtaining a hunter safety certification.

B. The Department of Wildlife Conservation shall prescribe, adopt, and promulgate rules and regulations necessary for the certification of programs for hunter safety offered by other public or private organizations.

C. The provisions of this section shall not apply to any person who has an honorable discharge from the United States Armed Forces. In addition, the provisions of this section shall not apply to any person who is a resident landowner or a resident tenant, while hunting game other than deer or antelope, upon land owned or leased by such person. The provisions of this subsection shall not exempt nonresidents owning land in this state nor any person leasing land, for the purpose of hunting.

D. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by the imposition of a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00) or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 310. AMENDATORY 29 O.S. 1991, Section 4-115, is amended to read as follows:

Section 4-115. A. No person may ship or transport minnows for sale into or out of this state without having first procured a license for such from the Director.

B. Commercial minnow export and import:

1. Except as otherwise provided in the Oklahoma Wildlife Conservation Code, no person may harvest, attempt to harvest, assist in harvesting, sell, or buy for the purpose of exporting minnows from the waters of this state or import into this state, without having first procured the proper license for such purposes from the Director. The fees for licenses under this section shall be set by the Commission for persons having an established residence in this state and who have been currently residing in this state for a period of one (1) year or more prior to the issuance of a license and for nonresidents;

2. Prior to the issuance of this license, the applicant shall file with the Department a surety bond issued by a company licensed to do business in this state in the sum of One Thousand Dollars ($1,000.00), conditioned upon the observance and compliance with the provisions of the Oklahoma Wildlife Conservation Code. This bond shall be subject to forfeiture upon conviction for the violation of any of the provisions of the Oklahoma Wildlife Conservation Code or resolutions of the Department;

3. The Commission shall regulate the harvest season, harvest limits, exports limits, size and species to be harvested. The Commission shall issue such other regulations as it deems necessary and shall design all forms necessary for the operation of these provisions;

4. No minnows shall be harvested except during daylight hours from sunrise to sunset as set by the National Weather Service. The Commission shall designate the waters of this state where the harvest of minnows for export purposes shall be permitted;

5. All persons licensed as "Commercial Minnow Export Dealers" shall comply with Sections 6-401 and 6-501 of the Oklahoma Wildlife Conservation Code and with all resolutions of the Commission pertaining to the export of minnows from this state; and

6. Provided, however, any person leaving the state possessing three (3) dozen or fewer minnows or any person selling or shipping minnows raised in a regularly licensed commercial minnow hatchery shall be exempt from the licensing provisions of this section.

C. Any person ~~convicted of violating~~ breaching any provisions of this section shall be ~~punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 311. AMENDATORY 29 O.S. 1991, Section 4-116, is amended to read as follows:

Section 4-116. A. No person may seine, trap, transport or sell minnows within the state for commercial purposes without having first procured a license from the Director.

B. Each applicant for such license shall be a resident of Oklahoma for a period of one (1) year immediately preceding his application, and it must appear to the Director that the applicant does not intend to use the license for the purpose of violating any of the laws of the State of Oklahoma, and that the equipment to be used by the applicant complies with the provisions of Section 6-401 of the Oklahoma Wildlife Conservation Code.

C. Persons excepted from the license requirements of this section are:

1. Any person who seines, traps or transports minnows for his own use as bait, if the seine used does not exceed twenty (20) feet in length, and the mesh is no larger than one-fourth (1/4) inch square, or if only one trap is used;

2. Any person under sixteen (16) years of age who seines, traps and sells minnows for commercial purposes within the county of his residence in quantities which do not require a special vehicle for transportation, as described in paragraph 4, subsection A of Section 6-401 of the Oklahoma Wildlife Conservation Code;

3. Any retailer selling lawfully acquired minnows.

D. The fees for a license under this section and the fee for renewal of such license shall be determined by the Wildlife Conservation Commission.

~~E. Any person convicted of violating any provisions of this section shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00).~~

SECTION 312. AMENDATORY 29 O.S. 1991, Section 4-117, is amended to read as follows:

Section 4-117. A. No holder of a license as a commercial minnow dealer in this state may use more than one vehicle to

transport minnows without having first procured a license for each additional vehicle from the Director.

B. The fees for each additional license shall be determined by the Wildlife Conservation Commission.

C. Any person ~~convicted of violating~~ breaching this section shall be ~~punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 313. AMENDATORY 29 O.S. 1991, Section 4-118, is amended to read as follows:

Section 4-118. A. No person may kill or capture wildlife or take their nests or eggs for scientific purposes without having first procured a license for such from the Director.

B. Such license may be issued to anyone sixteen (16) years of age or older when the Director is presented with:

1. A written testimonial from one well-known scientist or from any well-known scientific institution, such testimonial certifying to the individual's good character and fitness; and

2. A signed application listing

a. the species sought,

b. the means to be used to take such species, and

c. the reason for collection.

C. The annual fee for such license shall be Five Dollars ($5.00).

D. Each license shall list the species that the licensee is permitted to take, the means of taking and the period during which such may be taken.

E. Each licensee shall report to the Director at the end of each year the number and species of wildlife taken or killed and any other relative collection data as the Department may require.

F. Upon application, licenses may be renewed without complying with the provisions of paragraph 1, subsection B of this section. However, no license may be renewed before the receipt of an annual report.

G. Upon ~~conviction~~ determination that any licensee killed or captured wildlife, took nests or eggs for other than scientific purposes, or took any game by means other than that described on his license, he shall be ~~punished in the same manner as though such license had never been issued and the license shall thereafter be void~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate punishment under Title 21 of the Oklahoma Statutes.

SECTION 314. AMENDATORY 29 O.S. 1991, Section 4-119, is amended to read as follows:

Section 4-119. A. No person may trap any furbearers without having first procured a license for such from the Director. Such license may be issued only to persons holding a hunting license applicable to their residency.

B. Persons excepted from the license requirements of this section are only those resident owners or tenants or such individuals' children, who trap on land owned or leased by such owner or tenants.

C. The fees for a license under this section shall be:

1. For residents,

a. Five Dollars ($5.00) for the use of twenty (20) traps or less.

b. Sixty-eight Dollars and fifty cents ($68.50) for a professional trapper, defined as a person using more than twenty (20) traps.

2. For nonresidents, Three Hundred Forty-five Dollars ($345.00).

D. All licenses issued pursuant to this section shall expire on January 31 of each year.

E. Any person ~~convicted of violating~~ breaching the provisions of subparagraph a, paragraph 1 of subsection C of this section shall be ~~punished by a fine of not less than Ten Dollars ($10.00) nor more than Fifty Dollars ($50.00)~~ liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00).

F. Any person ~~convicted of violating~~ breaching the provisions of subparagraph b, paragraph 1 of subsection C of this section shall be ~~punished by the imposition of a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00) or by imprisonment in the county jail for a period not to exceed six (6) months, or by both said fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

G. Any person ~~convicted of violating~~ breaching the provisions of paragraph 2 of subsection C of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Five Hundred Dollars ($500.00) nor~~ more than One Thousand Dollars ($1,000.00) ~~or by imprisonment in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment~~.

SECTION 315. AMENDATORY 29 O.S. 1991, Section 4-120, is amended to read as follows:

Section 4-120. A. No person may fish in designated trout waters without having first procured a license from the Director or his authorized agents.

B. The Commission will decide the open season for such fishing and which waters are designated trout waters.

C. The fee for a license under this section shall be Six Dollars and seventy-five cents ($6.75).

D. Any person ~~arrested while violating~~ stopped while breaching the provisions of this section may purchase a substitute temporary

thirty-day license from the ~~arresting~~ game warden ~~in lieu of posting bond~~. The fee for a substitute license purchased pursuant to the provisions of this subsection shall be:

1. For legal residents, Thirty-five Dollars ($35.00); and

2. For nonresidents, Seventy-five Dollars ($75.00).

The fees from licenses purchased pursuant to the provision of this subsection shall be deposited in the Wildlife Conservation Fund to be used exclusively for developing, managing, preserving and protecting wildlife and wildlife habitat.

E. Unless a substitute license is purchased as provided for by subsection D of this section, any resident of this state ~~convicted of violating~~ breaching this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Ten Dollars ($10.00) nor~~ more than One Hundred Dollars ($100.00)~~, or by imprisonment in the county jail for a period not more than thirty (30) days, or by both such fine and imprisonment~~.

F. Unless a substitute temporary license is purchased as provided for by subsection D of this section, any nonresident ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by the imposition of a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than Two Hundred Dollars ($200.00).

SECTION 316. AMENDATORY 29 O.S. 1991, Section 4-123, as amended by Section 10, Chapter 318, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-123), is amended to read as follows:

Section 4-123. Any person ~~convicted of~~ violating the provisions of Sections 4-121 or 4-122 of this title shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Fifty Dollars ($50.00) nor~~ more than ~~Five Hundred Dollars ($500.00)~~ One

Thousand Dollars ($1,000.00), and if applicable, shall have his breeder's license revoked. No such person whose license has been revoked shall be eligible to obtain a new license until after the date on which the revoked license would have expired.

SECTION 317. AMENDATORY 29 O.S. 1991, Section 4-128, is amended to read as follows:

Section 4-128. A. Except as otherwise provided in this Code, no person shall fish, pursue, harass, catch, kill, take, attempt to take in any manner, use, have in possession, sell or transport all or any portion of a fish in Lake Texoma without having first procured a license for such from the Director or from any of his authorized agents.

B. Persons excepted from the license requirements of this section are:

1. Nonresidents under fourteen (14) years of age;

2. Nonresidents in possession of a valid nonresident license issued under Section 4-110 of Title 29 of the Oklahoma Statutes and fishing the Oklahoma portion of Lake Texoma;

3. Holders of parallel special Texas fishing license for Lake Texoma; and

4. A resident holding a valid Oklahoma fishing license or excepted from such by Section 4-110 of Title 29 of the Oklahoma Statutes and fishing only the Oklahoma side of Lake Texoma.

C. The fee for this special Lake Texoma fishing license shall be Six Dollars and seventy-five cents ($6.75). Licenses shall be issued in accordance with Sections 4-201 and 4-202 of Title 29 of the Oklahoma Statutes.

D. Revenue received from the sale of this special license for Lake Texoma shall be divided between the Oklahoma Department of Wildlife Conservation and the Texas Parks and Wildlife Department. The Oklahoma Department of Wildlife Conservation shall receive seventy percent (70%) of the fees collected. The remaining thirty

percent (30%) of the fees collected shall be forwarded by the Oklahoma Department of Wildlife Conservation to the Texas Parks and Wildlife Department.

E. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Twenty-five Dollars ($25.00) nor~~ more than One Hundred Dollars ($100.00).

SECTION 318. AMENDATORY 29 O.S. 1991, Section 4-129, as last amended by Section 12, Chapter 318, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-129), is amended to read as follows:

Section 4-129. A. No person may harvest, or attempt to harvest, or assist in harvesting, or sell, buy or export mussels from the waters of this state without having first procured the proper license for such purposes from the Director. The fees for licenses under this section shall be:

1. For a resident license to harvest, or attempt to harvest, or assist in harvesting, or sell mussels, Fifty Dollars ($50.00);

2. For a nonresident license to harvest, or attempt to harvest, or assist in harvesting, or sell mussels, said fee shall be One Thousand Dollars ($1,000.00);

3. To buy, transport out of state or export mussels, One Thousand Dollars ($1,000.00); prior to the issuance of this license the applicant shall file with the Department a good and sufficient surety bond by a surety company licensed to do business in this state in the sum of Five Thousand Dollars ($5,000.00) conditioned upon the observance and compliance with the provisions of the Oklahoma Wildlife Conservation Code, which bond will be subject to forfeiture upon conviction for the violation of any of the provisions of this act or resolutions of the Department;

4. Any person in the possession of more than twenty (20) mussels or parts thereof shall be required to have the proper license as provided for in this section.

B. In addition to the requirements of subsection A of this section, any person harvesting, selling, buying or exporting mussels from the waters of this state shall procure an applicable annual fishing license pursuant to Section 4-110 of this title.

C. Except as otherwise provided for by law, the Commission shall regulate the harvest season, gear types to be used, size and species to be harvested and issue such other regulations as it deems necessary and shall design all forms necessary for the operation of these provisions.

D. It shall be unlawful for anyone to take or possess the following mussel species or their shells smaller than the following size limits:

1. Sand shells, muckets, creepers, less than three (3) inches minimum diameter;

2. Maple leaf, less than two and three-fourths (2 3/4) inches minimum diameter;

3. Three knot, less than two (2) inches minimum diameter; and

4. All other species except Buckhorn and the Ouachita Rock Pocket Book which are prohibited, less than two and one-half (2 1/2) inches minimum diameter.

E. All mussels shall be sized immediately after harvesting, before harvester moves his boat or begins another dive.

F. Mussels shall be measured by passing the mussel, shell included, through a circular measuring device with the appropriate inside diameter. If the mussel passes through the appropriate circular measuring device from any angle or direction it is too small, and must be returned to the water.

G. 1. The maple leaf mussel is the only mussel which shall be harvested for commercial purposes in the open portion of Grand Lake and its tributaries.

2. The mussel harvest season on Grand Lake shall be from April 1 to October 31, inclusive. No mussel shall be harvested in the

portion of Grand Lake of the Cherokees from sailboat bridge to the Missouri state line nor east and north to the Kansas state line.

H. Nothing in this section shall prevent a person from taking six (6) or less mussels per day of any size for noncommercial personal use.

I. 1. Any person who exports mussels from the State of Oklahoma shall pay the Department as a severance fee an amount not to exceed one-eighth (1/8) of the dollar value of purchased shells or a lesser figure as directed by the Wildlife Conservation Commission.

2. Except as otherwise required by this subsection, such funds shall be used for mussel enforcement, management and/or research.

3. One-fifth (1/5) of the monies collect pursuant to this subsection not to exceed Forty Thousand Dollars ($40,000.00) annually shall be made available to counties in this state for beaver control and abatement pursuant to contracts with such criteria and restrictions required and specified by the Department. The payment shall be computed from shipping bills of lading and paid by the 15th day of the following month. The Commission shall issue such regulations governing exports as it deems necessary and shall design all forms necessary for the operation of these provisions.

J. No mussels shall be harvested except during daylight hours from sunrise until sunset. No harvesting shall ever take place in Tenkiller Lake.

K. Any person buying or exporting mussels from the waters of this state shall provide advance notice of each and every place where such business is transacted. Such notice shall be to the Director in the manner prescribed by the Commission.

L. 1. ~~Except as provided for in paragraph 3 of this subsection, any~~ Any gear and/or mussels involved in a violation of subsection A of this section may be confiscated pursuant to the provisions of Section 7-206 of this title.

2. Any resident of this state ~~convicted of~~ violating subsection ~~A,~~ C, D, G or J of this section shall be ~~punished by~~ liable for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00), nor~~ more than Five Hundred Dollars ($500.00)~~, or by imprisonment not to exceed thirty (30) days, or by~~ and may also be subject to confiscation of gear and/or mussels pursuant to the provisions of Section 7-206 of this title ~~or by a combination of fine, imprisonment and confiscation~~.

~~2. Except as provided for in paragraph 3 of this subsection, any~~ 3. Any nonresident ~~convicted of~~ violating the provisions of subsection ~~A,~~ C, D, G or J of this section shall be ~~punished by the imposition of~~ liable for an administrative violation and subject to a fine of not ~~less than Two Thousand Five Hundred Dollars ($2,500.00) nor~~ more than Five Thousand Dollars ($5,000.00) ~~or by~~ and may also be subject to confiscation of gear and/or mussels pursuant to the provisions of Section 7-206 of this title ~~or by a combination of fine, imprisonment and confiscation~~.

~~3.~~ 4. Any person ~~convicted of~~ violating the provisions of ~~paragraph 2 of subsection A of this section or of~~ subsection I or K of this section shall be ~~punished by~~ liable for an administrative violation and subject to a fine of not ~~less than Five Hundred Dollars ($500.00), nor~~ more than One Thousand Dollars ($1,000.00)~~, or by imprisonment not to exceed thirty (30) days, or by~~ and may also be subject to confiscation of the shipment of mussels pursuant to the provisions of Section 7-206 of this title~~, or by a combination of fine, imprisonment and confiscation~~. In addition, such person shall forfeit his license and not be permitted to renew the license for a one-year period.

SECTION 319. AMENDATORY 29 O.S. 1991, Section 4-130, as amended by Section 8, Chapter 402, O.S.L. 1992 (29 O.S. Supp. 1994, Section 4-130), is amended to read as follows:

Section 4-130. A. Except as otherwise provided in the Oklahoma Wildlife Conservation Code, no person may hunt or take any waterfowl during the open season on waterfowl unless he has first obtained an Oklahoma Waterfowl Hunting Stamp from the Director or his authorized agents. Each person shall have the stamp in his possession when hunting or taking any waterfowl. Each stamp shall be validated by the signature of the licensee written across the face of the license.

B. Persons excepted from the Oklahoma Waterfowl Hunting Stamp requirement of this section are:

1. Legal residents of Oklahoma under sixteen (16) years of age; and

2. Legal residents of Oklahoma sixty-five (65) years of age or older.

C. 1. The Oklahoma Waterfowl Hunting Stamp fee shall be Four Dollars ($4.00). Fifty cents ($0.50) of this fee shall be retained by the authorized agent issuing the stamp. The remainder of the fee shall be deposited in the Wildlife Conservation Fund, to be used exclusively in the State of Oklahoma, for the purpose of developing, managing, preserving, restoring and maintaining wetland habitats and for the conservation and management of waterfowl and ecologically related species.

2. The collection and remittance procedures applicable to hunting license fees under this title shall apply to waterfowl stamp fees.

3. The waterfowl stamp issued pursuant to this section shall expire on June 30 of each year.

D. The Oklahoma Wildlife Conservation Commission shall prescribe, by regulation, the form, design and manner of issuance of the waterfowl stamp. The art for the stamp shall be selected from an art contest which shall be regulated by the Commission.

E. Any person may purchase from the Department a Lifetime Oklahoma Waterfowl Stamp. The fee for such Lifetime Oklahoma Waterfowl Stamp shall be Fifty Dollars ($50.00). The income from the sale of the Lifetime Oklahoma Waterfowl Stamp will be invested by the Department in United States securities or in any investment permitted to state banks under the State Banking Code. The interest derived therefrom shall be expended by the Commission for the purpose of developing, managing, preserving, restoring, and maintaining waterfowl habitats and waterfowl species.

F. Any person ~~convicted of violating~~ breaching any of the provisions of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Twenty-five Dollars ($25.00) nor~~ more than One Hundred Dollars ($100.00).

G. Nothing in this title shall prohibit a person from hunting waterfowl exclusively on his own property without an Oklahoma waterfowl hunting stamp.

SECTION 320. AMENDATORY 29 O.S. 1991, Section 4-133, as amended by Section 5, Chapter 372, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-133), is amended to read as follows:

Section 4-133. A. 1. Except as otherwise provided by this subsection no person who is sixty-four (64) years of age or older and who is exempt, pursuant to paragraph 2 of subsection B of Section 4-110 or paragraph 2 of subsection B of Section 4-112 of this title, from the licensing requirements set forth in said sections, shall fish, hunt, pursue, trap, harass, catch, kill, take or attempt to take in any manner, use, have in possession, sell, or transport all or any portion of any wildlife without having first obtained a senior citizen lifetime hunting or fishing or hunting and fishing combination license from the Director or any of his authorized agents.

2. Any person who is sixty-three (63) years of age shall be eligible for the senior citizen lifetime license, hunting and

fishing license or senior citizen fees provided by this section during the calendar year in which such person turns sixty-four (64) years of age.

B. The fees for the licenses required pursuant to this section shall be as follows:

1. Five Dollars and twenty-five cents ($5.25) for a senior citizen lifetime hunting license;

2. Five Dollars and twenty-five cents ($5.25) for a senior citizen lifetime fishing license;

3. Nine Dollars and twenty-five cents ($9.25) for a senior citizen lifetime combination hunting and fishing license.

Said fees collected pursuant to this subsection shall be deposited in the Wildlife Heritage Fund created in Section 4-134 of this title.

C. Federal matching funds received by the Oklahoma Wildlife Conservation Commission shall be used to match expended monies collected pursuant to this section.

D. Unless a substitute license is purchased as provided for by Section 4-110, subsection D and Section 4-112, subsection F, any person ~~convicted of~~ violating the provisions of subsection A of this section shall be ~~punished by the imposition of~~ <u>liable for an administrative violation and subject to</u> a fine of not ~~less than Twenty-five Dollars ($25.00) nor~~ more than One Hundred Dollars ($100.00)~~, or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment~~.

E. Any person subject to the provisions of this section violating the provisions of this section may make application for a senior citizen lifetime license for hunting and/or fishing with a game warden. The application fee for the senior citizen lifetime license shall be the same as stated in subsection B of this section. Said fee shall be submitted to the game warden. The application fee shall cover the cost of the senior citizen lifetime license which

will be mailed to the individual by the Department. A copy of the application shall serve as a temporary senior citizen license.

SECTION 321. AMENDATORY 29 O.S. 1991, Section 4-201, as amended by Section 13, Chapter 318, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-201), is amended to read as follows:

Section 4-201. A. The Wildlife Conservation Director is hereby authorized to issue license forms to dealers under one of the following options:

1. Having a surety bond obtained by the dealer;

2. Having a bond obtained from the Department; or

3. A one-thousand-dollar cash deposit or a certificate of deposit in the amount of One Thousand Dollars ($1,000.00).

The cash deposit or certificate of deposit will remain at the Department until the dealer chooses to discontinue selling licenses or a loss of money and/or licenses has occurred. The Department may waive bond and cash deposit requirements to existing dealers as of July 1, 1994, who have been in good standing for five (5) years.

B. Each agent shall submit the appropriate report designated by the Department to properly account for all license fees received by the agent pursuant to the provisions of this subsection.

Each such agent shall also remit all such license fees received by the agent to the Department or return the licenses not sold within the time period specified by the Department. No further license consignment shall be permitted until such agent has remitted all license fees received pursuant to the provisions of this subsection in full. The Department shall rebate to the dealer One Dollar ($1.00) for each type license sold except as otherwise provided by law.

C. Any authorized agent who fails to remit the required license fees as required by the Department shall be liable for a penalty, to be imposed by the Department, equal to one percent (1%) of the gross

amount of the license fees received by the authorized agent pursuant to this subsection.

D. In addition, failure to remit such license fees, any penalty, or both such fees and penalty shall subject the agent to ~~criminal and~~ civil proceedings pursuant to this subsection.

1. Upon failure of an agent to remit the license fees and penalty, as required, the Department shall give written notice to the alleged violator specifying the cause of the complaint. Such notice shall state the amount of the license fees owed and any penalty assessed by the Department. The notice shall require immediate payment of such debt and penalties or require that the alleged violator appear before the Department at a time and place specified in the notice and answer the charges. The notice shall additionally inform the alleged violator that failure to either pay the debt and penalty as required or to appear at the hearing shall subject such alleged violator to an administrative order which shall be entered on the judgment docket of the district court in a county in which the alleged violator has property and shall be enforced in the same manner as an order of the district court for collection action. The notice shall be served upon the alleged violator in the same manner prescribed for service of summons in a civil action. The Department shall afford the alleged violator an opportunity for a fair hearing within fifteen (15) days of receipt of notice provided by this paragraph in accordance with the provisions of the Administrative Procedures Act. On the basis of evidence produced at the hearing or if the alleged violator fails to appear at the hearing as required, the Department shall make findings of fact and conclusions of law and enter an order thereon. The order of the Department shall become final and binding on all parties unless appealed to the district court as provided in the Administrative Procedures Act. If an appeal is not made, such order may be entered on the judgment docket of the district court in a county in which

the debtor has property and thereafter enforced in the same manner as an order of the district court for collection actions.

2. ~~Failure to return or pay for such licenses is hereby declared to be a misdemeanor, and punishable upon conviction by a fine not to exceed Five Thousand Dollars ($5,000.00).~~

~~3.~~ Payment, in full, of the license fees and penalty, pursuant to the provisions of this subsection shall be full and complete satisfaction of the violation for which the Administrative Order was issued and shall preclude any other civil or criminal penalty for the same violation.

E. The Office of the Attorney General, at the request of the Director, may assist the Department in the assessment and collection of the debt and penalties, and recovery on the bond pursuant to the provisions of this section.

SECTION 322. AMENDATORY 29 O.S. 1991, Section 4-202, is amended to read as follows:

Section 4-202. A. Pursuant to their appointment according to Section 3-202 of this Code, authorized agents may issue regular and special hunting, fishing and combination hunting/fishing licenses.

B. Such authorized agents, in addition to other provisions of this Code and rules and regulations of the Commission, shall also have the duty to:

1. Issue no license without receiving the applicable license fee;

2. Issue no receipt in lieu of a license;

3. Make no false statements regarding issuance data or any other license data;

4. Make available all license books or stubs for inspection of any officer enforcing wildlife conservation laws;

5. Issue no license to a party not lawfully entitled thereto;

6. Sign, time and date all licenses issued by them;

7. Administer the oath required by law before the issuance of any license they are authorized to issue;

8. Charge no more than that license price required by statute or by Commission resolution.

C. Agents ~~convicted of violating~~ breaching the provisions of this Code shall be ~~punished by~~ liable for a civil infraction and subject to a fine not ~~less than Twenty-five Dollars ($25.00) nor~~ more than One Hundred Dollars ($100.00)~~, or by imprisonment in the county jail not less than ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment~~; such agents shall, furthermore, be relieved of any and all authority as agents.

SECTION 323. AMENDATORY 29 O.S. 1991, Section 5-101, as amended by Section 2, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1994, Section 5-101), is amended to read as follows:

Section 5-101. A. Except as otherwise provided for in this title, commercial hunting areas are subject to neither seasons or bag limit. Holders of commercial hunting area licenses may permit properly licensed persons to hunt, use, give away, sell, transport, trap or kill, within the confines of the commercial hunting area, any propagated wildlife or domesticated animals hunted for sport.

B. If said wildlife or domesticated animals or parts thereof are shipped or transported from the confines of the commercial hunting area, the commercial hunting area license holder or his lawfully appointed agent shall sign a written invoice which shall accompany such wildlife or domesticated animal to its final destination. Such invoice shall list:

1. The propagator's permit number;

2. The kind and number of each species killed, sold, given away, transported or shipped;

3. The name and address of the recipient; and

4. The date received from licensee;

and shall state that he has fully complied with the provisions of this section.

C. These invoices shall be evidence of rightful possession and ownership of lawfully taken wildlife.

D. A copy of such invoices must be permanently kept for at least three (3) years from date of expiration of license by the commercial propagator and must also include whether the wildlife was shipped alive or dead.

E. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 324. AMENDATORY 29 O.S. 1991, Section 5-102, is amended to read as follows:

Section 5-102. A. No person may remove any propagated or released wildlife or domesticated animals hunted for sport which are killed at a commercial hunting area, without attaching a tag to each of such killed wildlife or domesticated animals hunted for sport.

B. The tags, supplied by the Commission at reasonable cost, shall contain such information as the Commission may require and shall be numbered consecutively.

C. Such tag must remain attached to the individual wildlife or domesticated animals hunted for sport until prepared and consumed and shall not be used more than once.

D. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment~~ liable for a civil

infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 325. AMENDATORY 29 O.S. 1991, Section 5-201, is amended to read as follows:

Section 5-201. A. Except as otherwise provided, no person may utilize at any time, for the purpose of killing or capturing any game mammal, game bird or nongame bird, the following means:

1. Any trap, net, snare, cage, pitfall, baited hook or similar device;

2. Any drug, poison, narcotic, explosive or similar substance;

3. Any swivel or punt gun of greater calibre than ten (10) gauge; or

4. Any device which generates electricity.

B. Persons exempt from the prohibition of the above provision shall be:

1. The Director, departmental employees and authorized agents when capturing wildlife for propagation or management purposes.

2. Any person, group or governmental agency the Director may by written permit authorize, where any species of nongame birds are causing a nuisance or undue economic loss, as may be determined by said Director. Such permit shall state the method of control and specific procedures and conditions as may be deemed appropriate by the Director.

3. Any person possessing a scientific purposes license under Section 4-118 of this title.

C. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 326. AMENDATORY 29 O.S. 1991, Section 5-202, as amended by Section 6, Chapter 214, O.S.L. 1993 (29 O.S. Supp. 1994, Section 5-202), is amended to read as follows:

Section 5-202. A. Except as otherwise provided, no person may hunt upon the land of another without the consent of the owner, lessee or occupant of such land.

B. Areas exempt from the provisions of subsection A of this section are:

1. Lands not occupied by a resident thereon, unless notice of objection is conspicuously posted upon the premises by the owner or his agent.

2. Land belonging to this state which is not leased and occupied by a resident.

C. Any game warden investigating a hunter in the field has the duty to inform the hunter that it is necessary to obtain the consent of the landowner, lessee or occupant to hunt on the particular property. ~~Prosecution for violations~~ Proceedings for a breach of the provisions of this section may be commenced only upon written complaint of such owner, lessee or occupant filed before any court authorized to punish such ~~violation, or upon written complaint to any game warden or officer authorized to make arrest for such offenses~~ breach.

D. No person shall operate a motor-driven conveyance on lands that are fenced and posted or are in cultivation without permission of the landowner, lessee or occupant.

E. The consent of any owner, lessee or occupant of land authorizing a person to hunt, fish or engage in any recreational activity upon the land of any such owner, lessee or occupant shall not be construed to create any additional duty of care or impose any additional liability other than specified by Sections 11 and 12 of Title 76 of the Oklahoma Statutes.

F. The obtaining of consent from any owner, lessee or occupant of land authorizing a person to hunt, fish or engage in any recreational activity shall not relieve the authorized person using the land from any obligation which he may have in the absence of obtaining such consent to exercise care in his use of such land and in his activities thereon, or from the legal consequences of failure to employ such care.

G. Any person ~~convicted of violating~~ breaching any provisions of this section shall be ~~punished by the imposition of a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00), or by imprisonment in the county jail for thirty (30) days, or by both said fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 327. AMENDATORY 29 O.S. 1991, Section 5-203, is amended to read as follows:

Section 5-203. A. A hunting dog trainer may carry shotguns or firearms on public or private property other than state parks where hunting game to kill is now prohibited while training bird hunting dogs provided that:

1. The trainer notifies the game warden in his region prior to going into the field;

2. The trainer has a dog training shoot to kill license, obtainable from the Oklahoma Department of Wildlife Conservation at a fee not to exceed Ten Dollars ($10.00) per year;

3. The trainer has a current receipt from a licensed commercial or noncommercial game breeder of the propagated bird, or has reared the bird himself, which is being released for the training purposes, stating the number of birds and the date obtained; and

4. All propagated birds so used are tagged or banded prior to their release. Provided, further that the use of a bird hunting dog

may be permitted in the legal hunting of quail, dove, prairie chickens, pheasant and waterfowl.

5. A person may carry a pistol while training a bird dog without having met the provisions of paragraphs 1 through 4 of this subsection.

B. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00) and not~~ more than Five Hundred Dollars ($500.00)~~, or by imprisonment in the county jail for not less than ten (10) days nor more than one (1) year, or by both such fine and imprisonment~~.

SECTION 328. AMENDATORY 29 O.S. 1991, Section 5-203.1, is amended to read as follows:

Section 5-203.1 A. No person may attempt to take, take, attempt to catch, catch, attempt to capture, capture, attempt to kill, or kill any deer or other wildlife except fish and frogs by the use of a vehicle mounted spotlight or other powerful light at night, by what is commonly known as "headlighting". Provided, however, nothing in this Code shall prevent one from possessing a .22 caliber rimfire rifle or .22 pistol and a light carried on his person while in pursuit of furbearers with hounds during the legal, open furbearers season, while possessing a valid hunting license.

B. Any person may use a shotgun, using No. 6 size shot or smaller, longbow, light and a call for the purpose of hunting predatory animals, provided that written permission is obtained from the local game warden for each twenty-four-hour period of hunting.

C. It shall be illegal to hunt from a boat with a firearm from sunset until one-half (1/2) hour before sunrise. This shall not pertain to hunting of waterfowl enroute from bank to blind with unloaded shotguns.

D. No person may harass, attempt to capture, capture, attempt to take or take, kill or attempt to kill any wildlife with the aid

of any motor-driven land, air or water conveyance, except a nonambulatory person may hunt from said conveyances with written permission of the Director. Provided, however, nothing in this Code shall prevent the use of motor-driven land or water conveyances for following dogs in the act of hunting, when use of said conveyances is restricted to public roads or waterways. Said conveyances may be used on private property for following dogs in the act of hunting with the landowner's or occupant's permission.

E. Any person convicted of violating the provisions of this section shall be ~~guilty of a misdemeanor and shall be punished by a fine of not less than Two Hundred Fifty Dollars ($250.00) for a first offense and not less than Five Hundred Dollars ($500.00) for a second offense or by imprisonment in the county jail for not less than ten (10) days nor more than one (1) year, or by confiscation pursuant to Section 5-402 of Title 29 of the Oklahoma Statutes or by such fine, imprisonment and confiscation~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 329. AMENDATORY 29 O.S. 1991, Section 5-205, is amended to read as follows:

Section 5-205. A. No person after January 1, 1980, may hunt any deer or elk with legal firearms unless such person is wearing a head covering and an outer garment above the waistline, both totaling five hundred (500) square inches or more of clothing, both consisting of daylight fluorescent orange color totaling not less than four hundred (400) square inches, and both to be worn conspicuously on the person.

B. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than Fifty Dollars ($50.00)~~ liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00).

SECTION 330. AMENDATORY 29 O.S. 1991, Section 5-206, as amended by Section 3, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1994, Section 5-206), is amended to read as follows:

Section 5-206. A. Falconry is a legal method for hunting and taking resident Oklahoma game, pursuant to the following provisions of this section.

B. Any exotic species of hawk, falcon, owl or eagle and any native species of hawk, falcon, owl or eagle as provided in Section 5-410 of this Code, may be used for such sport. Hawks, falcons, owls and eagles which are bred in captivity in accordance with federal regulations may be sold, possessed, traded or bartered, by persons licensed as required under Section 4-107 of this title, and may be possessed, trained and used only by persons licensed under Section 4-108 of this Code.

C. Hawks, falcons, owls and eagles may be transported into and out of the state, only as provided by Sections 7-602 and 7-801 of this Code. However, persons possessing a valid Oklahoma falconer's license and in compliance with federal law may transport raptors into and out of the state without notifying the director.

D. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Twenty-five Dollars ($25.00) nor~~ more than Two Hundred Dollars ($200.00).

SECTION 331. AMENDATORY 29 O.S. 1991, Section 5-207, is amended to read as follows:

Section 5-207. It shall be ~~unlawful to willfully and intentionally~~ a civil infraction to take or destroy at any time the nest or eggs of any game bird, except as specifically permitted by law. Any person found ~~guilty of a violation of~~ breaching this section shall be ~~guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Ten Dollars ($10.00), nor more than One Hundred Dollars ($100.00), or by~~

~~imprisonment in the county jail for thirty (30) days, or by both such imprisonment and fine~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 332. AMENDATORY 29 O.S. 1991, Section 5-211, is amended to read as follows:

Section 5-211. Any person ~~convicted of violating~~ breaching the provisions of Section ~~2~~ 5-210 of this ~~act~~ title shall be ~~punished by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate punishment under Title 21 of the Oklahoma Statutes.

SECTION 333. AMENDATORY 29 O.S. 1991, Section 5-212, is amended to read as follows:

Section 5-212. A. A person may not ~~willfully~~ obstruct or impede the participation of any individual in the lawful activity of shooting, hunting, fishing or trapping in this state. Provided, that nothing in this section shall prohibit a landowner or lessee from exercising their lawful rights of prohibiting hunting, fishing or trapping on their land, or any other legal right.

B. Any person ~~violating~~ breaching the provisions of this section shall be ~~guilty of a misdemeanor, and, upon conviction thereof, shall be punished by~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than Five Hundred Dollars ($500.00).

C. Any person ~~convicted of violating~~ breaching this section shall be liable to the person to whom they interfered with for all costs and damages resulting therefrom. If said person holds an Oklahoma hunting, fishing or trapping license at the time of ~~conviction~~ court determination, such license shall be revoked.

D. This section of law shall not prevent a game warden from performing his enforcement duties and any Department of Wildlife Conservation employee from performing his duties in working with the sportsmen of this state.

SECTION 334. AMENDATORY 29 O.S. 1991, Section 5-301, as amended by Section 4, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1994, Section 5-301), is amended to read as follows:

Section 5-301. A. No person may set or use at any time any poison, cyanide coyote getter, or other similar device, using cyanide gas or other poisonous gas as the lethal agent, for the purpose of killing predators, except in accordance with the following conditions and procedures:

1. Signs of a size and character and with wording to be determined by the State Department of Agriculture, indicating the presence of cyanide coyote getters or other similar device using cyanide gas or other poisonous gas as the lethal agent, shall be posted on all properties where said coyote getters are set to the right and left of all entrances from public roads and highways and from adjacent lands and at corners of perimeter fences.

2. Such devices shall not be set from April 1 to September 30 of each calendar year.

3. All signs as required by this article shall be in place twenty-four (24) hours before said devices are set and shall be properly maintained in place during the permission period herein provided.

4. A game warden may issue a permit for the setting of such devices and such permit must be obtained prior to the setting of such devices. Each permit shall be made in triplicate, the original to be retained by the landowner concerned, one copy retained by the game warden and the other copy mailed immediately to the Department for its permanent record.

5. In applying for a permit, the landowner shall state the number of devices to be set and the approximate location to the nearest forty (40) acres.

6. Written permission permits required by this section shall cover a period not exceeding six (6) months; provided, however, that said permits shall be subject to renewal for a like period of time.

7. All signs required by this section shall be removed at the end of the permission period, unless said permit is renewed prior to the expiration date thereof.

8. No predator control devices shall be on any property without the written permission of the record owner or lessee thereof.

B. Predatory control conducted by the State Department of Agriculture or the Oklahoma Department of Wildlife shall be exempt from provisions of paragraphs 4, 5 and 6 of subsection A of this section.

C. The Director may issue depredation permits to landowners for control of any nuisance wildlife.

D. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by a fine of not less than Fifty Dollars ($50.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 335. AMENDATORY 29 O.S. 1991, Section 5-402, is amended to read as follows:

Section 5-402. A. Any person ~~convicted of violating~~ breaching any provision of Section 5-203 and Sections 5-401 through 5-410 of this title~~,~~ shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Twenty-five Dollars ($25.00) nor~~ more than One Hundred Dollars ($100.00). Any person ~~convicted of violating~~ breaching any provision of Sections 5-411 and 5-412 of this title~~,~~ shall be ~~punished by a fine not less than Five Hundred~~

~~Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not less than ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate punishment under Title 21 of the Oklahoma Statutes.

B. The State of Oklahoma, on relation of the district attorney, is hereby authorized to institute legal action against the owner or operator of any air, land or water conveyances, firearms or other items or equipment so used, if such owner or operator is found guilty of a second or subsequent violation of:

1. Section ~~32~~ 5-203.1 of this ~~act~~ title in cases of deer, turkey, antelope and elk or when violations involve possession of a legal deer rifle or shotgun with slug or buckshot,

2. Sections 5-411 of this title, or

3. 5-412 of this title.

Such legal proceedings shall subject all of the above-mentioned items to seizure and forfeiture proceedings pursuant to Section 7-206 of this title, if it is found that such items were used as an aid in violation hereof.

SECTION 336. AMENDATORY 29 O.S. 1991, Section 5-412, as amended by Section 8, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1994, Section 5-412), is amended to read as follows:

Section 5-412. A. Except as otherwise provided by law, no person may possess, hunt, chase, harass, capture, shoot at, wound or kill, take or attempt to take, trap or attempt to trap any endangered or threatened species or subspecies without specific written permission of the Director. In no event, however, may that permission conflict with federal law.

B. Any person ~~convicted of violating~~ breaching any of the provisions of this section shall be ~~punished by~~ liable for a civil

infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than One Thousand Dollars ($1,000.00)~~, or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment~~. This section shall be in addition to any appropriate punishment under Title 21 of the Oklahoma Statutes.

SECTION 337. AMENDATORY 29 O.S. 1991, Section 5-501, is amended to read as follows:

Section 5-501. A. No person may trap on the inhabited land of another without first procuring from the owner or occupant thereof a written permit to do so.

B. Such permit must be kept on the person of such trapper whenever he tends his traps and must be presented for inspection upon demand of any officer authorized to enforce the wildlife conservation laws of this state.

C. Any person ~~convicted of violating~~ breaching any of the provisions of this section shall be ~~punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate punishment under Title 21 of the Oklahoma Statutes.

SECTION 338. AMENDATORY 29 O.S. 1991, Section 5-502, as amended by Section 9, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1994, Section 5-502), is amended to read as follows:

Section 5-502. A. Except as otherwise provided by law, no person may use, set, construct, possess or tend any trap, snare, deadfall or other device for the purpose of catching any wildlife, except fish and frogs, in this state, except that he use:

1. Box traps;

2. Smooth-jawed single spring or smooth-jawed double spring offset, leg-hold steel traps with a jaw spread of:

a. no more than eight (8) inches for land sets,

b. no more than eight (8) inches for water sets.

B. No trap so used may be set "in the open", or in paths, roads, or runways commonly used by persons, domestic animals or dogs.

C. Any trap set for the purpose of catching any wildlife shall be tended once during each twenty-four (24) hours. All traps must bear the owner's name or identification attached thereto, except for any person trapping on his own property. Any person ~~violating~~ breaching this subsection shall, in addition to any ~~criminal~~ penalty, be civilly liable for all damages caused by such ~~violation~~ breach.

D. On any lands where smooth-jawed double-spring offset traps are used, the posting of signs shall be required to the right and left of all entrances from public roads and highways and from adjacent lands and at corners of perimeter fences, provided that this requirement shall not apply to any person trapping on his own property. Size, character and wording of these signs are to be determined by the State Wildlife Conservation Commission.

E. Any person ~~convicted of violating~~ breaching any of the provisions of this section shall be ~~punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00)~~ liable for a civil infraction and shall be subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 339. AMENDATORY 29 O.S. 1991, Section 5-504, is amended to read as follows:

Section 5-504. A. All persons engaged in the business of buying raw pelts of furbearers or predators, as defined in this Code, shall keep a daily register showing the name and address of every person from whom such pelts were purchased, the number of such person's trapping license, or his hunting license in lieu thereof, the number and kinds of pelts purchased and the price paid.

B. Such daily register shall be open to the Director, game wardens, or authorized agents.

C. All such fur dealers shall report on the first day of each month during and one month after the close of the fur season of all furs bought, and such report shall be forwarded to the Director.

D. Any person ~~convicted of violating~~ breaching any of the provisions of this section shall be ~~punished by a fine of not less than Ten Dollars ($10.00) nor more than Fifty Dollars ($50.00)~~ liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00).

SECTION 340. AMENDATORY 29 O.S. 1991, Section 5-601, is amended to read as follows:

Section 5-601. A. All licensed wildlife breeders may sell and transport any live wildlife for propagation purposes, may sell and transport minnows for bait if such are lawfully possessed or raised pursuant to this Code, and may sell and transport any live or dead wildlife for food upon compliance with the hereinafter set forth subsections.

B. All wildlife sold for food must be tagged with a metal tag to be supplied by the Department at reasonable prices, such tag to contain such information as the Director may require.

C. All tags shall remain attached to the individual animal, bird or fish until prepared for the consumer and may not be used more than once.

D. The breeder must keep permanent records for up to five (5) years on all wildlife sold and raised and shall contain:

1. The kind and number of species sold, killed, given away, transported or shipped;

2. The name and address of the recipient or consignee; and

3. The date of the transaction.

E. Such records shall be available for inspection at all reasonable times by authorized representatives of the Department.

F. All wildlife dealers may retain their wildlife for a period of up to one hundred twenty (120) days after their licenses expire.

G. Any person ~~convicted of violating~~ breaching any of the provisions of this section shall be ~~punished by a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 341. AMENDATORY 29 O.S. 1991, Section 6-105, is amended to read as follows:

Section 6-105. Any person ~~violating~~ breaching any of the provisions of Sections 6-101 through 6-104 shall be ~~guilty of a misdemeanor and shall, upon conviction, be fined not less than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00)~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 342. AMENDATORY 29 O.S. 1991, Section 6-201, is amended to read as follows:

Section 6-201. A. No person may net, trap or seine for commercial purposes or assist in such operations or buy, barter or trade any fish without having first obtained a valid commercial fishing license and without observing the following requirements:

1. No nets, traps, seines and other similar devices shall be used closer than one hundred (100) yards from the shore.

2. Except as otherwise provided, no type of set or unattended equipment or gear may have a mesh size of less than three (3) inches square nor shall such be set within four (4) feet of the surface of the water. Exceptions may be provided by the Department:

a. under specific contracts with the Department.

b. under experimental netting operations conducted by Department employees or under strict supervision of departmental personnel.

c. for operations conducted for the specific commercial collection of shad and turtles, the Department may liberalize the type of gear, mesh size and activities of this type of operation. Such liberalization shall be approved by the Commission.

3. All types of set or unattended equipment shall have identification tags, as prescribed by the Department, attached while such equipment is set or unattended in the waters of this state.

4. All commercial fishing operations shall be done under the supervision of a game warden or other regular employee of the Department.

5. No commercial fishermen may possess, have in their possession at their places of business or transport any species of game fish or any striped bass hybrid.

6. All licensees shall send to the Department a true monthly and annual summary of all fish captured and captured and returned to the waters of the state.

7. Any other regulations the Commission decides by resolution.

B. Any equipment used in violation of this section may be confiscated and disposed of according to the law.

C. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by a fine not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00). Any ~~conviction of violating~~ breach of the provisions of this section shall prevent licensee from obtaining for a period of one (1) year any subsequent commercial fishing or helper's license or a commercial fishing contract. Conviction of violating any of the provisions of this section shall require mandatory forfeiture of any nets, traps, seines, or similar

devices used during said prohibited act. Any such items forfeited shall become the property of the Department to be used as deemed necessary in the research and management of the fishery resources of this state.

SECTION 343. AMENDATORY 29 O.S. 1991, Section 6-301, is amended to read as follows:

Section 6-301. A. Except as specifically provided, no person may use at any time in the waters of this state for taking, catching, capturing or killing any game or nongame fish any of the following instrumentalities:

1. A trotline or throwline, except when:

a. the name and address of the owner are attached thereto when used in lakes of over one hundred (100) surface acres or navigable rivers and streams;

b. no more than three such lines are used at any one time by a person;

c. no more than a total of one hundred hooks are used by a person, such hooks being spaced at least twenty-four (24) inches apart;

d. such line is not set within three (3) feet of the surface of any reservoir at any point beyond six (6) feet from either point of attachment, provided that this provision shall not apply to waters which are less than three (3) feet in depth in Salt Plains and Fort Supply Reservoirs;

e. each line is attended and inspected or removed once every twenty-four (24) hours; and

f. the main line is constructed of nonmetallic material.

2. A limbline or jugline to which hooks are attached, except when:

a. the name and address of the owner are attached thereto when used in lakes of over one hundred (100) surface acres or navigable rivers and streams; and

b. each line is attended once every twenty-four (24) hours.

B. Any person ~~convicted of violating~~ breaching the provisions of subsection A of this section shall be ~~punished by~~ liable for a civil infraction and shall be subject to a fine of not ~~less than Twenty-five Dollars ($25.00) nor~~ more than One Hundred Dollars ($100.00).

C. Persons exempt from the prohibitions of this section shall be:

1. The Director, department employees or authorized agents when catching, taking or killing any fish for propagation, management or scientific purposes; and

2. Any person possessing a scientific purpose license authorizing such.

SECTION 344. AMENDATORY 29 O.S. 1991, Section 6-301a, is amended to read as follows:

Section 6-301a. A. No person may use at any time in the waters of this state for taking, catching, capturing or killing any game or nongame fish any of the following instrumentalities:

1. Any rotenone or other poison;

2. Dynamite or other explosive; or

3. Any electrical device used for shocking purpose.

B. Possession of any poison, explosive, device or equipment capable of being used in violation of the provisions of this section, on the bank or in the immediate vicinity of any river, creek, stream, lake or pond shall be prima facie evidence of a violation of the provisions of this section.

C. Any explosive, device or equipment, and any boat, motor or boat and motor in which the same may be found shall be subject to

immediate seizure by any game warden, sheriff or deputy sheriff and any such items shall be subject to forfeiture pursuant to the provisions of the Oklahoma Wildlife Conservation Code to the State of Oklahoma in a proceeding brought for such purpose in the county where such items have been found or seized.

D. No person may manufacture, sell, or offer to sell or buy or offer to buy any electrical device designed to shock fish or used for the purpose of shocking fish except when such device is requested by a state or federal agency for scientific fisheries work.

E. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Five Hundred Dollars ($500.00) nor~~ more than One Thousand Dollars ($1,000.00)~~, or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment~~. Any person, upon ~~conviction~~ determination of a second or subsequent ~~violation~~ breach of this section when said ~~violation~~ breach occurred within two (2) years of a previous ~~conviction~~ determination for ~~violating~~ breaching said provisions, shall be ~~punished by~~ subject to a civil infraction and subject to a fine of not ~~less than Five Hundred Dollars ($500.00) nor~~ more than One Thousand Dollars ($1,000.00) ~~or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment~~. In addition, all fishing licenses and fishing privileges of such persons within the state ~~of such person~~ shall be revoked for a period of one (1) year from the date of such ~~conviction~~ determination. Any violator may also be subject to any appropriate penalties in Title 21 of the Oklahoma Statutes.

F. Persons exempt from the prohibitions of this section shall be:

1. The Director, department employees or authorized agents pursuant to their duties; and

2. Any person possessing a scientific purpose license authorizing such.

SECTION 345. AMENDATORY 29 O.S. 1991, Section 6-302, as last amended by Section 8, Chapter 214, O.S.L. 1993 (29 O.S. Supp. 1994, Section 6-302), is amended to read as follows:

Section 6-302. A. No person may take, kill or catch from any river, creek, lake, state pond or privately owned pond which is stocked by state or federal fish hatchery any game fish except by means of hook and line attached to a pole or rod, throwline, trotline or with speargun used by divers equipped with self-contained underwater breathing apparatus, except for white bass which may be taken by the use of a gig; nor may any person sell, offer to sell or have in possession for the purpose of selling any game fish. Game species open to taking by speargun include all except black bass, striped bass, walleye, northern pike and trout. Upon receiving information that damage to the fish population is occurring in any of the waters of this state, the Commission shall give notice and hold a hearing to determine such fact and may, upon good cause shown, regulate the taking of fish to any extent necessary to protect fish in said waters of this state.

B. Fish taken under the above subsection shall be in accordance with the method of taking, length limits and bag limits which shall be set by Commission resolution.

C. No nonresident may have in his possession upon leaving the state more than a two-day bag limit of any species of game fish.

D. It shall be unlawful for any person to use in the waters of this state a speargun having more than three points with more than two barbs on each point.

E. The portions of the Illinois River and its tributaries above the Horseshoe Bend Boat Ramp on Tenkiller Reservoir shall be open

for the taking of nongame fish and white bass by gigging from December 1 through March 1 of each year. The portions of the Illinois River and its tributaries above Highway 62 and Highway 51 shall be open for the taking of nongame fish and white bass by gigging from December 1 through March 31 of each year.

F. 1. Except as otherwise provided for in this subsection, any person ~~convicted of violating~~ breaching any of the provisions of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Twenty-five Dollars ($25.00) nor~~ more than One Hundred Dollars ($100.00).

2. Any person ~~convicted of violating~~ breaching any provisions of this section by netting, snaglining or selling game fish shall be ~~punished by imposition of~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than Five Hundred Dollars ($500.00)~~, or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment~~. Any person, upon ~~conviction of~~ a second or subsequent ~~violation~~ breach of the provisions of this section by netting, snaglining or selling game fish when said ~~violation~~ breach occurred within two (2) years of a previous ~~conviction for violating~~ breach of said provisions, shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Five Hundred Dollars ($500.00) nor~~ more than One Thousand Dollars ($1,000.00)~~, or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment~~. In addition, all fishing licenses and fishing privileges of such person within the state ~~of such person~~ shall be revoked for a period of one (1) year from the date of such ~~conviction~~ determination.

SECTION 346. AMENDATORY 29 O.S. 1991, Section 6-303, is amended to read as follows:

Section 6-303. A. No person may take, kill, or catch or attempt to take, kill, or catch any nongame fish from the waters of

this state or assist in any such endeavor in any manner except as follows:

1. By all legal hook and line methods in state waters legally open to these methods; and

2. By nets or seines used to take nongame fish only in such waters as are declared open to such nets or seines by the Commission. Such nets or seines shall:

a. be hoop nets with a mesh size no smaller than three-inch square mesh, or gill nets, trammel nets, or seines with a mesh size no smaller than four-inch square mesh, and

b. have the name and address of the owner attached thereto if the net is to be left unattended, and

c. be attended once every twenty-four (24) hours.

Each license holder shall be limited to a maximum of three hundred (300) feet of net or a total of four hoop nets in the water at any time.

No fish taken pursuant to this noncommercial netting provision can be sold or transported from the state.

Noncommercial netting shall be prohibited statewide during April and May annually; and

3. By arrows, gigs, ropes, grab hooks, spears, and spearguns used by divers equipped with self-contained underwater breathing apparatus. Such gigs or spears may have no more than three points with not more than two barbs on each point; and

4. By noodling; and

5. By cast nets and handheld dip nets used to take only nongame fish as bait for personal use in all waters of the state except those closed by the Commission. The cast nets shall have a mesh size no greater than three-eighths-inch square mesh; and

6. By trawl nets pulled by motor-driven boats. Such nets may be used to take only nongame fish as bait for personal use in all

waters of the state except those closed by the Commission. Trawl nets may not exceed three (3) feet in diameter with no greater than three-eighths-inch square mesh.

B. The Commission shall have authority to designate by regulation areas, waters of this state, or parts thereof for the taking, catching, or killing of nongame fish by noodling or by the use of arrows, gigs, cast nets, dip nets, spears, ropes, grab hooks, and spearguns used by divers equipped with self-contained underwater breathing apparatus, and to also designate the times such may be used.

C. 1. Except as otherwise provided in this subsection, any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by the imposition of~~ liable for a civil infraction and subject to a fine of not ~~less~~ more than One Hundred Dollars ($100.00).

2. Any person ~~convicted of violating~~ breaching the provisions of this section by netting, snaglining or selling nongame fish shall be ~~punished by imposition of~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment~~ more than Five Hundred Dollars ($500.00). Any person, upon conviction of a second or subsequent ~~violation~~ breach of the provisions of this section by netting, snaglining or selling nongame fish when said ~~violation~~ breach occurred within two (2) years of a previous ~~conviction for violating~~ determination of a breach of said provisions, shall be ~~punished by imposition of~~ liable for a civil infraction and subject to a fine of not ~~less than Five Hundred Dollars ($500.00) nor~~ more than One Thousand Dollars ($1,000.00)~~, or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment~~. In addition, all fishing licenses and all fishing privileges of such person within the state ~~of such~~

~~person~~ shall be revoked for a period of one (1) year from the date of such conviction.

D. Nothing in this section shall prohibit the taking of nongame fish by licensed commercial fishing and commercial minnow seining as provided for in Sections 6-201, 6-202 and 6-401 of this title.

SECTION 347. AMENDATORY 29 O.S. 1991, Section 6-304, is amended to read as follows:

Section 6-304. A. Except as otherwise provided, no person may fish upon the land of another without the consent of the owner, lessee or occupant of such land.

B. Areas exempt from the above provision are:

1. Lands not occupied by a resident thereon, unless notice of objection is conspicuously posted upon the premises by the owner or his agent.

2. Land of the state which is not leased and occupied by a resident.

C. Any ranger investigating a fisherman in the field has a duty to inform the fisherman that it is necessary to obtain the landowner's or occupier's consent to fish on the particular property provided that prosecution for violations of this section can be commenced only upon written complaint of such owner or occupant filed before any court authorized to punish such violation, or upon written complaint to any game ranger, or officer authorized to make arrest for such offenses.

D. Trespassing on lands which are fenced and exhibit posted signs at all entrances is hereby prohibited. Hunters and fishermen in violation of this provision of this Code shall be subject to fines as outlined in subsection E.

E. Any person ~~convicted of violating~~ <u>breaching</u> provisions of this section shall be ~~punished by a fine of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00), or by imprisonment in the county jail for thirty (30) days, or by both~~

~~such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 348. AMENDATORY 29 O.S. 1991, Section 6-305, is amended to read as follows:

Section 6-305. A. The Department may stock fish in privately owned ponds only so long as no fish are illegally taken therefrom or marketed by the owner or with his knowledge or consent.

B. All owners of private ponds, their agents, employees or others who ~~are convicted of violating~~ breach the provisions of this section shall be ~~fined not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00)~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 349. AMENDATORY 29 O.S. 1991, Section 6-306, is amended to read as follows:

Section 6-306. A. Any boat or vessel, boat trailer, motor, fishing device, vehicle, or equipment used or operated in ~~violation~~ breach of the provisions of Section ~~42~~ 6-301a of this ~~act~~ title, subsection A of Section 6-302, paragraph 2 of subsection A of Section 6-303 or Section 4-129 of this title or as otherwise provided by the Oklahoma Wildlife Conservation Code shall be subject to immediate seizure pursuant to Section 7-206 of this title by any game warden, sheriff, deputy sheriff, or other peace officer and held as evidence until a forfeiture has been declared or release ordered.

B. Upon ~~conviction for a violation~~ breach of the provisions of Section ~~42~~ 6-301a of this ~~act~~ title, subsection A of Section 6-302, paragraph 2 of subsection A of Section 6-303 or Section 4-129 of this title, any such items, equipment or vehicles used or operated in such ~~violation~~ breach, shall be subject to forfeiture proceedings pursuant to Section 7-206 of this title brought for such purpose by the district attorney in the county where such items, equipment or

vehicles are seized. Such items, equipment and vehicles shall be subject to mandatory forfeiture if said ~~violation~~ breach occurred within two (2) years of a previous ~~conviction~~ determination of said person for ~~violating~~ breaching the provisions specified in this section.

SECTION 350. AMENDATORY 29 O.S. 1991, Section 6-401, is amended to read as follows:

Section 6-401. A. No person may seine, trap, transport and/or sell any minnows within this state without having a valid minnow dealer's license unless exempted under Section 4-116 and without observing the following requirements:

1. No seines used for seining minnows may have a mesh larger than one-fourth (1/4) inch square, and no such seine shall be longer than seventy (70) feet in length.

2. No licensee may employ more than four helpers or assistants in his seining and trapping operations, and each helper or assistant must possess a valid Oklahoma Fishing License.

3. No dealer or his employees may seine and trap in any river, stream or lake of Oklahoma without having first obtained written permission for such from the owners or tenants of the lands through which such waters flow or lie, and any written permit obtained by the dealer must be upon his person while being upon such lands.

4. All vehicles used to transport minnows by a licensee in accordance with Sections 4-115 and 4-116 must be equipped in such manner as to aerate the water in the containers by pressure methods and such vehicles shall be marked conspicuously by decals bearing the inscription "Commercial Minnow Dealer," such decals to be furnished by the Department, to be placed on the center of each door, and to be defaced in no manner.

5. All licensees shall send to the Department a true annual summary of all fish and other bait species captured.

B. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~fined not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00), or confined in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 351. AMENDATORY 29 O.S. 1991, Section 6-501, as amended by Section 10, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1994, Section 6-501), is amended to read as follows:

Section 6-501. A. No person may place or cause to be placed in any creek, river, or stream in Oklahoma any stationary dam, net, trap, or obstacle of any nature for the purpose of blocking or partially blocking any minnow or fish movement up, down, into, or out of any creek, river, or stream. Commercial minnow harvest shall be prohibited for a distance of one-half (1/2) mile below any structure that diverts, partially diverts, blocks, or partially blocks normal fish movement. This section shall not be construed as to prohibit persons licensed to commercially seine minnows as provided for in the Oklahoma Wildlife Conservation Code from using seines no longer than forty (40) feet in length and no more than one-fourth-inch mesh of nonmetallic material as a temporary block in waters open to the harvest of minnows nor prohibit those legally licensed to dip shad from harvesting shad in the tailwaters of this state. "Temporary block" shall mean no more than four (4) hours at any one location in any twenty-four-hour period.

B. Any dam, net, trap or other obstacle used and operated or intended for use in violation of the provisions of this section shall be removed and is subject to immediate seizure by any person authorized to enforce the provisions of the Oklahoma Wildlife Conservation Code if such person determines the object can be seized. A seized obstacle shall be held as evidence by order of the district attorney in the county where such item was seized until a

forfeiture has been declared or a release ordered. Upon competent evidence at a hearing, held for such purpose, that the obstacle was used and operated or intended for use in violation of this section, the court shall order said obstacle forfeited to the state. Upon forfeiture, such items shall be sold at public auction and the proceeds from the sale shall be apportioned one-fourth (1/4) to the Department of Wildlife Conservation and three-fourths (3/4) to the district court in which such proceeding was brought. Any item unable to be seized or sold for any reason may be destroyed under the supervision of the Oklahoma Department of Wildlife Conservation Director.

C. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Two Hundred Dollars ($200.00) nor~~ more than One Thousand Dollars ($1,000.00)~~, or by imprisonment in the county jail for not less than ten (10) days nor more than one (1) year, or by both such fine and imprisonment~~.

SECTION 352. AMENDATORY 29 O.S. 1991, Section 6-502, is amended to read as follows:

Section 6-502. A. Any of the waters of this state may be closed by the Commission to any sort of fishing by any person with or without a license, until such time as the Commission may by resolution declare such waters reopened.

B. No person may fish in such closed waters until and except during such time as the Commission shall reopen those waters for fishing.

C. Any person ~~convicted of violating~~ breaching any provision of this section shall be ~~punished by a fine of not less than Ten Dollars ($10.00), nor more than Twenty-five Dollars ($25.00)~~ liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00).

SECTION 353. AMENDATORY 29 O.S. 1991, Section 6-601, is amended to read as follows:

Section 6-601. A. It shall be unlawful for any person to:

1. Import into;

2. Transport in;

3. Place or cause to be placed in the waters of; or

4. Cultivate or cause to propagate in the waters of;

this state any noxious aquatic plant or seed or reproductive part thereof.

B. Noxious aquatic plant shall be any aquatic plant which may cause injury to the environment of the state and declared to be noxious by regulation of the Oklahoma Wildlife Conservation Commission.

C. Any person who ~~knowingly or willfully violates~~ breaches any provision of this section shall be ~~guilty of a misdemeanor and upon conviction shall be punished by the imposition of a fine of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00) or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

D. In addition to the ~~criminal~~ penalties provided herein, the Commission may enforce the provisions of this section by injunctive action.

E. The Commission may, on order, grant to any individual such conditional exceptions to this section as are not injurious to the environment.

SECTION 354. AMENDATORY 29 O.S. 1991, Section 7-201, is amended to read as follows:

Section 7-201. Any person ~~convicted of violating~~ breaching any section of this Code, for which there is otherwise no penalty, shall be ~~punished by a fine of not less than Ten Dollars ($10.00) nor more~~

~~than One Hundred Dollars ($100.00), or by imprisonment in the county jail not less than ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 355. AMENDATORY 29 O.S. 1991, Section 7-202, is amended to read as follows:

Section 7-202. Every person who attempts to ~~violate~~ breach any provision or section of this Code shall ~~upon conviction~~ be ~~punished~~ liable in the same manner as if he had completed the act that constitutes that ~~violation~~ breach.

SECTION 356. AMENDATORY 29 O.S. 1991, Section 7-203, is amended to read as follows:

Section 7-203. Every person who counsels, aids or abets another in the ~~violation~~ breach of any provision or section of this Code shall ~~upon conviction~~ be ~~punished~~ liable in the same manner as the principal offender.

SECTION 357. AMENDATORY 29 O.S. 1991, Section 7-302, is amended to read as follows:

Section 7-302. A. Except for Departmental employees pursuant to their duties, or persons specifically authorized by Commission resolution, no person may:

1. Molest or disturb the waters, ponds or property of any state fish hatchery;

2. Place or cause to be placed in such waters or ponds any substances or things injurious to the health or safety of fish confined therein;

3. Hunt, pursue, chase, injure, capture or kill in any manner any fish confined in such hatcheries, waters or ponds; or

4. Hunt, pursue, injure or kill upon state hatchery grounds any protected wildlife.

B. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by a fine of not less than Twenty-~~

~~five Dollars ($25.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for a period of not more than sixty (60) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate punishment under Title 21 of the Oklahoma Statutes.

SECTION 358. AMENDATORY 29 O.S. 1991, Section 7-304, as amended by Section 12, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1994, Section 7-304), is amended to read as follows:

Section 7-304. A. Except as otherwise provided by law, no person may enter upon any state or federal wildlife refuge or Wildlife Management Area with dog, gun or bow.

B. Exceptions to the above provisions are when the Commission and/or the Tourism and Recreation Commission may by resolution permit:

1. The holding of field trials by duly authorized sportsmen's clubs; or

2. Such hunting, killing or trapping of wildlife from such refuge or Wildlife Management Area; provided, however, that Lake Murray State Park shall not be utilized for killing or trapping of natural wildlife and shall remain a wildlife preserve.

C. Any person ~~convicted of violating~~ breaching provisions of this section shall be ~~punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00), or by imprisonment in the county jail for not less than ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 359. AMENDATORY 29 O.S. 1991, Section 7-401, as amended by Section 262, Chapter 145, O.S.L. 1993 (29 O.S. Supp. 1994, Section 7-401), is amended to read as follows:

Section 7-401. A. Except as otherwise provided in this section, no person may deposit, place, throw, or permit to be deposited, placed or thrown, any lime, dynamite or other explosive, poison, drug, sawdust, salt water, crude oil or any other deleterious, noxious or toxic substance in any waters of this state, or in any place where such substances may run or be washed into such waters.

B. Those persons exempt from subsection A of this section shall be:

1. The Department's authorized agents and employees when they shall use drugs, chemicals and other substances in connection with any fish count, scientific test or for improvement; and

2. Those holders of a scientific purposes license which specifically authorizes taking wildlife in such manner.

C. Any person, firm or corporation ~~violating~~ breaching the provisions of this section shall be ~~punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00), and each day or part of day during which such action is continued or repeated shall be a separate offense. Provided, that the party responsible for the control of any salt water, crude oil or other deleterious substances causing a violation of this section and resulting from drilling, production, transmission, storage or other operation of the petroleum industry shall be reported to the Oklahoma Corporation Commission and if corrective action is not taken immediately then criminal proceedings shall be had ~~as herein provided~~. The Corporation Commission is also given the express power to order whatever corrective action is necessary to abate the pollution and is given the authority to enforce the order by any action against the lease or well. Such action shall be reported by the Wildlife Department to the appropriate agency. In addition, any person, firm

or corporation breaching this section may also be subject to prosecution pursuant to Title 21 of the Oklahoma Statutes.

SECTION 360. AMENDATORY 29 O.S. 1991, Section 7-403, is amended to read as follows:

Section 7-403. A. Any person who catches or obtains fish in any manner whatsoever from the waters of this state and such fish are dead when taken, or die as a result of such act, shall remove those fish from such waters and shall bury or burn them, except nothing in this section shall prevent noncommercial fishermen from returning fish remains to the lakes and reservoirs of this state.

B. No person may bury or burn any such dead fish in any place where they are liable to become exposed through erosion or where such land is at any time subject to overflow.

C. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by the imposition of a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or be imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00), and shall further reimburse a state agency for the costs that agency incurred in the authorized clearing of the waters and/or land of those dead fish.

SECTION 361. AMENDATORY 29 O.S. 1991, Section 7-502, as amended by Section 13, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1994, Section 7-502), is amended to read as follows:

Section 7-502. A. Except as otherwise provided by law, no person may possess:

1. Any wildlife or parts thereof during the closed season for that particular wildlife species;

2. Any endangered or rare species or parts thereof at any time; or

3. Any bear or cat that will grow to reach the weight of fifty (50) pounds or more.

B. Persons exempt from provisions of paragraph 1 of subsection A are:

1. Persons storing lawfully taken wildlife in any home freezer or cold storage locker;

2. Persons possessing items including but not limited to hides, heads or horns as specimens or trophies;

3. Persons possessing wild waterfowl taken in compliance with and under provisions of federal laws pertaining thereto; or

4. Persons possessing legally obtained wildlife as pets or for the purpose of training hunting dogs.

C. The applicable commercial or noncommercial wildlife breeders license shall be obtained if any wildlife is being propagated.

D. Possession of game during the closed season, except as above provided, shall be prima facie evidence that such was taken in a closed season.

E. Any person ~~convicted of violating~~ breaching any provision of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than Five Hundred Dollars ($500.00)~~, or by imprisonment in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment~~.

SECTION 362. AMENDATORY 29 O.S. 1991, Section 7-503, as amended by Section 17, Chapter 318, O.S.L. 1994 (29 O.S. Supp. 1994, Section 7-503), is amended to read as follows:

Section 7-503. A. Except as otherwise provided for by law, no person may buy, barter, trade, sell or offer, or expose for sale all or any part of any fish or wildlife or the nest or eggs of any bird, protected by law; provided, the carcasses or parts thereof of legally acquired furbearing animals may be purchased, bartered, traded, sold or offered for sale.

B. Persons licensed to propagate or sell fish or wildlife pursuant to the provisions of the Oklahoma Wildlife Conservation Code and persons who have documentation of legally purchased fish or wildlife or parts thereof for resale are exempt from the provisions of this section.

C. All wildlife or parts thereof seized pursuant to the provisions of this section and determined to be unfit for release in a suitable locale shall be sold. The proceeds from said sale shall be deposited in the Wildlife Conservation Fund.

D. No person shall buy, barter, trade, or sell, within this state, any furbearing animal, game animal, or game fish, or any part thereof, acquired from a source within or outside of this state unless at the time and place of each such sale, the seller shall have in his possession an invoice signed by the person from whom said seller purchased said animals or fish, which shall contain a statement of the source from which said animals or fish were acquired, and the species and quantity of each species, or parts thereof, delivered to said seller.

E. The animal, bird, fish, or part thereof shall be confiscated by the ~~arresting~~ appropriate authority and forwarded to the Commission to be held until the matter is resolved. If a person ~~violating~~ is determined to have violated the provisions of this section ~~is convicted~~, the Commission shall retain and properly dispose of the confiscated animal, bird, fish, or part thereof. If a person ~~accused of violating~~ is determined not to have violated the provisions of this section ~~is acquitted~~, the confiscated animal, bird, fish, or part thereof shall be returned to the possession of the person from whom it was confiscated.

F. The first violation of any of the provisions of this section shall be ~~punishable by~~ liable for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00), nor~~ more than Five Hundred Dollars ($500.00)~~, or by imprisonment in~~

~~the county jail for a period not less than ten (10) days nor more than sixty (60) days, or by both said fine and imprisonment~~.

Subsequent violations of the provisions of this section shall be ~~punishable by~~ civil infractions subject to a fine of not ~~less~~ more than One Thousand Dollars ($1,000.00)~~, or by imprisonment in the county jail for a period not less than ten (10) days nor more than sixty (60) days, or by both said fine and imprisonment~~.

SECTION 363. AMENDATORY 29 O.S. 1991, Section 7-504, is amended to read as follows:

Section 7-504. A. Except as otherwise provided, no person may import, sell or possess for sale aigrettes, egret plumes and the feathers, quills, heads, wings, tails, skins or parts of skins of wild birds, either raw or manufactured, or any endangered or rare species.

B. Exemptions to the above subsection A are:

1. Importations, sales or possession for sale for scientific or educational purposes.

2. The feathers or plumes of domestic fowl of any kind.

C. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than One Thousand Dollars ($1,000.00)~~, or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment~~.

SECTION 364. AMENDATORY 29 O.S. 1991, Section 7-601, is amended to read as follows:

Section 7-601. A. Except as provided by law, no railroad, express company or other common carrier or any agent, servant or employee thereof may receive for transportation or transport any wildlife or endangered or rare species in this state.

B. All such companies in this state shall keep a copy of this Code on file at each of their shipping offices in this state for the information of their employees.

C. Any aforesaid company, its agents, servants or employees ~~convicted of violating~~ breaching the provisions of this section shall be ~~fined not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 365. AMENDATORY 29 O.S. 1991, Section 7-602, as amended by Section 14, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1994, Section 7-602), is amended to read as follows:

Section 7-602. A. Except as otherwise provided by law, no person may ship into or out of, transport into or out of, have in possession with the intent to so transport, or cause to be removed from this state:

1. Any wildlife or parts thereof, nests of such wildlife, their eggs or their young; or

2. Any endangered or threatened species.

B. Exceptions to paragraph 1 of subsection A of this section:

1. Dead fish or wildlife legally taken by licensed hunters or fishermen may be possessed, shipped, or transported into or within the borders of this state if it is accompanied by or has attached the appropriate certificate, license or tag under such rules and regulations as may be required.

2. Rough fish products that have been completely processed into food and/or other products that such legally taken fish may yield may be exported from the state.

3. Any rough fish taken by licensed commercial fishermen who have been issued a special permit as required by Section 4-105 of this title by the Director may be shipped, transported or exported pursuant to such permit.

4. Any fish or wildlife lawfully bred or propagated may be shipped or transported within the confines of this state or exported out of this state.

5. Any wildlife for which the Director has given an individual specific written authority for its transportation into or out of the state.

C. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00), or by imprisonment in the county jail for a period not less than ten (10) days nor more than sixty (60) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 366. AMENDATORY 29 O.S. 1991, Section 7-702, is amended to read as follows:

Section 7-702. A. Except as otherwise provided, no person may enter any of the wilderness area.

B. Persons exempt from the above prohibition shall be:

1. Persons possessing prior written permission from the Department;

2. Departmental employees directly concerned with the management of the area;

3. Employees of the Forestry Service directly concerned with the protection of the area from fire; and

4. Persons concerned with the scientific study of the natural resources of the state, who are authorized by the Department.

C. Any person ~~convicted of violating~~ breaching this section shall be ~~punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00), or by imprisonment in the county jail for a period not more than thirty (30) days, or by both such fine and imprisonment~~ liable for a civil

infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 367. AMENDATORY 29 O.S. 1991, Section 7-703, is amended to read as follows:

Section 7-703. A. Except as otherwise provided, no person may use any motor-driven conveyance or devices in any portion of the wilderness area east of Broken Bow Lake.

B. Those persons exempted shall be those state and federal employees, specified in paragraphs 2 and 3, subsection B of Section 7-702 of this title, in the performance of their duties.

C. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by the imposition of~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than Two Hundred Dollars ($200.00) ~~or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment~~.

SECTION 368. AMENDATORY 29 O.S. 1991, Section 7-705, is amended to read as follows:

Section 7-705. A. Except as otherwise provided, no person may collect, remove, lure, chase or cause to be removed, lured or chased any wildlife from the wilderness area or collect, remove or cause to be collected or removed any plant life from the wilderness area.

B. Persons exempt from the above subsection are:

1. Departmental employees pursuant to their duties; or

2. Any person who has obtained prior specific written permission from the Director and who, at the time of such activity, has evidence of that permission upon his person.

C. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00)~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00). This section shall be in addition

to any appropriate punishment under Title 21 of the Oklahoma Statutes.

SECTION 369. AMENDATORY 29 O.S. 1991, Section 8-104, is amended to read as follows:

Section 8-104. It shall be a ~~misdemeanor~~ civil infraction to ~~violate~~ breach any Commission rule or regulation promulgated by the Commission under the authority granted in this Code. Any person so ~~violating~~ breaching shall~~, upon conviction, be punished by a fine of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00) or by imprisonment in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment~~ be subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 370. AMENDATORY 29 O.S. 1991, Section 1001, as last amended by Section 1, Chapter 85, O.S.L. 1994 (29 O.S. Supp. 1994, Section 1001), is amended to read as follows:

Section 1001. A. It shall be unlawful for any person to fish in any waters of this state by:

1. Leaving visibly unattended for a period of more than six (6) hours any mechanical fishing device which automatically recoils when a fish strikes, including, but not limited to, the device commonly known as a "yo-yo";

2. Use of any mechanical fishing device which automatically recoils when a fish strikes, including, but not limited to, the device commonly known as a "yo-yo", that does not have the name of the owner and the owner's address attached thereto; or

3. Stringing or suspending any device, described in paragraph 1 of this subsection, from any horizontal line across any channel or navigable waterway, or attaching more than ten of any such devices from any one line or support.

B. Any line or lines to which mechanical fishing devices are attached shall be:

1. Made of nonmetallic material only;

2. No greater than 50 feet in length; and

3. Placed or suspended without restricting or impeding boat navigation between any two such lines.

C. Any person violating the provisions of this section shall be ~~fined~~ liable for a civil infraction and subject to a fine of not ~~less than Ten Dollars ($10.00) nor~~ more than One Hundred Dollars ($100.00).

D. Any mechanical fishing device being used in violation of this section shall be confiscated as contraband.

E. No line or lines to which mechanical fishing devices are attached shall be placed in any body of water used by boats, unless marked so as to be visible to such boats using any such body of water at any time of the day or night.

SECTION 371. AMENDATORY 29 O.S. 1991, Section 1002, is amended to read as follows:

Section 1002. A. Any person who has been ~~convicted or has pleaded guilty to~~ determined to have breached two wildlife violations in a two-year period shall be known as a habitual wildlife violator and his hunting and fishing licenses issued pursuant to the Oklahoma Wildlife Conservation Code may be canceled and denied that person for a minimum of one (1) year.

B. No habitual wildlife violator shall fish or hunt while his license is suspended or whose license has been canceled. Any person ~~violating~~ breaching the provisions of this subsection~~, upon conviction thereof,~~ shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not less than Five Hundred Dollars ($500.00)~~, or by imprisonment in the county jail for a term not less than fifteen (15) days nor more than ninety (90) days or by both such fine and imprisonment~~ nor more than Five Thousand Dollars ($5,000.00).

SECTION 372. AMENDATORY 30 O.S. 1991, Section 4-102, is amended to read as follows:

Section 4-102. Any person or official violating the provisions of Section 4-101 of this title shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 373. AMENDATORY 36 O.S. 1991, Section 311.1, as amended by Section 36, Chapter 270, O.S.L. 1993 (36 O.S. Supp. 1994, Section 311.1), is amended to read as follows:

Section 311.1 A. Any insurer who files with the Insurance Commissioner any statement required by this Code knowing such statement to be fraudulent and materially false~~, upon conviction, shall be guilty of a felony, for which the punishment shall be a fine of not to exceed Five Thousand Dollars ($5,000.00)~~ shall be punished as provided in Title 21 of the Oklahoma Statutes. Any officer, actuary, or employee of such insurer who causes such statement to be filed, knowing the fraudulent and materially false nature thereof, ~~upon conviction, shall be guilty of a felony, for which the punishment for each occurrence shall be a fine of not to exceed Five Thousand Dollars ($5,000.00), or commitment to the custody of the Department of Corrections for not less than one (1) year and not more than five (5) years or both said fine and commitment~~ shall be punished as provided in Title 21 of the Oklahoma Statutes, and shall not be permitted to act as an actuary, officer, or director of any insurer licensed to do business in this state.

B. Any insurer who fails without reasonable cause to timely file any statement required by this Code shall be subject, after notice and hearing, to censure, suspension, ~~or~~ revocation of certificate or liability for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Annual statements filed after the last day of February shall be accompanied by a late filing fee in the amount of Two Hundred Fifty Dollars ($250.00). ~~Repeated willful violations~~ Breaches, after notice and hearing, may subject the insurer to both censure, suspension, or

revocation of certificate and liability for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than Five Thousand Dollars ($5,000.00) for each occurrence in addition to the late filing fee. Any late filing fees and fines collected pursuant to this subsection shall be deposited to the Insurance Commissioner Revolving Fund.

C. Fines imposed pursuant to the provisions of subsection B of this section may be enforced in the same manner in which civil judgments may be enforced.

D. ~~Prosecution or administrative~~ Administrative action for any violation of the provisions of this section shall be commenced within four (4) years after the violation is discovered.

SECTION 374. AMENDATORY 36 O.S. 1991, Section 311.2, is amended to read as follows:

Section 311.2 Any insurer upon request of the Commissioner shall furnish to the Insurance Commissioner within forty-five (45) days following the close of any calendar quarter, except the fourth quarter, on blank forms prescribed by the Insurance Commissioner, a statement which shall exhibit the financial condition of the company as of the last date of the month immediately preceding reporting date. Such reports for information purposes shall contain a complete listing of all written commitments to loan, guaranties of loans, or contractual obligations concerning loans or conditional liabilities to borrowers or lenders made during the quarter reported. Such reports may require the inclusion of an exhibit of the operating results of the company for the three (3) months' period immediately preceding the date for which the financial condition is shown. A completed blank form prescribed by the Commissioner for said statement shall be furnished by each insurer for each such reporting date. Such statements shall be subscribed and sworn to by the president and the secretary and other proper officers of the company. Failure of any insurer to execute and file

such statements or exhibits as required herein shall constitute cause, after notice and hearing, for censure, suspension, or revocation of certificate of authority to transact an insurance business in this state or liability for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than One Thousand Dollars ($1,000.00) for each occurrence, or both censure, suspension, or revocation, and fine. The Commissioner shall set such cause for hearing and if he finds that the facts warrant, he shall order said censure, suspension, or revocation of the certificate of authority of the insurer found to be in default or said fine, or both said censure, suspension, or revocation, and fine. ~~Willful violations,~~ Subsequent breaches, after notice and hearing, may subject the insurer to both censure, suspension or revocation of certificate and liability for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) or not~~ more than Five Thousand Dollars ($5,000.00) for each ~~violation~~ breach. The Insurance Commissioner may establish rules or regulations to carry out the purposes of this section.

SECTION 375. AMENDATORY 36 O.S. 1991, Section 317, is amended to read as follows:

Section 317. A. The Insurance Commissioner may take depositions, subpoena witnesses or documentary evidence, administer oaths, and examine under oath any individual relative to the affairs of any person being examined, or relative to the subject of any hearing or investigation.

B. Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a district court. Witness fees, mileage, and the actual expense necessarily incurred in securing attendance of witnesses and their testimony shall be itemized, and shall be paid by the person being examined if such person is found to have been in violation of the law as to the matter with respect to which

such witness was so subpoenaed, or by the person, if other than the Insurance Commissioner, at whose request the hearing is held.

C. The subpoena shall be served in the same manner as if issued from a district court. If any individual fails to obey a subpoena lawfully served, the Commissioner shall forthwith report such disobedience, together with a copy of the subpoena and proof of service thereof, to the district court of the county in which the individual was required to appear, and such court shall forthwith cause such individual to be produced and shall impose penalties as though he had disobeyed a subpoena issued out of such court.

D. Any person who being under oath testifies falsely or makes any false affidavit during the course of any examination, investigation, or hearing, shall ~~upon conviction thereof be guilty of perjury~~ subject the person to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 376. AMENDATORY 36 O.S. 1991, Section 619, is amended to read as follows:

Section 619. A. The Insurance Commissioner may after a hearing refuse to renew, or may revoke or suspend an insurer's certificate of authority, in addition to other grounds therefor in this Code, if the insurer:

1. Violates any provision of this Code other than those as to which refusal, suspension, or revocation is mandatory.

2. Knowingly fails to comply with any lawful rule, regulation, or order of the Insurance Commissioner.

3. Is found by the Insurance Commissioner to be in unsound condition or in such condition as to render its further transaction of insurance in Oklahoma hazardous to its policyholders or to the people of Oklahoma.

4. Without reasonable cause compels claimants under its policies to accept less than the amount due them or to bring suit against it to secure full payment thereof.

5. Refuses to be examined or to produce its accounts, records, and files for examination by the Insurance Commissioner when required.

6. Fails to pay any final judgment rendered against it in Oklahoma within thirty (30) days after the judgment became final.

7. Is affiliated with and under the same general management or interlocking directorate or ownership as another insurer which transacts direct insurance in Oklahoma without having a certificate of authority therefor, except as permitted to a surplus line insurer under Article 11 (Unauthorized Insurers).

B. In addition to or in lieu of any applicable revocation or suspension of an insurer's certificate of authority, any insurer who ~~knowingly and willfully violates~~ breaches this Code may be subject to a ~~civil~~ fine of not more than Five Thousand Dollars ($5,000.00) for each occurrence. ~~Such fine may be enforced in the same manner in which civil judgments may be enforced.~~

C. In addition to other penalties, the Commissioner may require an insurer to restrict its insurance writings, obtain additional contributions to surplus, withdraw from the state, reinsure all or part of its business, increase capital, surplus, deposits or any other account for the security of policyholders or creditors, or provide independent actuarial review.

SECTION 377. AMENDATORY 36 O.S. 1991, Section 1112, is amended to read as follows:

Section 1112. A. A surplus line broker shall not knowingly place any such coverage in an insurer which is in an unsound financial condition. A surplus line broker shall not place any such coverage in an insurer unless the insurer has been approved in writing by the Commissioner as a surplus line insurer and such approval has not been withdrawn. A surplus line broker shall not place any surplus line insurance in an insurer that has been disapproved by the Commissioner as a surplus line insurer.

B. For ~~violation~~ breach of this section, in addition to any other penalty provided by law, the broker's license shall be revoked, and the broker shall not again be so licensed within a period of two (2) years thereafter. In addition, any surplus line broker who ~~violates~~ breaches this section shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished for each offense, by~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) ~~or by confinement in jail for not more than ninety (90) days or by both such fine and imprisonment~~.

SECTION 378. AMENDATORY 36 O.S. 1991, Section 1204, is amended to read as follows:

Section 1204. The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

1. Misrepresentations and false advertising of policy contracts. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

2. False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive or misleading. No insurance company shall issue, or cause to be issued, any policy of insurance of any type or description upon life, or property, real or personal, whenever such policy of insurance is to be furnished or delivered to the purchaser or bailee of any property, real or personal, as an inducement to purchase or bail said property, real or personal, and no other person shall advertise, offer or give free insurance, insurance without cost or for less than the approved or customary rate, in connection with the sale or bailment of real or personal property, except as provided in subsection B, Section 4101 of Article 41 (Group Life Insurance and Group Annuity Contracts). No person that is not an insurer shall assume or use any name which deceptively infers or suggests that it is an insurer.

3. Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

4. Boycott, coercion and intimidation. Entering into any agreement to commit, or by any concerted action committing, any act

of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

5. False financial statements. Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

Making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

6. Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

7. Unfair discrimination. (a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in

the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

(c) As to kinds of insurance other than life and accident and health, no person shall make or permit any unfair discrimination in favor of particular persons, or between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, or expense elements, in the terms or conditions of any insurance contract, or in the rate or amount of premium charged therefor. This subsection shall not apply as to any premium rate in effect pursuant to Article 9 of the Insurance Code.

8. Rebates. (a) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of insurance or agreement as to such contract other than as plainly expressed in the contract issued thereon; or paying or allowing, or giving or offering to pay, allow or give, directly or indirectly, as inducement to any contract of insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; except in accordance with an applicable rate filing, rating plan or rating system filed with and approved by the Board; or giving or selling or purchasing or offering to give, sell, or purchase as inducement to such insurance, or in connection therewith, any stocks, bonds or other securities of any company, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract or receiving or accepting as inducement to contracts of insurance, any rebate of premium payable on the contract, or any special favor or advantage in the dividends or other benefit to accrue thereon, or any valuable consideration or inducement not specified in the contract.

(b) Nothing in subsection 7 or paragraph (a) of this subsection shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided, that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interest of the company and its policyholders;

(2) In the case of life or accident and health insurance policies issued on the industrial debit or weekly premium plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

(3) Making a readjustment of the rate of premium for a policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(4) In the case of life insurance companies, allowing its bona fide employees to receive a commission on the premiums paid by them on policies on their own lives;

(5) Issuing life or accident and health policies on a salary saving or payroll deduction plan at a reduced rate commensurate with the savings made by the use of such plan;

(6) Paying commissions or other compensation to duly licensed agents or brokers, or allowing or returning to participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits.

(c) As used in this section, the word "insurance" includes suretyship and the word "policy" includes bond.

9. Coercion prohibited. Requiring as a condition precedent to the purchase of, or the lending of money upon the security of, real or personal property, that any insurance covering such property, or liability arising from the ownership, maintenance or use thereof, be procured by or on behalf of the vendee or by the borrower in connection with such purchase or loan through any particular person or agent or in any particular insurer, or requiring the payment of a reasonable fee as a condition precedent to the replacement of insurance coverage on mortgaged property at the anniversary date of the policy; provided, however, that this provision shall not prevent the exercise by any such vendor or lender of the right to approve or disapprove any insurer selected to underwrite the insurance; but any disapproval of any insurer shall be on reasonable grounds.

10. Inducements. No insurer, agent, broker, solicitor, or other person shall, as an inducement to insurance or in connection with any insurance transaction, provide in any policy for or offer, sell, buy, or offer or promise to buy, sell, give, promise, or allow to the insured or prospective insured or to any other person in his behalf in any manner whatsoever:

(a) Any employment.

(b) Any shares of stock or other securities issued or at any time to be issued or any interest therein or rights thereto.

(c) Any advisory board contract, or any similar contract, agreement or understanding, offering, providing for, or promising any special profits.

(d) Any prizes, goods, wares, merchandise, or tangible property of an aggregate value in excess of Twenty-five Dollars ($25.00).

(e) Any special favor, advantage or other benefit in the payment, method of payment or credit for payment of the premium through the use of credit cards, credit card facilities, credit card lists, or wholesale or retail credit accounts of another person. The provisions of this paragraph shall not apply to individual policies

insuring against loss resulting from bodily injury or death by accident as defined by Article 44 of the Oklahoma Insurance Code.

11. Premature disposal of premium notes prohibited. No insurer or agent thereof shall hypothecate, sell, or dispose of a promissory note received in payment of any part of a premium on a policy of insurance applied for prior to the delivery of the policy.

12. Fraudulent statement in application; penalty. Any insurance agent, examining physician, or other person who ~~knowingly or willfully~~ makes a false or fraudulent statement or representation in or relative to an application for insurance, or who makes any such statement to obtain a fee, commission, money, or benefit shall be ~~guilty of a misdemeanor~~ subject to prosecution under the appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 379. AMENDATORY 36 O.S. 1991, Section 1425, as last amended by Section 1, Chapter 337, O.S.L. 1994 (36 O.S. Supp. 1994, Section 1425), is amended to read as follows:

Section 1425. The Commissioner shall not issue, continue, or permit to continue any license of an insurance agent, surplus lines insurance broker, or limited insurance representative except in compliance with the following:

A. Application shall be made to the Commissioner by the applicant on a form prescribed by the Commissioner.

B. 1. The application for an insurance agent, managing general agent, or limited insurance representative license shall be accompanied by a written appointment. The appointment shall be made by an officer of the insurer designating the applicant as an insurance agent, managing general agent, or limited insurance representative for such lines of insurance as the applicant will be authorized to write for said insurer. All appointments for any licensee shall be submitted on behalf of the appointing insurer on a form prescribed by the Commissioner and shall remain in force until the renewal date. The renewal dates may be staggered throughout the

year for appointments of agents, managing general agents, and limited insurance representatives by notifying the various companies in writing of the expiration and renewal date being assigned to agents and limited insurance representatives of said companies by the Commissioner and by making appropriate adjustment in said annual appointment fee.

2. For the renewal licensure of an applicant, the applicant shall submit either a letter from the appointing insurer verifying acceptance of responsibility for the actions of the applicant in the scope of that person's employment, or submit an errors and omissions policy acceptable to the Commissioner, or, if errors and omissions coverage is provided by the insurer for agents by utilizing a blanket errors and omissions policy for coverage, a copy of the policy providing the errors and omissions coverage shall be on file with the Commissioner of insurance. The insurer providing coverage shall submit a list of all agents covered by such policy when renewal applications are to be submitted. Provided, however, in the case of title insurance, scope of employment shall be limited to the issuance of commitments and policies and other duties only as specifically expressed in the agency contract.

C. Every applicant for licensing as an insurance agent, managing general agent, or limited insurance representative pursuant to the provisions of the Insurance Agents Licensing Act, except a partnership or corporation, shall be eighteen (18) years of age or older.

D. 1. Except as provided in paragraph 2 of this subsection, an applicant shall not be a full-time employee of the government of the United States or of the executive or administrative branches of the government of this state or any county or municipality in this state.

2. a. The provisions of this subsection shall not apply to applicants for life or accident and health insurance agents' licenses or limited representatives.

b. The provisions of this subsection shall not apply to persons who hold an elective office except the office of Insurance Commissioner.

c. For the purpose of this subsection, a teacher shall not be considered a full-time employee of the executive or administrative branches of the government of the state or of any county or municipality in the state.

E. All applications shall be accompanied by the applicable fees. An appointment shall terminate upon failure to pay the prescribed annual renewal fee.

The Insurance Commissioner shall collect in advance the following fees and licenses:

1. For filing appointment of Insurance Commissioner as agent for service of process $10.00

2. Miscellaneous:

a. Certificate of Commissioner, under seal ..$3.00

b. Agent's study manual:

Life, Accident & Health ..... not to exceed $30.00

Property and Casualty ..... not to exceed $30.00

c. for filing Agency Articles of Incorporation $20.00

3. Examination for license:

a. For each examination covering laws and one line of insurance $30.00

b. For each examination covering laws and two or more lines of insurance $40.00

4. Licenses:

a. Agent's license, each year, regardless of number of companies represented $30.00

b. Agent's license for sale or solicitation of separate accounts or agreements, as provided for in Section 6061 of this title $30.00

c. Limited insurance representative license, each year $20.00

d. Temporary license as agent $20.00

e. Managing general agent's license, each year $30.00

f. Surplus lines broker's license, each year $50.00

g. Insurance vending machine, each machine, each year $50.00

h. Insurance consultant's license, resident or nonresident, each year $50.00

5. Filing notice of appointment of agent, managing general agent, or limited insurance representative by insurer, each license of each agent or representative, each year $20.00

6. Renewal fee for all licenses shall be the same as the initial license fee.

7. The fee for a duplicate license shall be one-half (1/2) the fee of an original license.

8. Late application for the renewal of a license shall require a fee of double the original license fee.

F. The fees and monies received by the Insurance Commissioner pursuant to the provisions of paragraphs 1 and 2 of subsection E of this section shall be deposited with the State Treasurer, who shall place the same to the credit of the State Insurance Commissioner Revolving Fund for the purpose of fulfilling and accomplishing the conditions and purposes of this act.

The fees and monies received by the Insurance Commissioner pursuant to the provisions of paragraphs 3 through 8 of subsection E

of this section shall be paid into the State Treasury to the credit of the General Revenue Fund of the state.

G. There is hereby created in the State Treasury the State Insurance Commissioner Revolving Fund which shall be a continuing fund not subject to fiscal year limitations. The revolving fund shall consist of fees and monies received by the Insurance Commissioner as required by law to be deposited in said fund and any other funds not dedicated in the Oklahoma Insurance Code. The revolving fund shall be used to fund the general operations of the Insurance Commissioner's Office for the purpose of fulfilling and accomplishing the conditions and purposes of this act. All expenditures from said revolving fund shall be on claims approved by the Insurance Commissioner and filed with the Director of State Finance for payment.

H. At the close of the fiscal year ending June 30, 1988, and at the close of each fiscal year thereafter any unencumbered and unexpended monies in the State Insurance Commissioner Revolving Fund in excess of Five Hundred Thousand Dollars ($500,000.00) shall be transferred to the General Revenue Fund of the state.

I. All fees, fines, monies, and license fees authorized by the provisions of this section and not dedicated by the provisions of subsection F of this section to the State Insurance Commissioner Revolving Fund shall be paid into the State Treasury to the credit of the General Revenue Fund of this state.

J. Prior to issuance of a license as an insurance consultant or surplus lines insurance broker, the applicant shall file with the Commissioner and thereafter, for as long as the license remains in effect, shall keep in force a bond in an amount of not less than Five Thousand Dollars ($5,000.00) and not more than Forty Thousand Dollars ($40,000.00) with an authorized corporate surety approved by the Commissioner. The exact amount of the bond shall be determined pursuant to the rules and regulations of the Commissioner and shall

be based upon the actual or reasonably estimated premium for policies issued in connection with the services of the licensee. The surety shall notify the Commissioner of any changes in the bond of any licensee. The aggregate liability of the surety for any and all claims on a bond required by the provisions of this subsection shall in no event exceed the amount of the bond. No such bond shall be terminated unless at least thirty (30) days' prior written notice of the termination is given by the surety to the licensee and the Commissioner. Upon termination of the license for which the bond was in effect, the licensee shall notify the surety within ten (10) working days.

All surety protection required by the provisions of this section is to inure to the benefit of any party aggrieved by the acts of a consultant or broker arising pursuant to his conduct as a licensed insurance consultant or surplus lines insurance broker.

K. The Commissioner shall issue an insurance agent's license, managing general agent's license, insurance consultant's license, or a limited insurance representative's license to any duly qualified resident or nonresident of this state, whether an individual, partnership, or corporation, as follows:

1. An applicant may qualify as a resident if he resides in this state. Any license issued pursuant to any such application claiming residency in this state for licensing in this state shall constitute an election of residency in this state and shall be void if the licensee, while holding a resident license in this state, also holds or makes application for a license in or thereafter claims to be a resident of any other state or other jurisdiction or ceases to be a resident of this state. However, if the applicant is a resident of a community or trade area, the border of which is contiguous with the state line of this state, the applicant may qualify as a resident in such other state and may hold a license from each state;

2. a. An applicant may qualify for a license pursuant to the provisions of the Insurance Agents Licensing Act as a nonresident only if he holds a resident agent's license in any state of the United States, a province of Canada, or any other foreign country, in which he claims residency and with which the Commissioner has executed a reciprocal licensing agreement. The applicant shall provide to the Commissioner an original certification of licensure status from the resident state of the applicant. A license issued to a nonresident of this state shall grant the same rights and privileges afforded a resident licensee, except as otherwise provided for by law. A corporation or partnership otherwise qualified to hold a license as a nonresident agent shall be licensed pursuant to the provisions of this section:

(1) if the principal purpose of the corporation or partnership is the transacting of insurance business,

(2) if said corporation or partnership is not a subsidiary or affiliate of a corporation or partnership not so qualified, and

(3) if such corporation or partnership does not own stock in or is not a partner in any corporation or partnership licensed as a resident pursuant to Section 1424 of this title.

b. The Commissioner shall not issue a license to any nonresident applicant until said applicant files with the Commissioner his designation of the Commissioner as the person upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of any interested person arising out

of the insurance business of the applicant in this state. This designation shall constitute an agreement that said service of process is of the same legal force and validity as personal service of process in this state upon the nonresident licensee. Service of process upon any such licensee in any such action or proceeding in any court of competent jurisdiction of this state may be made by serving the Commissioner with three copies thereof and by paying to the Commissioner a fee of Ten Dollars ($10.00). The Commissioner shall forward a copy of the process by mail with return receipt requested to the licensee at his last-known address of record or principal place of business, and the Commissioner shall keep a record of all process so served upon him.

c. Service of process upon any such licensee in any action or proceeding instituted by the Commissioner pursuant to the provisions of this Code shall be made by the Commissioner by mailing the process by mail with return receipt requested to the licensee at his last-known address of record or principal place of business.

Service of process upon any nonresident licensee is sufficient, provided notice of the service and a copy of the process are sent within ten (10) days thereafter to the licensee at his last-known address of record or principal place of business by mail with return receipt requested.

If the Commissioner revokes or suspends any nonresident's license through a formal proceeding pursuant to the provisions of this Code, the Commissioner shall promptly notify the appropriate

Commissioner of the licensee's state of residence of the action and of the particulars thereof.

d. A nonresident of this state may be licensed without taking a written examination if the Commissioner of the state of residence of the applicant certifies by facsimile signature and seal that the applicant has passed a similar written examination, or has been a continuous holder, prior to the time said written examination was required, of a license similar to the license for which application is being made in this state.

e. When, by the laws or regulations of any other state or jurisdiction, any limitation of rights and privileges, conditions precedent, or any other requirements are imposed upon residents of this state who are nonresident applicants or licensees of the other state or jurisdiction in addition to or in excess of those imposed on nonresidents pursuant to the provisions of the Insurance Agents Licensing Act, the same requirements shall be imposed upon such residents of the other state or jurisdiction;

3. An applicant for a surplus lines insurance broker's license shall be licensed in this state as a resident insurance agent qualified as to the line or lines of insurance to be written;

4. An applicant for any license required by the provisions of the Insurance Agents Licensing Act shall be deemed by the Commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation;

5. a. It shall be unlawful for any person whose license to act as an insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker has been

suspended, revoked, surrendered, or refused to do or perform any of the acts of an insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker. Any person ~~convicted of~~ violating the provisions of this section shall be ~~guilty of a felony and shall be punished by the imposition of a fine of not more than One Thousand Dollars ($1,000.00) or shall be committed to the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or be punished by both said fine and commitment to custody~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

b. It shall be unlawful for any insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker to assist, aid, or conspire with a person whose license as an insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker has been suspended, revoked, surrendered, or refused to engage in any acts as an insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker. Any person ~~convicted of~~ violating the provisions of this section shall be ~~guilty of a felony and shall be punished by the imposition of a fine of not more than One Thousand Dollars ($1,000.00) or shall be committed to the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or be punished by both said fine and commitment~~

~~to custody~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes;

6. It shall be unlawful for any person to do or perform any of the acts of an insurance agent, limited insurance representative, managing general agent, surplus lines insurance broker, or insurance consultant without being duly licensed, or for any partnership or corporation, or any person acting on behalf of a partnership or corporation, to violate any of the provisions of subsection B of Section 1424 of this title. Any person ~~convicted of~~ violating the provisions of this section shall be ~~guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than Five Hundred Dollars ($500.00) or imprisonment in the county jail for not less than six (6) months nor more than one (1) year, or be punished by both said fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes;

7. a. After completion and filing of the application with the Commissioner, except as provided in Section 1426 of this title, the Commissioner shall subject each applicant for license as an insurance agent, surplus lines insurance broker, insurance consultant, or limited insurance representative to a written examination as to his competence to act as a licensee, which each applicant shall personally take and pass to the satisfaction of the Commissioner.

b. If the applicant is a partnership or corporation, the examination shall be taken by each individual who is to act for the corporation or partnership as an agent, surplus lines insurance broker, limited insurance representative, or insurance consultant.

c. Each examination for a license shall be approved for use by the Commissioner and shall reasonably test the knowledge of the applicant as to the lines of

insurance, policies, and transactions to be handled pursuant to the license applied for, the duties and responsibilities of the licensee, and the pertinent insurance laws of this state.

d. Examination for licensing shall be at such reasonable times and places as are designated by the Commissioner.

e. The Commissioner shall give, conduct, and grade all examinations in a fair and impartial manner and without discrimination among individuals examined.

f. The applicant shall pass the examination with a grade determined by the Commissioner to indicate satisfactory knowledge and understanding of the line or lines of insurance for which the applicant seeks qualification. Within ten (10) days after the examination, the Commissioner shall inform the applicant and the appointing insurer, when applicable, as to whether or not the applicant has passed. Formal evidence of said licensing shall be issued by the Commissioner to the licensee within a reasonable time.

g. An applicant who has failed to pass the first examination for the license applied for may take a second examination within thirty (30) days following the first examination. Examination fees for subsequent examinations shall not be waived.

h. An applicant who has failed to pass the first two examinations for the license applied for shall not be permitted to take a subsequent examination until the expiration of six (6) months after the last previous examination. A current application, company appointments, and applicable fees shall be submitted with each request to take a subsequent examination;

8. a. If the Commissioner finds that the applicant has not fully met the requirements for licensing, he shall refuse to issue the license and promptly notify the applicant and the appointing insurer, when applicable, in writing, of the denial, stating the grounds therefor.

b. If for any reason a license is not issued by the Commissioner, all fees accompanying the application for the license as insurance agent, surplus lines insurance broker, insurance consultant, and limited insurance representative shall be deemed earned and shall not be refundable;

9. Every licensed agent shall notify the Commissioner of any change in his address as shown on the license as issued within ten (10) days after the change; and

10. Every licensed agent shall provide a place of business which is accessible to the public. The provisions of this section shall not prohibit the business of insurance in the residence of a licensed agent.

L. If an agent or agents choose to use a facsimile signature stamp in his or their business, then such stamp shall be proof that the agent or agents have authorized the signing of any documents relating to the business of insurance.

M. It shall be ~~unlawful~~ an administrative violation for any insurer to discriminate among or between the agents it has appointed. Any person or company ~~convicted of~~ violating the provisions of this section shall be ~~guilty of a misdemeanor and shall be punished by the imposition of~~ liable for an administrative violation and subject to a fine of not more than ~~Five Hundred Dollars ($500.00) or imprisonment in the county jail for not less than six (6) months nor more than one (1) year, or be punished by both said fine and imprisonment~~ One Thousand Dollars ($1,000.00).

SECTION 380. AMENDATORY 36 O.S. 1991, Section 1428, as amended by Section 2, Chapter 248, O.S.L. 1993 (36 O.S. Supp. 1994, Section 1428), is amended to read as follows:

Section 1428. A. The Commissioner or the independent hearing examiner shall censure, suspend, or revoke, or refuse to issue, continue, or renew, any license issued or applied for pursuant to the provisions of the Insurance Agents Licensing Act if, after notice to the licensee and to the insurer represented, the Commissioner or the independent hearing examiner finds as to the licensee any one or more of the following conditions:

1. Any materially untrue statement in the license application;

2. Any cause for which issuance of the license could have been refused had it existed and been known to the Commissioner at the time of issuance;

3. Any violation of or noncompliance with any insurance laws of this state, or any violation of any lawful rule, regulation, or order of the Commissioner;

4. Obtaining or attempting to obtain any license through misrepresentation or fraud;

5. Improperly withholding, misappropriating, or converting to his own use any monies belonging to policyholders, insurers, beneficiaries, or others received in the course of his insurance business;

6. Misrepresentation of the terms of any actual or proposed insurance contract;

7. Conviction of or plea of guilty or nolo contendere to:

a. a felony, or

b. a misdemeanor involving moral turpitude;

8. The licensee has been found guilty of any unfair trade practice or fraud;

9. In the conduct of his affairs, the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, or financially irresponsible;

10. The licensee has forged the name of another person to an application for insurance; or

11. The applicant has been found to have been cheating on an examination for an insurance license.

B. If the action by the Commissioner or the independent hearing examiner is to deny renewal or to deny an application for a license, he shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reasons for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the Commissioner or independent hearing examiner within a reasonable time for a hearing before the Commissioner or independent hearing examiner to determine the reasonableness of the action of the Commissioner or independent hearing examiner.

C. The license of a partnership or corporation may be suspended, revoked, or refused if the Commissioner or independent hearing examiner finds that a violation by an individual licensee was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership or corporation and the violation was not reported to the Commissioner nor corrective action taken in relation to the violation.

D. In addition to or in lieu of any applicable denial, censure, suspension, or revocation of a license, any person ~~violating~~ breaching the provisions of the Insurance Agents Licensing Act may be liable for an administrative violation and subject to a ~~civil~~ fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than One Thousand Dollars ($1,000.00) for each occurrence. ~~Said fine may be enforced in the same manner in which civil judgments may be enforced.~~

E. Every licensee licensed pursuant to the provisions of the Insurance Agents Licensing Act shall keep at his place of business the usual and customary records pertaining to transactions authorized by his license. All records as to any particular transactions shall be kept available and open to the inspection of the Commissioner at any time during business hours during the three (3) years immediately following the date of completion of the transaction. The Commissioner may require a financial or market conduct examination during any investigation of a licensee. The cost of such examination shall be apportioned among all of the appointing insurers of the licensee.

F. Every licensee licensed pursuant to the provisions of the Insurance Agents Licensing Act shall notify the Commissioner of the conviction of or plea of guilty or nolo contendere to a felony or misdemeanor involving moral turpitude within thirty (30) days of the entering of an order of judgment and sentencing and shall notify the Commissioner of any administrative action taken against his or her license in another state within thirty (30) days of the entering of the administrative order in that state.

G. For one (1) year after notification of an alleged violation, the Commissioner shall retain jurisdiction as to any person who cancels his agent's license or allows said license to lapse, if the person while licensed as an agent allegedly violated any provision of this Code. Notice and hearing shall be conducted in the same manner as if the person still maintained an agent's license. If the Commissioner or independent hearing examiner determines that a violation of the provisions of this Code occurred, any order issued by the Commissioner or independent hearing examiner pursuant to said determination may become a permanent record in the file of the person and may be used in any future request by the person for licensure or reinstatement.

H. Files pertaining to investigations or legal matters which contain information concerning a current and ongoing investigation of allegations of violations of this Code by a licensed agent shall not be available for public inspection without proper judicial authorization; however, a licensed agent, under investigation for alleged violations of this Code, or against whom an action for alleged violations of this Code has been commenced, may view files pertaining to his investigation at reasonable times at the Commissioner's office. All qualification examination materials, booklets and answers for any license authorized to be issued by the Commissioner under any statute, shall not be available for public inspection.

SECTION 381. AMENDATORY 36 O.S. 1991, Section 1450, is amended to read as follows:

Section 1450. A. No person shall act as or present himself to be an administrator, as defined by the provisions of the Third-party Administrator Act, in this state, unless said person holds a valid license as an administrator which is issued by the Commissioner.

B. An application for an administrator's license shall be in a form prescribed by the Commissioner and shall be accompanied by a fee of One Hundred Dollars ($100.00). This fee shall not be refundable if the application is denied or refused for any reason by either the applicant or the Commissioner.

C. The administrator's license shall continue in force no longer than twelve (12) months from the original month of issuance. Upon filing a renewal form prescribed by the Commissioner, accompanied by a fee of One Hundred Dollars ($100.00), said license may be renewed annually for a one-year term. Late application for renewal of a license shall require a fee of double the amount of the original license fee.

D. The administrator's license shall be issued or renewed by the Commissioner unless, after notice and hearing, the Commissioner

determines that the administrator is not competent, trustworthy, or financially responsible, or has had any insurance license denied for cause by any state, has been convicted or has pleaded guilty or nolo contendere to any felony or a misdemeanor involving moral turpitude.

E. After notice and hearing, and upon determining that the administrator has violated any of the provisions of the Oklahoma Insurance Code or upon finding reasons for which the issuance or nonrenewal of such license could have been denied, the Commissioner may either suspend or revoke an administrator's license ~~or assess~~. In addition to such suspension or revocation, the administrator shall be liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each occurrence. ~~The payment of the fine may be enforced in the same manner as civil judgments may be enforced.~~

~~F. Any person who is acting as or presenting himself to be an administrator without a valid license shall be subject, upon conviction, to a fine of not less than One Thousand Dollars ($1,000.00) nor more than Ten Thousand Dollars ($10,000.00) for each occurrence. This fine shall be in addition to any other penalties which may be imposed for violations of the Oklahoma Insurance Code or other laws of this state.~~

~~G.~~ F. Except as provided for in ~~subsections~~ subsection E ~~and F~~ of this section, any person ~~convicted of violating~~ breaching any provisions of the Third-party Administrator Act shall be ~~guilty of a misdemeanor and shall be~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

~~H.~~ G. Any fees imposed pursuant to the provisions of this section and any fines imposed pursuant to an administrative hearing for violation of the provisions of the Third-party Administrator Act shall be deposited in the State Insurance Commissioner Revolving Fund.

SECTION 382. AMENDATORY 36 O.S. 1991, Section 1464, is amended to read as follows:

Section 1464. A. To be licensed as a life or accident and health insurance broker, a person or corporation shall have been a licensed resident or nonresident insurance agent or agency in this state continuously for at least two (2) years immediately prior to his application and such agent's license shall remain in effect in order to maintain the broker's license. Any applicant for a broker's license shall have no Oklahoma Insurance Code violations or record with the Commissioner or an insurance regulatory body of another state and shall not have been convicted, or pleaded guilty or nolo contendere to a felony or a misdemeanor involving moral turpitude. The fee for a life or accident and health insurance broker's license shall be Fifty Dollars ($50.00), and said license may be renewed each year for the same fee. Late application for renewal of a license shall require a fee of double the amount of the original license fee. Said fees shall be placed in the State Insurance Commissioner Revolving Fund.

B. Every applicant for a life or accident and health insurance broker's license shall file with the Commissioner and, upon approval of said applicant's application, maintain in force while licensed and for at least two (2) years following termination of said license, evidence satisfactory to the Commissioner of an errors and omissions policy covering the individual applicant in an amount of not less than One Hundred Thousand Dollars ($100,000.00) annual aggregate for all claims made during the policy period, or covering the applicant under a blanket liability policy insuring other life or accident and health insurance agents or brokers in an amount of not less than Five Hundred Thousand Dollars ($500,000.00) annual aggregate for all claims made during the policy period. Such policy shall be issued by an insurance company authorized to do business in this state, shall be continuous in form, and shall provide coverage

acceptable to the Commissioner for errors and omissions of the life or accident and health insurance broker. The policy carrier shall notify the Commissioner of any lapse or termination of errors and omissions coverage. Failure to maintain a policy in force shall result in automatic termination of licensure, and the license shall be returned by its lawful custodian to the Commissioner for further cancellation.

C. Every applicant shall also provide a bond in favor of the people of Oklahoma executed by an authorized surety company and payable to any party injured under the term of the bond.

The bond shall be continuous in form and in the amount of Five Thousand Dollars ($5,000.00) total aggregate liability, or more if the Commissioner deems it necessary. The bond shall be conditioned upon full accounting and due payments to the person or company entitled thereto as an incident of life or accident and health insurance transactions and funds brought into the life or accident and health insurance broker's possession under his license.

Said bond shall remain in force and effect until the surety is released from liability by the Commissioner or until the bond is canceled by the surety. The surety may cancel the bond and be released from further liability thereunder upon thirty (30) days of written notice, in advance, to the Commissioner. Said cancellation shall not affect any liability incurred or accrued thereunder before the termination of the thirty-day period. Upon receipt of any notice of cancellation, the Commissioner shall immediately notify the licensee.

Said license shall automatically terminate upon there being no bond in force, and the license shall be returned by its lawful custodian to the Commissioner for further cancellation.

D. Life or accident and health insurance brokers shall be subject to the same ~~violations,~~ fines~~,~~ and ~~penalties~~ breaches as stated in Section 1428 of this title. ~~Violations~~ Breaches of the

provisions of the Oklahoma Life, Accident and Health Insurance Broker Act may result, after notice and hearing, in censure, suspension, or revocation of license, or an administrative violation subject to a fine of not ~~less than One Hundred Dollars ($100.00), nor~~ more than One Thousand Dollars ($1,000.00), or a combination thereof for each occurrence.

SECTION 383. AMENDATORY 36 O.S. 1991, Section 2124, is amended to read as follows:

Section 2124. A. Any director of a domestic stock or mutual insurer who votes for or concurs in declaration or payment of an illegal dividend to stockholders or members shall ~~upon conviction thereof be guilty of a misdemeanor~~ be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00), and shall be jointly and severally liable, together with other such directors, for any loss thereby sustained by the insurer.

B. The stockholders or members receiving such an illegal dividend shall be liable in the amount thereof to the insurer.

C. The Insurance Commissioner may revoke or suspend the certificate of authority of an insurer which has declared or paid an illegal dividend.

SECTION 384. AMENDATORY 36 O.S. 1991, Section 2417, is amended to read as follows:

Section 2417. Any officer of a corporation subject to the provisions of this article, and any person or agent representing such corporation, who shall transact, or attempt to transact, in any manner whatever, any business in this state until such corporation has complied with the provisions of this article, or any person who shall ~~violate~~ breach any of the provisions of this article shall be ~~deemed guilty of a misdemeanor and upon conviction, shall be fined in any sum not less than One Hundred Dollars ($100.00) nor~~ liable for an administrative violation and subject to a fine of not more

than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00).

SECTION 385. AMENDATORY 36 O.S. 1991, Section 3105, is amended to read as follows:

Section 3105. A. Each motor service club operating in this state pursuant to certificate of authority issued hereunder shall file with the Commissioner, within ten (10) days of the date of employment, a notice of appointment of any agent, resident or nonresident, appointed by the automobile club to sell memberships in the motor service club to the public. This notification shall be upon such form as the Commissioner may prescribe and shall contain the name, address, age, sex, and Social Security number of such club agent, and shall also contain proof satisfactory to the Commissioner that such applicant is not less than eighteen (18) years of age, is of good reputation, and has received training from the club or is otherwise qualified in the field of motor service club service contracts and knowledgeable of the laws of this state pertaining thereto. Upon termination of any agent's employment by the motor service club, such motor service club shall notify the Commissioner, in writing, within five (5) days of such termination.

B. The registration fee for agents, resident or nonresident, shall be Twenty Dollars ($20.00) annually, such fees and any fines in this section to be dedicated to the State Insurance Commissioner Revolving Fund, and such registration shall expire on July 1 of each year unless sooner revoked or suspended as provided for in this section.

C. Upon notice and hearing, the Commissioner may suspend for not over twelve (12) months, censure, revoke, or refuse to renew any agent's license if he finds as to the licensee that any one or more of the following causes exist:

1. Any violation of or noncompliance with any provision of this act;

2. Obtaining or attempting to obtain any such license through misrepresentation or fraud;

3. Oral or written misrepresentation of the terms, conditions, benefits, or privileges of any motor service club service contract issued or to be issued by the motor service club he represents or any other motor service club;

4. Misappropriation or conversion to his own use or illegal holding of monies, belonging to members or others, received in the conduct of business under his license;

5. Pleading nolo contendere or guilty to a felony or conviction by final judgment of a felony;

6. Demonstration of incompetence sufficient in the opinion of the Commissioner to make the agent a source of injury and loss to the public;

7. Fraudulent or dishonest practices;

8. ~~Willful solicitation~~ Solicitation of membership from an individual who is or has been a member of another motor service club by giving said person credit for his years of membership with the other motor service club;

9. Waiving the enrollment fee or otherwise reducing the usual fees and charges for a new member when soliciting membership from an individual who is or has been a member of another motor service club.

D. In addition to the penalties provided for in this section, an administrative violation subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than One Thousand Dollars ($1,000.00) for each occurrence may be levied.

SECTION 386. AMENDATORY 36 O.S. 1991, Section 3112, is amended to read as follows:

Section 3112. Any person violating any of the provisions of this act for which there is no prescribed penalty shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be~~

~~punished by~~ liable for an administrative violation and subject to a fine of not more than ~~Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00).

SECTION 387. AMENDATORY 36 O.S. 1991, Section 3624.4, is amended to read as follows:

Section 3624.4 ~~A.~~ Any person who has an application pending or who has received medical assistance from the Department of Human Services and files a claim with any insurer for benefits shall at that time advise the insurer of the receipt of or pending application for medical assistance from the Department of Human Services in connection with the same medical expenses. It shall be the duty of the Department of Human Services to notify the applicant for medical assistance of the requirements of this section. Failure of insured to comply with the provisions of this section shall subject the person to criminal prosecution under the appropriate provisions in Title 21 of the Oklahoma Statutes.

~~B. Any person who fails to comply with the provisions of subsection A of this section shall be guilty of a misdemeanor.~~

SECTION 388. AMENDATORY 36 O.S. 1991, Section 3633, is amended to read as follows:

Section 3633. Any insurer or corporation, or any officer or agent thereof, issuing or delivering to any person in this state any policy in ~~willful violation~~ breach of any provision of this Code shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00).

SECTION 389. AMENDATORY 36 O.S. 1991, Section 4511, is amended to read as follows:

Section 4511. A. No employer providing pharmacy services including prescription drugs to any employee or retiree of said employer, as part of a health care program, shall ~~knowingly~~:

1. Require the employee or retiree of said employer to obtain drugs from a mail order pharmacy as a condition of obtaining the employer's payment for such prescription drugs; or

2. Impose upon an employee or retiree of said employer not utilizing a mail order pharmacy designated by the employer a copayment fee or other condition not imposed upon employees or retirees of said employer utilizing the designated mail order pharmacy.

B. The provisions of this section shall not apply to any employer who offers, as a part of a health care program, health insurance coverage to employees or retirees of said employer which provides for reimbursement of an equal portion of the cost to the employee or retiree of said employer for prescription drugs regardless of the supplier provided that the health insurance plan allows the employee or retiree of said employer freedom of choice in determining where the drugs are purchased.

C. Any person ~~violating~~ breaching the provisions of this section~~, upon conviction,~~ shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Each such ~~violation~~ breach shall constitute a separate offense.

SECTION 390. AMENDATORY 36 O.S. 1991, Section 6033, is amended to read as follows:

Section 6033. It shall be ~~unlawful~~ an administrative violation for any person, firm, or corporation to pay or to receive more than fifteen percent (15%) of the price received or paid for the equity security of any insurer as compensation for services, fees or commissions related directly or indirectly to the organization and promotion of the insurer and for the issuance or sale of the equity security of the insurer. In addition to any other penalty which may be applicable thereto, either under the Insurance Code or otherwise, ~~violation~~ breach of this section shall ~~constitute a misdemeanor and~~

~~shall be punishable as such where no greater penalty is provided therefor~~ be an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00). In addition thereto, any person, firm or corporation that pays or receives in excess of the said fifteen percent (15%) for such purposes shall be liable to the insurer for an amount double such excess. Suit to recover such excess may be instituted at law or in equity in any court of competent jurisdiction by the insurer or by the owner of any equity security of the insurer in the name and in behalf of the insurer if the insurer shall fail or refuse to bring such suit within sixty days after request or shall fail diligently to prosecute the same thereafter. If no suit to recover such profit is so filed within six months following the date such profit was realized or accrued or if at any time such suit is not diligently prosecuted, the Insurance Commissioner may file or prosecute such suit for and on behalf of the insurer at the expense of the insurer.

SECTION 391. AMENDATORY 36 O.S. 1991, Section 6125, as amended by Section 3, Chapter 267, O.S.L. 1993 (36 O.S. Supp. 1994, Section 6125), is amended to read as follows:

Section 6125. A. 1. The organization may retain from the first funds collected, the first ten percent (10%) of the purchase price of all contracts issued pursuant to paragraph 1 of subsection B of this section. Thereafter, one hundred percent (100%) of all funds collected pursuant to the provisions of contracts for prepaid funeral benefits, except for outer enclosures as defined by the Funeral Service Licensing Act, shall be placed in interest-bearing investments authorized by Article 16 of the Insurance Code, except to the extent the Insurance Commission may determine that a particular asset may be inappropriate for investment for prepaid funeral benefits.

2. For outer enclosures at the option of the organization the first thirty-five percent (35%) of the retail price of the outer

enclosures collected may be retained by the organization. The remaining sixty-five percent (65%) of the retail price collected for the outer enclosures shall be invested as otherwise provided by this subsection pursuant to the provisions of contracts for prepaid funeral benefits.

3. The funds required to be deposited pursuant to paragraphs 1 and 2 of this subsection shall be deposited within ten (10) days of the end of the calendar month after the collection of said funds and shall be held in a trust fund in this state for the use, benefit, and protection of purchasers of contracts for prepaid funeral benefits. Nothing contained within this section shall be construed to prohibit an organization authorized to accept prepaid funds from transferring the funds held in trust from one trust depository to another if notice of the transfer is given to the Insurance Commissioner within ten (10) days before the transfer. This subsection shall not affect funds invested prior to November 1, 1988.

B. An organization authorized to accept prepaid funds shall be authorized to provide purchasers with a choice of either of the following types of contracts:

1. A contract for specific and described funeral merchandise and service at a guaranteed price. The provisions of this type of contract shall provide that interest paid by the organization upon monies deposited in trust shall be added to the principal and that principal and interest shall become available for disbursement to the organization upon the death of the beneficiary and if withdrawal of monies occurs prior to death, the net value, plus the amount withheld pursuant to paragraph 1 of subsection A of this section, shall be paid to the purchaser. Net value shall be determined as provided in subsection C of this section; or

2. A contract establishing a fund for prepaid funeral benefits. The provisions of this type of contract shall require an initial

minimum deposit of Twenty-five Dollars ($25.00) and shall grant the purchaser the right to add to the fund at his discretion. The provisions of this contract shall provide that the funds accumulated shall apply to the cost of the funeral services and merchandise selected and that any funds remaining unused shall be refunded to the purchaser or to his personal representative or designated beneficiary and if withdrawal of monies occurs prior to death, the organization may retain from the interest, all interest incurred in excess of the minimum amount payable pursuant to subsection D of this section less taxes and administrative fees. This type of contract shall also bear upon it the language: "Exact Funeral Merchandise and Services to be Selected at Time of Death".

C. If an organization other than the organization with which the purchaser contracted provides funeral merchandise and services upon the death of the beneficiary of the contract, the organization with whom the purchaser contracted shall forward, upon receipt of request in writing from the purchaser or his personal representative, the net value of the contract to the organization which provided said merchandise and services or to the purchaser or his personal representative. The net value of the contract for purposes of this section shall be determined by adding the amount of all principal paid in pursuant to the provisions of the contract plus all interest payable pursuant to subsection D of this section less taxes and administrative fees.

D. Funds deposited in trust pursuant to the provisions of either type of contract authorized by the provisions of this section shall earn for the account of the purchaser a rate of interest which is not less than the minimum rate of interest offered by the qualified depositories specified in subsection A of this section to their savings customers having interest-bearing accounts. The organization, in a nondiscriminatory manner, may pay or accrue interest for the accounts of purchasers at any rate greater than the

minimum rate that the organization desires, provided, however, that the organization may retain from the interest, all interest incurred in excess of the minimum amount payable pursuant to this subsection.

E. A purchaser of either of the types of contracts authorized by the provisions of this section may withdraw the net value of the contract by signing a statement requesting the withdrawal. The organization shall provide a copy of the statement to the Insurance Commissioner. The organization shall retain in its files a copy of the statement requesting the withdrawal. Withdrawal of funds deposited pursuant to the provisions of a contract authorized by the provisions of paragraph 1 of subsection B of this section shall void the obligation of the contracting organization to provide funeral merchandise and services at a guaranteed price. Withdrawal forms shall be retained on file for at least three (3) years by the organization.

F. Following the death of a beneficiary for whom a contract has been purchased, the organization shall prepare a statement, acknowledged by the purchaser if the purchaser is not the beneficiary, or by the personal representative of the purchaser if the purchaser is the beneficiary, setting forth the use of the funds deposited and the party to whom any unused funds were disbursed. A copy of this statement shall remain in the files of the organization for at least three (3) years and a copy shall be delivered to the trust depository. Copies of the statement shall also be sent to the Insurance Commissioner and the purchaser.

G. After thirty (30) days, a contract of either type authorized by the provisions of this section may become irrevocable and not subject to withdrawal prior to the death of the beneficiary if the purchaser signs an election making said contract irrevocable. This election shall not become effective until thirty (30) days after signing the original contract.

H. In no event shall more funds be withdrawn or paid pursuant to the provisions of one contract than were deposited with the organization and which were accumulated as interest. All funds deposited pursuant to the provisions of a contract authorized by the provisions of this section and deposited pursuant to the terms of this section and the interest earned on said funds shall be exempt from attachment, garnishment, execution, and the claims of creditors, receivers, or trustees in bankruptcy, until such time as the funds have been withdrawn from the trust account and paid to the organization or refunded to the purchaser.

I. Each organization subject to the provisions of this section shall furnish a bond in the form of a cash bond, letter of credit, or fidelity bond, to be approved by the Insurance Commissioner, in the amount of Three Hundred Thousand Dollars ($300,000.00) or fifteen percent (15%) of all funds collected for prepaid funeral benefits, whichever is less.

J. Organizations contracting with purchasers for prepaid funeral benefits pursuant to paragraphs 1 and 2 of subsection B of this section shall be entitled to deduct from the principal and interest allocable to the contracts an administrative fee which shall not exceed the product of .001146 times the total contract fund including accrued interest per month or any major portion thereof.

K. No organization holding a permit issued pursuant to the provisions of Sections 6121 and 6124 of this title shall accept any funds except pursuant to the provisions of a contract for prepaid funeral or burial benefits authorized by the provisions of Sections 6121 through 6136 of this title, and no organization shall accept funds from a purchaser in excess of the contracted price of prepaid funeral or burial benefits purchased.

L. Any organization which ~~knowingly~~ commits any of the acts set forth in the first sentence of Section 6121 of this title without

first having obtained a permit to engage in said activity from the Insurance Commissioner, or any organization which commits said acts while ~~knowingly~~ operating with an invalid or expired permit, ~~upon conviction, shall be guilty of a misdemeanor~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Each separate act performed without a valid permit shall be deemed a separate offense. ~~The punishment upon conviction for such offense shall be a fine not to exceed One Thousand Dollars ($1,000.00) or imprisonment in the county jail for not less than sixty (60) days nor more than one (1) year, or both such fine and imprisonment.~~

SECTION 392. AMENDATORY 36 O.S. 1991, Section 6125.2, is amended to read as follows:

Section 6125.2 A. Contracts for prepaid funeral benefits provided for pursuant to Section 6125 of Title 36 of the Oklahoma Statutes may be funded by assignments of life insurance proceeds to the contracting organization.

B. A contract for prepaid funeral benefits provided for pursuant to paragraph 1 of subsection B of Section 6125 of Title 36 of the Oklahoma Statutes which is to be funded by assignment of life insurance proceeds shall provide that:

1. The contract be funded by a life insurance policy issued in the face amount of the current purchase price of the contract for prepaid funeral benefits;

2. All accrued benefits under the policy shall become available for disbursement to the organization upon the death of the recipient under the contract;

3. The recipient shall be the same individual under the contract as the insured under the life insurance policy; and

4. The disbursement of life insurance proceeds to the organization shall constitute payment in full to the organization for the services and merchandise contracted for.

C. A contract for prepaid funeral benefits provided for pursuant to paragraph 2 of subsection B of Section 6125 of Title 36 of the Oklahoma Statutes which is to be funded by assignment of life insurance proceeds shall provide that:

1. The total proceeds paid to the organization under the policy shall not exceed the actual cost of the funeral services and merchandise at the time of delivery; and

2. Any funds remaining unused shall be refunded to the purchaser or to his personal representative or designated beneficiary.

D. A ~~violation~~ breach of this section shall ~~constitute a misdemeanor and shall be punished by~~ be an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than ~~Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not less than one (1) month nor more than six (6) months, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00).

SECTION 393. AMENDATORY 36 O.S. 1991, Section 6126, is amended to read as follows:

Section 6126. Each organization subject to the act shall designate an agent or agents, either by names of the individuals or by titles of their offices or positions, who shall be responsible for deposits of funds collected under contract for prepaid funeral benefits. The organization shall notify the Insurance Commissioner of such designation within ten (10) days after it becomes subject to this act, and shall also notify the Insurance Commissioner of any changes in such designation within ten (10) days after such change occurs. If any person acting on behalf of the seller collects any money under such a contract and fails to deliver it within ten (10) days after collection to a designated agent, or if any designated agent fails to deposit the money within ten (10) days after he receives it, he shall be ~~guilty of a misdemeanor and shall be~~

~~punished as prescribed in Section 10 of this act~~ liable for an administrative violation and subject to fines and or revocation as prescribed in Section 6130 of this title.

SECTION 394. AMENDATORY 36 O.S. 1991, Section 6128, is amended to read as follows:

Section 6128. Each organization shall file an annual report with the Insurance Commissioner on or before March 15 of each year in such form as the Insurance Commissioner may require, showing the names and addresses of all persons with whom contracts for prepaid funeral benefits have been made prior to December 31 of the preceding year which had not been fully discharged on December 31 and, also showing the date of the contract, the name of the bank or depository holding the trust fund and the amount of the trust fund under each contract on the preceding December 31. Any organization which has discontinued the sale of prepaid funeral benefits, but which still has outstanding contracts, shall not be required to obtain a renewal of its permit, but it shall continue to make annual reports to the Insurance Commissioner until all such contracts have been fully discharged. A filing fee of Fifty Dollars ($50.00) shall accompany each report. If any officer of any organization fails or refuses to file an annual report, or to cause it to be filed within thirty (30) days after he has been notified by the Insurance Commissioner that the report is due and has not been received, he shall be ~~guilty of a misdemeanor and shall be punished as prescribed in Section 6130 of this title~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 395. AMENDATORY 36 O.S. 1991, Section 6129, as amended by Section 4, Chapter 267, O.S.L. 1993 (36 O.S. Supp. 1994, Section 6129), is amended to read as follows:

Section 6129. Each organization which has outstanding contracts for prepaid funeral benefits shall maintain within this state such

records as the Insurance Commissioner may require to enable the Insurance Commissioner to determine whether the organization is complying with the provisions of Sections 6121 through 6136 of this title. Each organization shall provide to the Insurance Commissioner an annual statement of the financial condition of funds collected pursuant to contracts for prepaid funeral benefits. The statement shall be due by the fifteenth day of March of each year and shall reflect, at a minimum, the assets and liabilities of each prepaid funeral benefits fund and the location and status of all trust funds for prepaid funeral benefits as of the last day of December of the preceding year. Failure to file an annual statement by the date required may result in censure, or suspension or revocation of license, and the violator shall be liable for an administrative ~~penalty imposed by the Insurance Commissioner of from One Hundred Dollars ($100.00) to~~ violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each occurrence.

SECTION 396. AMENDATORY 36 O.S. 1991, Section 6130, is amended to read as follows:

Section 6130. ~~A. Any officer, director, agent, or employee of any organization subject to the terms of Sections 6121 through 6136 of this title who makes or attempts to make any contract in violation of the provisions of Sections 6121 through 6136 of this title, or who refuses to allow an inspection of the records of said organization, or who violates any other provision of Sections 6121 through 6136 of this title, upon conviction, shall be punished by a fine of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not less than one (1) month and not more than six (6) months, or by both such fine and imprisonment. Each violation of any provision of Sections 6121 through 6136 of this title shall be deemed a separate offense and prosecuted individually.~~

~~B.~~ The ~~violation~~ breach of any provision of Sections 6121 through 6136 of this title shall constitute a cause for the Oklahoma State Board of Embalmers and Funeral Directors to revoke, or to refuse to issue or renew, any license issued pursuant to the provisions of Sections 396 through 396.26 of Title 59 of the Oklahoma Statutes. The ~~violation~~ breach of any provision of Sections 6121 through 6136 of this title shall constitute a cause for the Insurance Commissioner to issue a notice and order to show cause why the licensee shall not be censured, have his license suspended or revoked, be subject to a fine of not ~~less than One Hundred Dollars ($100.00) and not~~ more than One Thousand Dollars ($1,000.00), or be subject to both such fine and punishment.

SECTION 397. AMENDATORY 36 O.S. 1991, Section 6131, is amended to read as follows:

Section 6131. Any person who deals with the disposal or burial of deceased persons who ~~willfully~~ misquotes requirements of state law regarding such shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 398. AMENDATORY 36 O.S. 1991, Section 6204, is amended to read as follows:

Section 6204. A. No person shall act or hold himself out as an adjuster in this state unless he is a licensed adjuster in this state. However, one who is undergoing training as an adjuster pursuant to the direction and supervision of a licensed adjuster may act as an adjuster without having an adjuster's license for a period not exceeding twelve (12) months for classes of business set forth in the provisions of Section 6209 of this title, if at the beginning of such training period the name of said trainee has been registered as a trainee with the Commissioner.

B. Any person who ~~violates~~ breaches the provisions of this section shall be ~~guilty of a misdemeanor and, upon conviction, shall~~

~~be punished by~~ liable for an administrative violation and subject to a fine of not more than ~~Five Hundred Dollars ($500.00) or by confinement in the county jail for not more than six (6) months, or by both said fine and confinement~~ One Thousand Dollars ($1,000.00).

SECTION 399. AMENDATORY 36 O.S. 1991, Section 6220, is amended to read as follows:

Section 6220. A. The Commissioner may censure, suspend, revoke, or refuse to issue a renewal license after hearing for any of the following causes:

1. Material misrepresentation or fraud in obtaining an adjuster's license; or

2. Any cause for which original issuance of a license could have been refused; or

3. Misappropriation, conversion to the personal use of the licensee, or illegal withholding of monies required to be held by the licensee in a fiduciary capacity; or

4. Material misrepresentation of the terms and effect of any insurance contract, with intent to deceive, or engaging in, or attempting to engage in, any fraudulent transaction with respect to a claim or loss that the licensee or the trainee is adjusting and, in the case of a public adjuster, misrepresentation of the services offered or the fees or commission to be charged; or

5. Conviction of or pleading guilty or nolo contendere to a felony pursuant to the laws of this state, any other state, the United States, or any foreign country; or

6. If in the conduct of business affairs, the licensee or trainee has shown himself to be, and is so deemed by the Commissioner, incompetent, untrustworthy or a source of injury to the public; or

7. Refusal to comply with any lawful order of the Commissioner; or

8. Violation of any provision of the Insurance Adjusters Licensing Act; or

9. Adjusting losses or negotiating claim settlements arising pursuant to provisions of insurance contracts on behalf of an insurer without proper licensing or authority from the licensed insurer.

B. In addition to or in lieu of any applicable denial, suspension, or revocation of a license, any person ~~violating~~ breaching the provisions of this section ~~may~~ shall be subject to an administrative violation and subject to a ~~civil~~ fine of not more than One Thousand Dollars ($1,000.00) for each ~~violation~~ breach. ~~This fine may be enforced in the same manner in which civil judgment may be enforced.~~

C. If the license of an adjuster is suspended, revoked, or not renewed, the licensee shall surrender said license to the Commissioner.

D. The Commissioner shall not reinstate a license to any person whose license has been suspended, revoked, or refused renewal until the Commissioner determines that the cause or causes for the suspension, revocation, or nonrenewal of said license no longer exist.

SECTION 400. AMENDATORY 36 O.S. 1991, Section 6306, is amended to read as follows:

Section 6306. Any insurer who ~~intentionally or knowingly~~ refuses to release, provide or hold in confidence any information required by this act to be released, provided, or held in confidence is ~~guilty of a misdemeanor, and upon conviction shall be punished by~~ liable for an administrative violation and subject to a fine of not ~~to exceed~~ more than One Thousand Dollars ($1,000.00).

SECTION 401. AMENDATORY 36 O.S. 1991, Section 6403, is amended to read as follows:

Section 6403. Failure of any insurer to comply with this act may subject the insurer at the discretion of the Commissioner, after notice and hearing, to penalties of censure, suspension or revocation of certification of authority or ~~a~~ an administrative violation and fine of ~~up to~~ not more than Five Thousand Dollars ($5,000.00) for each occurrence or by both such fine and censure, suspension or revocation of certificate.

SECTION 402. AMENDATORY 36 O.S. 1991, Section 6422, is amended to read as follows:

Section 6422. Members of the Market Assistance Association, whether a voluntary or statutory program, shall be required to participate in all assessments and writings of the Association. Failure to participate shall, after notice and hearing before the Insurance Commissioner, result in a censure, suspension or revocation of certificate of authority or ~~a~~ an administrative violation and fine ~~up to~~ of not more than Five Thousand Dollars ($5,000.00) for each occurrence or by both such fine and censure, suspension or revocation of certificate of authority.

SECTION 403. AMENDATORY 36 O.S. 1991, Section 6461, is amended to read as follows:

Section 6461. A. A risk retention group which violates any provision of the Oklahoma Risk Retention Act shall be subject to fines and penalties applicable to licensed insurers generally, including but not limited to revocation of license and the authority to transact insurance business in this state.

B. A risk retention group doing business in this state that is not licensed pursuant to the Oklahoma Risk Retention Act shall be considered an unauthorized insurer and shall be subject to the provisions of applicable sections of the Insurance Code pertaining to unauthorized insurers.

C. A purchasing group that is registered pursuant to the Oklahoma Risk Retention Act and which violates any provision of said

act shall be subject to an administrative violation and subject to a fine of ~~up to~~ not more than One Thousand Dollars ($1,000.00) and censure, suspension, or revocation of license or by both such fine and licensure proceedings~~, after notice and hearing~~.

D. A purchasing group doing business in this state which is not registered shall be considered an unauthorized insurer and subject to the provisions of applicable sections of the Insurance Code pertaining to unauthorized insurers.

SECTION 404. AMENDATORY Section 13, Chapter 108, O.S.L. 1993 (36 O.S. Supp. 1994, Section 6613), is amended to read as follows:

Section 6613. If the Insurance Commissioner finds that one or more grounds exist for the discretionary revocation or suspension of a certificate of authority issued under the Service Warranty Insurance Act, the Commissioner may, in lieu of such suspension or revocation, subject the violator to an administrative violation and impose a fine upon the insurer or service warranty association in an amount not to exceed One Thousand Dollars ($1,000.00) per violation; however, if it is found that an insurer or service warranty association has ~~knowingly and willfully~~ violated a lawful rule or order of the Commissioner or any provision of the Service Warranty Insurance Act, the Commissioner may impose a fine upon the insurer or association in an amount not to exceed Ten Thousand Dollars ($10,000.00) for each such administrative violation.

SECTION 405. AMENDATORY Section 15, Chapter 108, O.S.L. 1993 (36 O.S. Supp. 1994, Section 6615), is amended to read as follows:

Section 6615. A. In addition to the license fees provided in the Service Warranty Insurance Act for service warranty associations each such association and insurer shall, annually on or before the last day of February, file with the Insurance Commissioner its annual statement in the form prescribed by the Commissioner showing

all premiums or assessments received by it in connection with the issuance of service warranties in this state during the preceding calendar year and other relevant financial information as deemed necessary by the Commissioner, using accounting principles which will enable the Commissioner to ascertain whether the financial requirements set forth in Section ~~7~~ 6607 of this ~~act~~ title have been satisfied.

B. The Commissioner may ~~levy~~ subject a violator to an administrative violation and impose a fine of up to One Hundred Dollars ($100.00) a day for each day an association neglects to file the annual statement in the form and within the time provided by the Service Warranty Insurance Act.

C. In addition to an annual statement, the Commissioner may require of licensees, under oath and in the form prescribed by it, quarterly statements or special reports which the Commissioner deems necessary for the proper supervision of licensees under the Service Warranty Insurance Act.

D. Premiums and assessments received by associations and insurers for service warranties shall not be subject to the premium tax provided for in Section 624 of Title 36 of the Oklahoma Statutes, but shall be subject to an administrative fee of Two Dollars ($2.00) for each service warranty issued that provides coverage not to exceed Seventy-five Dollars ($75.00), Five Dollars ($5.00) for each service warranty issued that provides coverage in excess of Seventy-five Dollars ($75.00) but not to exceed Two Hundred Fifty Dollars ($250.00), and Ten Dollars ($10.00) for each service warranty that provides coverage in excess of Two Hundred Fifty Dollars ($250.00). Said fees shall be paid quarterly to the Insurance Commissioner. All such fees, up to a maximum of Two Hundred Seventy-five Thousand Dollars ($275,000.00) per year, received by the Insurance Commissioner shall be deposited into the State Treasury to the credit of the Insurance Commissioner Revolving

Fund for the payment of costs incurred by the Insurance Department in the administration of the Service Warranty Insurance Act. Amounts received in excess of the annual limitation shall be deposited to the credit of the General Revenue Fund.

SECTION 406. AMENDATORY Section 21, Chapter 108, O.S.L. 1993 (36 O.S. Supp. 1994, Section 6621), is amended to read as follows:

Section 6621. A. All funds belonging to insurers, service warranty associations, or others received by a sales representative in transactions under his registration are trust funds so received by such agent in a fiduciary capacity; and the agent, in the applicable regular course of business, shall account for and pay such funds to the insurer, association, warranty holder, or other person entitled thereto.

B. Any sales representative who, not being entitled thereto, diverts or appropriates such funds or any portion thereof to his own use ~~is guilty of embezzlement~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 407. AMENDATORY Section 26, Chapter 108, O.S.L. 1993 (36 O.S. Supp. 1994, Section 6626), is amended to read as follows:

Section 6626. A. If, pursuant to procedures provided for in the Service Warranty Insurance Act, it is found that one or more grounds exist for the suspension, revocation, or refusal to renew or continue any registration issued under the Service Warranty Insurance Act, on a first ~~offense~~ violation and except when such suspension, revocation, or refusal is mandatory, an order may be entered imposing upon the registrant, in lieu of such suspension, revocation, or refusal, an administrative ~~penalty for each violation in the amount~~ fine of ~~One Hundred Dollars ($100.00), or in the event of willful misconduct or willful violation on the part of the registrant, an administrative fine not to exceed One Thousand~~

~~Dollars ($1,000.00) for each violation~~ not more than One Thousand Dollars ($1,000.00). The administrative ~~penalty~~ fine may be augmented by an amount equal to any commissions received by or accruing to the credit of the registrant in connection with any transaction to which the grounds for suspension, revocation, or refusal are related.

B. The order may allow the registrant a reasonable period, not to exceed thirty (30) days, within which to pay to the Insurance Commissioner the amount of the ~~penalty~~ fine so imposed. If the registrant fails to pay the ~~penalty~~ fine in its entirety to the Commissioner within the period allowed, the registration of the registrant shall stand suspended or revoked or renewal or continuation may be refused, as the case may be, upon expiration of such period and without any further proceedings.

SECTION 408. AMENDATORY Section 30, Chapter 108, O.S.L. 1993 (36 O.S. Supp. 1994, Section 6630), is amended to read as follows:

Section 6630. Except as otherwise provided in the Service Warranty Insurance Act, any person who ~~knowingly~~ makes a false ~~or otherwise fraudulent~~ application for license or registration, or who ~~knowingly~~ violates any provision of the Service Warranty Insurance Act, in addition to being subject to any applicable denial, suspension, revocation, or refusal to renew or continue any license or registration, shall be ~~subject to criminal prosecution and if convicted shall be guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Each instance of violation shall be considered a separate offense.

SECTION 409. AMENDATORY 37 O.S. 1991, Section 163.7, as last amended by Section 1, Chapter 258, O.S.L. 1994 (37 O.S. Supp. 1994, Section 163.7), is amended to read as follows:

Section 163.7 In addition to the excise tax payable under this act, and in addition to the license required to be procured from the judge of the district court, the following permits shall be required and the following annual license taxes shall be payable to the Oklahoma Tax Commission with respect to nonintoxicating beverages:

1. Manufacturers: Every manufacturer, located and doing business in this state, shall, before commencing the manufacture of nonintoxicating beverages, obtain from the Oklahoma Tax Commission a permit to engage in such manufacture. As a condition of the issuance of this permit such manufacturer shall pay to the Tax Commission a license tax of Five Hundred Dollars ($500.00), which shall cover a one-year period commencing with the effective date of such permit. This permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period. Each and every other manufacturer of such beverages, coming within the provisions of this act, shall before selling or offering for sale such beverages within the State of Oklahoma, qualify with the Secretary of State of the State of Oklahoma for a permit to do business within the State of Oklahoma and, after so qualifying, shall obtain a permit or license from the Oklahoma Tax Commission and, in addition to any other license, taxes or fees, pay therefor a license tax of Five Hundred Dollars ($500.00), which shall cover a one-year period commencing with the effective date of such permit. The said permit or license shall be for the privilege of doing business in Oklahoma as a manufacturer of nonintoxicating beverages. The permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period. The receipt of payment of such permit or license shall be on file with the Oklahoma Tax Commission before such manufacturer shall sell, or offer for sale, such beverages to any person within the State of Oklahoma.

Every manufacturer, located and doing business outside the State of Oklahoma, desiring to pay the excise tax on sales to retail dealers, as provided for in this act, shall procure annually a permit and pay annually the license tax required of wholesalers, as provided for under this section. The payment of such fee shall be in addition to the payment of the license fee or tax in the sum of Five Hundred Dollars ($500.00) as provided herein;

2. Wholesalers: Every wholesaler, located and doing business in this state, must annually obtain from the Oklahoma Tax Commission a permit to sell nonintoxicating beverages. As a condition of the issuance of this permit such wholesaler shall pay to the Tax Commission a license fee of Two Hundred Fifty Dollars ($250.00) which shall cover a one-year period commencing with the effective date of such permit. The permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period.

Every wholesaler, located and doing business outside the state desiring to pay the excise tax on sales to retail dealers, as provided for in this act, shall procure annually a permit and pay annually the license tax required of wholesalers located and doing business in this state.

Wholesalers within this state shall be required to secure an annual permit and must pay an annual license tax for each city or incorporated town from which deliveries of nonintoxicating beverages are made to retail dealers.

Permits issued to wholesalers shall not be transferable from one person to another person but shall be transferable from one location to another location; and

3. Retail Dealers: Every retail dealer shall, before offering nonintoxicating beverages for sale to the public, obtain from the Oklahoma Tax Commission a permit to engage in such sales, and shall

pay to the Oklahoma Tax Commission, in advance of the issuance of said permit, the license tax, as follows:

a. each retail dealer who sells nonintoxicating beverages, on draught and in original packages, for consumption on or off the premises, shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of Three Hundred Dollars ($300.00),

b. each retail dealer who sells such beverages in original packages only for consumption on or off the premises shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of One Hundred Fifty Dollars ($150.00),

c. each retail dealer who sells nonintoxicating beverages purchased from a licensed manufacturer or licensed wholesaler for consumption on or off the premises and who sells nonintoxicating beverages manufactured by said retail dealer for consumption on the premises shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license fee of Four Hundred Fifty Dollars ($450.00). Provided, a retail dealer licensed pursuant to this subparagraph shall not manufacture more than five thousand (5,000) barrels of nonintoxicating beverages per year,

d. special licenses, as provided, may be issued for the sum of Five Dollars ($5.00) per day for each license; provided, that in the event any state or county fair association shall meet for more than five (5) days in any year, a special license for the sale of such beverages shall be issued for the sum of Twenty-five Dollars ($25.00),

e. each retail dealer who sells such beverages in original packages and not for consumption on the premises, shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of Thirty Dollars ($30.00). It shall be ~~unlawful~~ a civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00) for such ~~off-premise~~ off-premises dealer to allow any bottle, can, or original package to be broken or opened, or to allow any of such nonintoxicating beverage to be consumed, in or upon the premises described in such permit,

f. a permit issued prior to the effective date of this act shall be valid until it expires. Upon expiration of such permit, the retail dealer to whom such permit was issued may obtain a renewal permit which shall be valid for three (3) years or until expiration of the dealer's sales tax permit, whichever is earlier, after which a renewal permit shall be valid for three (3) years. The manner and prorated fee for renewals of less than three (3) years shall be prescribed by the Oklahoma Tax Commission, and

g. a retail dealer who has obtained a permit pursuant to this paragraph and who ceases to offer nonintoxicating beverages for sale to the public shall be entitled to receive a refund of the permit fee from the Oklahoma Tax Commission prorated with respect to the amount of time remaining until expiration of the permit. The manner and prorated refund shall be prescribed by the Oklahoma Tax Commission.

SECTION 410. AMENDATORY 37 O.S. 1991, Section 163.9, is amended to read as follows:

Section 163.9 Any person who operates as a retail nonintoxicating beverage dealer at any time, without having applied to the Commission for an effective permit, may be required to secure a permit and pay the license tax for the balance of the license year from the date on which he began operating, and in this event, shall be required to pay fifty cents ($0.50) for each day which he operated before applying for a license; provided the first fifteen (15) days of such delinquency shall be exempt from the fifty-cent-per-day penalty, and provided the total penalty shall not exceed the amount of the license fee for the license which is required. Provided, further, that the said fifty-cent-per-day penalty shall apply likewise to an original applicant and the applicant for a renewal permit and, provided, further, the total penalty shall not exceed the amount of the license fee for the license which is required in case where license is ultimately issued. Any person who operates as such dealer who has applied for a permit but which said permit is ultimately rejected by the Oklahoma Tax Commission, shall each be liable to the Oklahoma Tax Commission for One Dollar ($1.00) per day for each day of such unauthorized operation, said penalty to be paid on demand of the Oklahoma Tax Commission, and in case of an operator who has applied for a permit, but has been refused, the amount or so much thereof as is necessary of the advanced license fee paid by such applicant, shall be retained by the Oklahoma Tax Commission and applied on the penalty, the remainder of said penalty, if any, to be collected as in case of delinquent tax. In case the penalty is not equal to the amount of money deposited in advance, then the balance shall be refunded to the applicant. Any person violating this section is subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 411. AMENDATORY 37 O.S. 1991, Section 163.11, as last amended by Section 3, Chapter 258, O.S.L. 1994 (37 O.S. Supp. 1994, Section 163.11), is amended to read as follows:

Section 163.11 A. It shall be unlawful for any person, or persons, to maintain or operate any place where nonintoxicating beverages, as herein defined, are sold for consumption on or off the premises without first securing a permit issued by the district court clerk in and for the county wherein such premises are located. A person violating this provision is subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. The person applying for such permit must make a showing every three (3) years, and must satisfy the district court clerk that he or she is a person of good moral character; that he or she has never been convicted of violating any of the laws prohibiting the traffic in any spirituous, vinous, fermented or malt liquors, or of any of the gambling laws of the state, or any other state of the United States, within three (3) years immediately preceding the date of his or her petition, or any of the laws commonly called "Prohibition Laws", or had any permit or license to sell nonintoxicating liquors revoked in any county of this state within twelve (12) months; and that, at the time of his or her petition for a license, he or she is not the holder of a retail liquor dealer's permit or license from the United States government to engage in the sale of intoxicating liquor. Nor shall any permit be issued to sell nonintoxicating beverages in any place, location or address, for which there is outstanding license or permit from the United States government.

C. No permit shall be issued to sell nonintoxicating beverages for on-premises consumption unless the person applying for such permit shall have signed an affidavit stating that the location of the building in which nonintoxicating beverages are to be sold is not prohibited by the provisions of Section 163.24 of this title.

D. A fee of Thirty Dollars ($30.00) shall be charged for the issuance or renewal of such three-year permit, which fee shall be

deposited in the county court fund, in addition to other fees required by law.

E. Upon petition being filed, the district court clerk shall give fifteen (15) days' notice for an initial application, and it is the applicant's responsibility to cause the same to be posted by the entrance on the front of the building in which said nonintoxicating beverages are to be sold and to file proof of posting in such case; and a copy of said notice shall also be mailed to the district attorney, the sheriff and the chief of police or marshal of any city or town in which said business is to be operated. Said notice shall contain the name of the applicant and the location of said place of business. The initial permit shall be valid for a period of three (3) years and shall expire if not renewed prior thereto with proper showing required by subsection B of this section, and upon payment of proper fees. Provided, however, that if a proper application under subsection B of this section is filed within ten (10) days after the expiration date of the permit, upon payment of a fee of Fifty Dollars ($50.00) in addition to the initial permit fee, the court clerk is authorized to treat said application as one for renewal and to issue a renewal permit to the applicant, if all requirements have otherwise been met by the applicant. A renewal permit granted during the ten-day grace period shall become effective upon the date of its issuance by the court clerk.

F. A permit issued prior to the effective date of this act shall be valid until it expires and shall be renewed for a period of three (3) years or until expiration of the sales tax permit issued by the Oklahoma Tax Commission, if any, held by the person at the time of such renewal, whichever is earlier. The manner and prorated fee for renewals of less than three (3) years shall be prescribed by the court clerk.

G. A person who has obtained a permit pursuant to this section and who ceases to maintain or operate any place where

nonintoxicating beverages are sold for consumption on or off the premises shall be entitled to receive a refund of the permit fee from the district court clerk prorated with respect to the amount of time remaining until expiration of the permit. The manner and prorated refund shall be prescribed by the Administrative Director of the Courts.

H. If there are no protests and the petition is sufficient on its face, then said permit shall be granted by the district court clerk. Provided, that if any citizen of the county files a written protest setting forth objections, then the district court clerk shall advise the chief judge who shall assign such petition to a district judge or associate district judge for hearing.

I. The application for such permit must be verified and in writing, contain the information above required, and must be set for hearing on a date named in the notice required to be posted.

J. All testimony before the district court shall be under oath.

K. A judge of the district court, upon five (5) days' notice to the person holding such permit, shall revoke such permit for any one of the following reasons:

1. Drunkenness of the person holding such permit or permitting any intoxicated person to loiter in or around his or her place of business;

2. Person under the influence of drugs holding such permit or permitting any drugged person to loiter in or around his or her place of business;

3. The sale to any person under twenty-one (21) years of age of nonintoxicating beverages for consumption on the premises;

4. Permitting persons under the age of twenty-one (21) in a separate or enclosed bar area which has as its main purpose the selling or serving of nonintoxicating beverages for consumption on the premises unless said person's parent or legal guardian is

present, in violation of the provisions of Sections 241 through 246 of this title;

5. Nonpayment of any of the taxes or license fees imposed by the provisions of this act on complaint of the Oklahoma Tax Commission;

6. Violating any of the laws of the state commonly called "Prohibition Laws" or violating any of the gambling laws of the state or permitting anyone to violate any of said laws in such places or violating any of the provisions of this act;

7. Conviction for the violation of any of the laws of this state or the United States for the sale or possession of intoxicating liquors within three (3) years immediately preceding the issuance of such dealer's license;

8. Proof that the operator has in his or her possession or on the premises in which said business is being operated, a federal excise or occupational tax stamp or receipt, designating such person or premises as the person or place for dealing in liquor or evidencing the payment of a tax for being a dealer in such liquor; or

9. Violating any law pertaining to the use, possession, or sale of drugs or narcotics or the violation of the narcotics laws of the State of Oklahoma or the United States.

L. After the revocation of any such permit, for any of the above reasons, except paragraph 5 of subsection K of this section for nonpayment of taxes, or license fees, no new permit shall be issued to the same person for the same location or premises prior to the expiration of a period of one (1) year from the date of such revocation.

M. On or before the tenth day of each month each district court clerk shall file with the Oklahoma Tax Commission, on forms prescribed and furnished by the Commission, a report showing the name, address, and county permit number of each such person to whom

a county permit has been issued or whose permit has been revoked, or who shall have been refused a county permit, during the previous calendar month. In case of the revocation of a permit by a judge of the district court, the district court clerk shall within five (5) days report such action to the Oklahoma Tax Commission. If county permits shall have been issued, revoked or refused during the month, the district court clerk shall make a report accordingly to the Commission.

SECTION 412. AMENDATORY 37 O.S. 1991, Section 163.15, is amended to read as follows:

Section 163.15 It shall be ~~unlawful~~ a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) for any manufacturer, wholesaler or retail dealer of nonintoxicating beverage, as herein defined, who has in his possession, displays or exhibits for sale, sells or transports or causes to be transported, within this state, any nonintoxicating beverages as herein defined, in violation of any of the provisions of this act or any other law of the state relating to the sale of such nonintoxicating beverages; and all such nonintoxicating beverages found in the possession of any such person shall be subject to confiscation and destruction in an action brought in the name of the State of Oklahoma, on relation of district attorney of the county in which said place of business is operated, or in which said nonintoxicating beverage is found, in the same manner as liquors purchased in violation of laws of the state relating to the purchase, transportation or sale of intoxicating liquors, and the procedure therein provided shall be followed, as nearly as may be practicable, by the district attorney in the enforcement of the provisions of this act.

The State of Oklahoma on relation of the district attorney, is hereby authorized to institute legal action, in any court of competent jurisdiction, against the owner or operator of any automobile, truck or other means of transportation of any

nonintoxicating beverages, as herein defined, who may be in violation of any of the laws of the state relating to the transportation of such beverages, or the identification of such trucks or other means of transportation, or the provisions relating to invoices; and such legal proceedings shall subject any such automobile, truck or other means of transportation so used to confiscation and sale, according to the same procedure now provided by the laws of the State of Oklahoma for sale of vehicles used in ~~violation~~ breach of such laws prohibiting the possession, transportation or sale of intoxicating liquors.

It shall be the duty of the district attorneys of the respective counties of the state to enforce the provisions of this section, and authority is hereby conferred upon said district attorneys to maintain any suit necessary therefor, in the name of the State of Oklahoma on relation of such district attorneys.

SECTION 413. AMENDATORY 37 O.S. 1991, Section 163.18, is amended to read as follows:

Section 163.18 (a) Every wholesaler of nonintoxicating beverages, as defined by this act, whether acting for himself or for some other person, who sells such beverages for transportation by railroad or other common carrier, or truck or other vehicle, for transportation from any point within this state to any other point within this state for delivery to a duly licensed retail dealer, shall deliver to such purchaser of the same an invoice covering each purchase, which invoice shall accurately describe the cargo as to quantity, and shall show the date of sale or delivery, the name, location and Tax Commission number of the wholesaler, the name, location and Tax Commission number of the purchaser, the quantity and description of the cargo, the amount of tax thereon and by whom paid. Every invoice must be identified by consecutive numbers printed on the invoices and every wholesaler must account for each copy of the invoice and each number thereof. Every wholesaler must

retain one copy of each invoice as a part of the permanent records of such wholesaler for a period of at least three (3) years.

(b) Every person who purchases or receives nonintoxicating beverages, as defined herein, within this state, and transports the same, or causes the same to be transported, from any point within this state to any other point within this state, by railroad or other common carrier, or by truck or other vehicle, must, at all times, while such beverages are in transit, have in his possession or in the possession of the carrier or deliverer thereon, an invoice of the load being transported, properly describing the cargo as to quantity, and showing the amount of tax thereon to have been paid, and by whom paid. Such person must retain each invoice at the location for which the nonintoxicating beverage permit was issued and such invoices must be retained by the retail dealer as a part of his permanent records for a period of at least three (3) years.

(c) Every person who shall purchase, accept or receive, for himself or any other person, any such nonintoxicating beverages, shall, at the time of delivery or acceptance of such beverages, demand and receive the statement or invoice mentioned in the preceding paragraphs of this section.

(d) Each and every truck or other vehicle or conveyance used in this transportation of nonintoxicating beverages, as defined by this act, on or over the roads and highways in this state, (except common carrier in the state, and carriers in interstate commerce, and purchasers at retail as defined in subsection "h" hereof) must have painted on both front and rear ends of each vehicle, in a conspicuous position, where it may easily be seen and read, in letters and figures at least four (4) inches high, the wholesaler's or retail dealer's license number, preceded by the initials "O.T.C. Bev.". If a trailer unit is attached, the foregoing initials and number must be painted on the rear end of the last unit.

(e) If any wholesaler or retail dealer, as hereinabove described, causes to be transported, as hereinabove stated, any such nonintoxicating beverages, or any private carrier or other person employed by such wholesaler or retail dealer, such private carrier or other person shall place upon his truck or the conveyance used, the license number and "O.T.C. Bev." marking of such wholesaler or retail dealer, as hereinabove provided, which provisions, and the provisions relating to invoices, shall apply to such private carrier or other person, who, for the purposes of this act, shall be the agent of such wholesaler or retail dealer.

(f) Any person or persons ~~violating~~ breaching any of the provisions of the foregoing paragraphs (a), (b), (c), (d), or (e) of this section shall be ~~guilty of a misdemeanor and upon conviction shall be punished by~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00)~~, or by a term in jail of not exceeding one (1) year, or by both such fine and imprisonment~~. The venue for any prosecution arising under this section shall be in the district court of any county in which any of said ~~crimes~~ breaches are committed.

(g) Any person within the State of Oklahoma, while acting for himself or who aids or abets any other person, in purchasing, selling, transporting, delivering or using, any nonintoxicating beverages, as defined in this act, within the State of Oklahoma, ~~with the intent and purpose of evading or avoiding the payment of the tax on such beverage imposed by law of the state, shall be guilty of a misdemeanor, and upon conviction shall be punished therefor as provided in paragraph (f) of this section~~ who fails to file the necessary reports or returns as required by the Oklahoma Tax Commission shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

(h) The provisions of the foregoing section, relating to the marking of trucks or other vehicles conveying such nonintoxicating

beverages, shall not be construed to apply to manufacturers or wholesalers delivering beverages from without the state to points within the state, nor to common carriers engaged in shipping such beverages in, into or through the state, in interstate commerce, nor to a purchaser at retail of nonintoxicating beverages upon which the tax has been paid.

(i) Common carriers transporting nonintoxicating beverages, as defined by law, to points within the State of Oklahoma, shall furnish monthly reports to the Tax Commission showing the point of origin, the consignor, consignee, the date, and the amount of each shipment or consignment of such beverages so transported. Failure of any common carrier to comply with this provision shall be ~~deemed a misdemeanor, and upon conviction thereof shall be punished for a misdemeanor as provided for under the general statutes of this state~~ a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 414. AMENDATORY 37 O.S. 1991, Section 163.19, is amended to read as follows:

Section 163.19 (a) No nonintoxicating beverage, as herein defined, may be sold by any licensed wholesaler or retail dealer, unless a label or other device is affixed or attached to each bottle, keg, or other container from which such beverage is immediately consumed or served, bearing the trade name of such beverage and the name and address of the manufacturer thereof. No retail dealer shall sell or dispense any beverage, as defined herein, from draught or in bulk, and not in the manufacturer's original container, unless each faucet, draught arm, or other dispensing apparatus is equipped with a sign clearly indicating the name of brand of the beverage being at the time dispensed through or by means of such faucet, draught arm, or other apparatus, and which sign shall be in legible lettering and in full sight of the purchaser. Any person breaching the provisions of this section

shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

(b) No person shall transfer to any bottle, keg, or other container, any label originally attached to any bottle, keg, or other container as required by subsection (a) hereof; nor print, use, utter, or attach to any such container any false label or descriptive device in imitation of or substitute for such label or device; nor attach to any container of any substitute for any such beverage, as defined, by this act, the trade name or label of any manufacturer or wholesaler; nor attach to any container of such beverage any label or device which misrepresents the contents of such container or in any manner indicates the alcoholic content of said beverage or which by wording, lettering, numbering or illustration, or in any manner carries any reference, allusion, or suggestion as to the alcoholic strength of such beverage in excess of three and two-tenths percent (3.2%) by weight, or upon which appears any such word or combination of words, or abbreviations thereof, as "strong", "full strength", "high test", "high proof", "prewar strength", "full old-time alcoholic strength", or any words or figures or other marks or characters alluding or referring to "proof", "balling", or "extract" contents of the beverage, or which bears a label that is untrue in any particular, or which directly, or by ambiguity, omission, or inference tends to create a misleading impression or causes or is reasonably calculated to cause deception of the consumer or purchaser with respect to such beverage. A breach of any provision of this section shall subject the person to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

~~(c) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed One Thousand Dollars ($1,000.00), or imprisoned in the~~

~~county jail not exceeding one (1) year or shall be punished by both such fine and imprisonment.~~

SECTION 415. AMENDATORY 37 O.S. 1991, Section 163.23, is amended to read as follows:

Section 163.23 Failure on the part of any manufacturer to comply with the provisions of Section ~~1 hereof~~ 163.22 of this title shall subject such manufacturer to the revocation of permit by the Oklahoma Tax Commission under penalties and procedures set forth in Section 163.16, Title 37 of the Oklahoma Statutes, and penal provisions ~~provided by Section 163.20, Title 37 of the Oklahoma Statutes~~ as provided in Title 21 of the Oklahoma Statutes.

SECTION 416. AMENDATORY 37 O.S. 1991, Section 163.24, as amended by Section 26, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1994, Section 163.24), is amended to read as follows:

Section 163.24 ~~From and after the effective date of this act, it~~ It shall be ~~unlawful~~ a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) for any place licensed to sell nonintoxicating beverages as defined in paragraph (a) of Section 163.2 of this title, for on-premises consumption to be located within three hundred (300) feet from any public school or church property primarily and regularly used for worship services and religious activities. Provided, if any public school or church shall be established within three hundred (300) feet of any place which sells nonintoxicating beverages for on-premises consumption after such place has been licensed, this shall not be a deterrent to the renewal of such license so long as there has not been a lapse of more than sixty (60) days.

When any place which has a permit to sell nonintoxicating beverages for on-premises consumption changes ownership and such change of ownership results in the same type of business being conducted on the premises, the prohibition of this section shall not be a deterrent to the issuance of a permit to the new owner, if

otherwise qualified to sell nonintoxicating beverages for on-premises consumption.

The distance indicated in this section shall be measured from the nearest property line of such public school or church to the nearest public entrance door of the premises of any place licensed to sell such nonintoxicating beverages for on-premises consumption along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such public school or church shall be considered as if it were located on the same side of the street with the school or church. Provided further, the above restrictions shall not affect premises already licensed to sell nonintoxicating beverages for on-premises consumption or premises which may presently or in the future be licensed to sell nonintoxicating beverages for on-premises consumption even though a school or church is subsequently established within three hundred (300) feet of such licensed premises.

If an establishment selling nonintoxicating beverages also is the holder of a mixed beverage or beer and wine license issued by the Alcoholic Beverage Laws Enforcement Commission, the establishment shall be subject to the zoning provisions of Section 518.2 of this title rather than the provisions of this section.

SECTION 417. AMENDATORY 37 O.S. 1991, Section 213.1, is amended to read as follows:

Section 213.1 A. No owner, operator, partner, manager, or person having supervisory control of any establishment licensed to sell nonintoxicating beverages shall permit any of the following on or about any commercial premises where nonintoxicating beverages are dispensed or consumed:

1. The performance by any person of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral

copulation, flagellation, or any sexual acts which are otherwise prohibited by law;

2. The actual intentional touching or caressing or fondling by any person of the breasts, anus or genitals;

3. Any person on the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, buttocks or genitals; or

4. Any person to perform acts of, or acts which simulate, sexual acts which are prohibited by law, or permit any person to use artificial devices or inanimate objects to depict any prohibited activities or permit the showing of films, still pictures, electronic reproductions or other visual reproductions depicting any of the prohibited activities described in this paragraph.

B. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~guilty of a misdemeanor punishable by~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00) for each offense. Each act in ~~violation~~ breach of any provision of this section shall be deemed a separate offense. ~~Conviction for the violation~~ Determination of breach of the provisions of this section shall be sufficient grounds for revocation by the judge of the district court of any license held by such person authorizing the sale of nonintoxicating or intoxicating beverages.

SECTION 418. AMENDATORY 37 O.S. 1991, Section 213.2, is amended to read as follows:

Section 213.2 A. No owner, operator, partner, manager, or person having supervisory control of any establishment that permits any person on the premises who is unclothed or in such attire, costume, or clothing as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, buttocks or genitals, shall permit nonintoxicating beverages, as defined by

Section 163.2 of Title 37 of the Oklahoma Statutes, on or about the premises.

B. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~guilty of a misdemeanor punishable by~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00) for each offense. Each act in ~~violation~~ breach of this section shall be deemed a separate offense.

SECTION 419. AMENDATORY 37 O.S. 1991, Section 217, is amended to read as follows:

Section 217. Any person ~~violating~~ breaching any provision of this act for which a punishment has not been prescribed shall be ~~deemed guilty of a misdemeanor and upon conviction shall be punished by~~ liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00) or by imprisonment in the county jail for a term of not more than six (6) months, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00); and such ~~violation~~ breach shall be additional grounds for revocation of any license or permit for the sale of such beverages, as and in the manner provided by law.

SECTION 420. AMENDATORY 37 O.S. 1991, Section 232, is amended to read as follows:

Section 232. Any ~~violation~~ breach of this act shall be a ~~misdemeanor~~ civil infraction on the part of all persons participating therein, and upon final ~~conviction~~ determination thereof each person shall ~~pay~~ be subject to a fine of ~~Five Hundred Dollars ($500.00)~~ not more than One Thousand Dollars ($1,000.00) for the first offense, and ~~One Thousand Dollars ($1000.00)~~ not more than Two Thousand Five Hundred Dollars ($2,500.00) for each subsequent offense.

SECTION 421. AMENDATORY 37 O.S. 1991, Section 241, is amended to read as follows:

Section 241. ~~A. It shall be unlawful for any person to sell, barter, or give to any person under twenty-one (21) years of age any nonintoxicating beverage, as defined in Section 163.2 of this title.~~

~~B.~~ It shall be ~~unlawful~~ a civil infraction for any person who holds a license to sell and dispense nonintoxicating beverages for consumption on the premises, or any agent, servant, or employee of said license holder to permit any person under twenty-one (21) years of age to be admitted to or remain in a separate or enclosed bar area of the licensed premises unless said person's parent or legal guardian is present, which has as its main purpose the selling or serving of nonintoxicating beverages for consumption on the premises. The provisions of this section shall not prohibit persons under twenty-one (21) years of age from being admitted to an area which has as its main purpose some objective other than the sale or serving of nonintoxicating beverages, in which sales or serving of said beverages are incidental to the main purpose, as long as persons under twenty-one (21) years of age are not sold or served said beverages; however, the incidental service of food in the bar area shall not exempt a licensee, agent, servant, or employee from the provisions of this section.

~~C. It shall be unlawful for any person who holds a license to sell and dispense nonintoxicating beverages, for consumption on the premises, or any agent, servant or employee of said license holder to permit any person under twenty-one (21) years of age to consume any nonintoxicating beverage on the licensed premises.~~

~~D. Any person violating the provisions of subsection A, B or C of this section shall upon conviction be guilty of a misdemeanor.~~

SECTION 422. AMENDATORY 37 O.S. 1991, Section 243, is amended to read as follows:

Section 243. A. It shall be ~~unlawful~~ a civil infraction subject to a fine of not more than Five Hundred Dollars ($500.00) for any person under eighteen (18) years of age to be employed or

permitted to work, in any capacity whatsoever, in a place where beverages containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume and not more than three and two-tenths percent (3.2%) of alcohol measured by weight are sold or dispensed for consumption on the premises.

B. It shall be ~~unlawful~~ a civil infraction subject to a fine of not more than Five Hundred Dollars ($500.00) for any person under the age of majority to be employed or permitted to work, in any capacity whatsoever, in the separate or enclosed bar area of a place where the main purpose of the area is the sale or consumption of beverages containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume and not more than three and two-tenths percent (3.2%) of alcohol measured by weight. The provisions of this subsection shall not apply to any area which has as its main purpose some objective other than the sale or serving of nonintoxicating beverages, in which sales or serving of said beverages are incidental to the main purpose; however, the incidental service of food in the bar area shall not exempt a holder of a license to sell nonintoxicating beverages for consumption on the premises from the provisions of this subsection.

C. A parent as regards the employment of his own child or children is excepted from the provisions of this section, provided that such employment shall in no capacity whatsoever be related to the selling or dispensing of such beverages.

D. The provisions of subsection A of this section shall not apply to any business or establishment where sales of said beverages do not exceed twenty-five percent (25%) of the gross sales of the business or establishment.

SECTION 423. AMENDATORY 37 O.S. 1991, Section 246, is amended to read as follows:

Section 246. ~~A. No person under twenty-one (21) years of age shall (1) consume or (2) possess with the intent to consume~~

~~nonintoxicating beverages, as defined in Section 163.2 of this title, in any public place. It shall be unlawful for any person under twenty-one (21) years of age to purchase or attempt to purchase nonintoxicating beverages, as defined in Section 163.2 of this title, except under supervision of law enforcement officers. Any person violating any of the provisions of this section shall be guilty, upon conviction, of a misdemeanor and punished by a fine not to exceed One Hundred Dollars ($100.00) or by appropriate community service not to exceed twenty (20) hours. Provided, the provisions of this section shall not apply when such persons are under the direct supervision of their parent or guardian, but in no instance shall this exception be interpreted to allow such persons to consume such beverages in any place licensed to dispense nonintoxicating beverages as provided in Section 163.11 of this title.~~

~~B.~~ A. If the premises of a holder of a license to sell nonintoxicating beverages contains a separate or enclosed bar area which has as its main purpose the sale or serving of nonintoxicating beverages for consumption on the premises, no person under twenty-one (21) years of age shall enter, attempt to enter, or remain in said area. The provisions of this subsection shall not prohibit persons under twenty-one (21) years of age from entering or remaining in an area which has as its main purpose some objective other than the sale or serving of nonintoxicating beverages, in which sales or serving of said beverages are incidental to the main purpose, if the persons under twenty-one (21) years of age are not sold or served or do not consume nonintoxicating beverages anywhere on the premises; however, the incidental service of food in the bar area shall not exempt persons under twenty-one (21) years of age from the provisions of this subsection. Any person ~~convicted of violating~~ who breaches the provisions of this subsection shall be ~~guilty of a misdemeanor and punished by a fine not to exceed One~~

~~Hundred Dollars ($100.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

~~C.~~ B. A ~~violation~~ breach of the provisions of this section shall not be a basis for instituting juvenile proceedings to determine if a person under eighteen (18) years of age is a delinquent child; however, if a person under eighteen (18) years of age habitually ~~violates~~ breaches the provisions of this section, juvenile proceedings may be brought to determine if the person is a delinquent child. ~~A person under eighteen (18) years of age who has been convicted of violating the provisions of this section shall be subject to the penalty provisions provided in this section.~~

SECTION 424. AMENDATORY 37 O.S. 1991, Section 509, as amended by Section 1, Chapter 137, O.S.L. 1994 (37 O.S. Supp. 1994, Section 509), is amended to read as follows:

Section 509. The Director shall employ an Assistant Director and inspectors, agents, clerks, stenographers, accountants, chemists and such other personnel as are necessary to properly enforce and administer this law. He or she shall require bonds in such instances and amounts as the Alcoholic Beverage Laws Enforcement Commission may direct. He or she shall be in direct charge of all records and if authorized by the ABLE Commission shall have the following duties and responsibilities:

A. Immediately upon the appointment and qualification of the Director he or she shall become vested with the duties and powers of the management and control of the office of Director, and shall become vested with all duties and powers imposed upon him or her by any orders, rules and regulations as may be prescribed by the ABLE Commission, and in addition thereto shall have the following specific powers and duties:

1. To issue licenses provided for in the Oklahoma Alcoholic Beverage Control Act, Section 502 et seq. of this title, and to

approve or reject any official bond required to be filed with the Director or the ABLE Commission;

2. To appoint and employ, supervise and discharge such personnel, clerical, skilled and semiskilled help, labor and other employees as may be determined necessary for the proper discharge of the duties of the office of Director, upon salary fixed and determined by the ABLE Commission and subject to all the rules and regulations that may be promulgated by the ABLE Commission. The Director and the ABLE Commission, in appointing and employing personnel, shall give preference to honorably discharged members of the Armed Forces of the United States;

3. To conduct such investigations and make such reports as may be necessary to keep the ABLE Commission and members thereof advised concerning any violations of the provisions of the Oklahoma Alcoholic Beverage Control Act and make orders for its enforcement;

4. To make recommendations to the ABLE Commission concerning the suspension or revocation of any licenses, the levying of fines against licensees for violations of the provisions of the Oklahoma Alcoholic Beverage Control Act or regulations or rules of the ABLE Commission, or any action that should be filed or commenced against any official bond theretofore approved by the Director or the ABLE Commission;

5. To regularly inspect all places of business of licensees, brewers, distributors, winemakers, rectifiers, wholesalers, Class B wholesalers, industrial licensees, private carriers, bonded warehouses, and package stores, and all other persons, firms or corporations dealing in the manufacture, distribution, transportation, sale or service of alcoholic beverages under the provisions of the Oklahoma Alcoholic Beverage Control Act, and report to the ABLE Commission concerning any and all violations with his recommendation to the ABLE Commission for its determination;

6. To aid the enforcement authorities of this state or any county or municipality of the state, or federal government, in prosecutions of violations of the Oklahoma Alcoholic Beverage Control Act;

7. To approve and pay claims for services of professional and clerical, skilled, semiskilled help, labor and other employees in the absence of the ABLE Commission, when the salaries and wages of such persons shall have been previously approved by the ABLE Commission; and

8. To enforce the provisions of the Prevention of Youth Access to Tobacco Act, Sections 2 through 13 of this act, including, but not limited to, the levying of administrative fines against persons violating the provisions of the Prevention of Youth Access to Tobacco Act, and to at least annually conduct random unannounced inspections at locations where tobacco products are sold or distributed and conduct targeted inspections at those locations which have been in violation of the provisions of the Prevention of Youth Access to Tobacco Act.

B. If a witness in attendance before the Director refuses without reasonable cause to be examined or to answer a legal or pertinent question, or to produce a book, record or paper when ordered to do so by the Director, the Director may apply to the judge of the district court of any county where such witness is in attendance, upon proof by affidavit of the fact, for a rule or order returnable in not less than two (2) nor more than five (5) days, directing such witness to show cause before the judge who made the order, or any other district judge of said county, why he or she should not be punished for contempt; upon the return of such order, the judge before whom the matter shall come for hearing shall examine under oath such witness or person, and such person shall be given an opportunity to be heard; and if the judge shall determine that such person has refused, without reasonable cause or legal

excuse, to be examined or answer a legal or pertinent question, or to produce a book, record or paper which he or she was ordered to bring or produce, he or she may punish the offender ~~as~~ for contempt ~~of court and shall fix the penalty in any sum not less than Two Hundred Fifty Dollars ($250.00) but not to exceed Five Hundred Dollars ($500.00) or require him or her to serve a maximum of thirty (30) days in jail, or both~~ as specified in Title 21 of the Oklahoma Statutes.

C. Subpoenas shall be served and witness fees and mileage paid as in civil cases in the district court in the county to which such witness shall be called. Witnesses subpoenaed at the instance of the Director shall be paid their fees and mileage by the Director out of funds appropriated to the ABLE Commission. Court cost in this contempt proceedings shall be paid as taxed by the court.

SECTION 425. AMENDATORY 37 O.S. 1991, Section 511, is amended to read as follows:

Section 511. A. No member of the Alcoholic Beverage Laws Enforcement Commission, Director, Assistant Director, or employee of the ABLE Commission shall be appointed or serve who has been convicted of a felony or of any violation of any federal or state law relating to alcoholic beverages. No member of the ABLE Commission, Director, Assistant Director, or employee of the ABLE Commission shall directly or indirectly, individually or as a member of a partnership, or as a shareholder of a corporation, have any interest whatsoever in the manufacture, sale or distribution of alcoholic beverages, nor receive any compensation or profit therefrom, nor have any interest, directly or indirectly, in any business authorized by a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title. The holding of membership or elective or appointed office in fraternal organizations which obtain mixed beverage or bottle club licenses shall not be considered to be engagement in the

alcoholic beverage business. ~~No member of the ABLE Commission, Director, Assistant Director, or employee of the ABLE Commission shall solicit or accept any gift, gratuity, emolument, or employment from any person subject to the provisions of the Oklahoma Alcoholic Beverage Control Act, or from any officer, agent or employee thereof, nor solicit, request from or recommend, directly or indirectly, to any such person or to any officer, agent or employee thereof, the appointment of any person to any place or position, and every such person, and every officer, agent or employee thereof, is hereby forbidden to offer to any member of the ABLE Commission, the Director, Assistant Director, or to any employee of the ABLE Commission, any gift, gratuity, emolument or employment.~~ No member of the ABLE Commission, Director, Assistant Director, or employee of the ABLE Commission shall accept employment within the liquor industry for any holder of a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, or represent, directly or indirectly, any such licensee in any proceedings before the Director or the ABLE Commission within two (2) years following his separation from the ABLE Commission. Violation of any provision of this subsection shall ~~constitute a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. In addition ~~to the penal provisions~~, any person ~~convicted~~ in breach shall be immediately removed from the office or position he holds.

B. No license of any kind shall be granted to or retained by any person or any partnership containing any partner who is related to any member of the ABLE Commission or to the Director or Assistant Director by affinity or consanguinity within the third degree. No member of the ABLE Commission nor the Director or Assistant Director shall be entitled to receive any compensation or other monies from the State of Oklahoma while a license is held in violation of the provisions of this subsection.

C. ~~It shall be unlawful for any member of the ABLE Commission, the Director, Assistant Director, any inspector, attorney or other agent or employee of the ABLE Commission, to actively participate, as a candidate or otherwise, in any political campaign held in this state. Nor shall any such member of the ABLE Commission, Director, Assistant Director, or other agent or employee of the ABLE Commission lend, expend or contribute any money, funds, property or other thing of value, or use his official position, for the purpose of securing the nomination or election or the defeat of any candidate for public office in the State of Oklahoma. Any person who shall violate the provisions of this subsection shall, upon conviction, be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the county jail for not more than one (1) year, or both such fine and imprisonment. Any person found guilty of violating the provisions of this subsection shall, in addition to the criminal penalty imposed herein, be discharged from the office or position he holds upon conviction and shall not be rehired to any state position.~~

~~D.~~ If the voters of a county in which a state lodge is located approve sale of alcoholic beverages by the individual drink for on-premises consumption, then such sale of alcoholic beverages on the premises of such lodge shall be authorized if a license for such sale, issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, is obtained. Provided, further, that a bottle club may be licensed on the premises of a state lodge located in a county where sale of alcoholic beverages by the individual drink for on-premises consumption is not authorized.

~~E.~~ D. The provisions of subsection ~~D~~ C of this section shall not prohibit the state or a political subdivision of the state from leasing a public building or facility to a person who obtains a mixed beverage license, bottle club license, special event license,

contracts for the services of a licensed caterer, or subleases the building or facility to a person who obtains a mixed beverage license, bottle club license, special event license or contracts for the services of a licensed caterer.

~~F.~~ E. Provided, that nothing in this section shall prohibit the sale of alcoholic beverage legally confiscated as provided by law.

SECTION 426. AMENDATORY 37 O.S. 1991, Section 516, is amended to read as follows:

Section 516. It shall be ~~unlawful~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person, firm or corporation to advertise any alcoholic beverages or the sale of same within the State of Oklahoma, except one sign at the retail outlet bearing the words "Retail Alcoholic Liquor Store," or any combination of such words or any of them and no letter in any such sign shall be more than four (4) inches in height or more than three (3) inches in width, and if more than one (1) line is used the lines shall not be more than one (1) inch apart.

SECTION 427. AMENDATORY 37 O.S. 1991, Section 533, is amended to read as follows:

Section 533. Any manufacturer or subsidiary of a manufacturer who markets his or its products solely through a subsidiary or subsidiaries, a distiller, rectifier, bottler, winemaker, brewer, or importer of alcoholic beverages, bottled or made in a foreign country, either within or without this state, shall be required to sell such brands or kinds of alcoholic beverages to every licensed wholesaler or Class B wholesaler who desires to purchase the same, on the same price basis and without discrimination or inducements, and shall further be required to sell such beverages only to those persons licensed as wholesalers or Class B wholesalers.

No manufacturer shall require a wholesaler or Class B wholesaler to purchase any alcoholic beverages or any goods, wares or

merchandise as a condition to the wholesaler or Class B wholesaler obtaining or being entitled to purchase any alcoholic beverages.

~~Violation~~ Breach of this section shall be ~~a misdemeanor. Conviction hereunder shall automatically revoke the violator's license~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00). In addition, the license of the breaching party shall automatically be revoked.

SECTION 428. AMENDATORY 37 O.S. 1991, Section 535, as amended by Section 12, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1994, Section 535), is amended to read as follows:

Section 535. It shall be ~~unlawful~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any manufacturer, wholesaler, Class B wholesaler, or person authorized to sell alcoholic beverages to a wholesaler, or any employee, officer, partner, or agent thereof, to directly or indirectly:

1. Have any financial interest in any premises upon which any alcoholic beverage or light beer is sold at retail or in any business connected with the retailing of alcoholic beverages or light beer as defined in Section 506 of this title;

2. Lend any money or other thing of value, or to make any gift or offer any gratuity, to any package store, mixed beverage, beer and wine or bottle club licensee or caterer;

3. Guarantee any loan or the repayment of any financial obligation of any retailer, mixed beverage, beer and wine or bottle club licensee or caterer;

4. Require any wholesaler, Class B wholesaler, retailer, mixed beverage, beer and wine licensee or caterer to purchase and dispose of any quota of alcoholic beverages, or to require any retailer to purchase any kind, type, size container, or brand of alcoholic beverages in order to obtain any other kind, type, size container, or brand of alcoholic beverages;

5. Sell to any retailer, mixed beverage, beer and wine licensee or caterer any alcoholic beverage on consignment, or upon condition, or with the privilege of return, or on any condition other than a bona fide sale; or

6. Extend credit to any retailer, other than holders of Federal Liquor Stamps on United States government reservations and installations, mixed beverage or beer and wine licensee or caterer other than a state lodge located in a county which has approved the retail sale of alcoholic beverages by the individual drink for on-premises consumption. The acceptance of a postdated check or draft or the failure to deposit for collection a current check or draft by the second banking day after receipt shall be deemed an extension of credit. Violation of this subsection shall be grounds for suspension of the license.

SECTION 429. AMENDATORY 37 O.S. 1991, Section 536, as amended by Section 3, Chapter 180, O.S.L. 1993 (37 O.S. Supp. 1994, Section 536), is amended to read as follows:

Section 536. A. It shall be ~~unlawful~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person privileged to sell alcoholic beverages to wholesalers or retailers:

1. To discriminate, directly or indirectly, in price between one wholesaler and another wholesaler or between one retailer and another retailer purchasing alcoholic beverages bearing the same brand or trade name and of like age and quality; or

2. To grant, directly or indirectly, any discount, rebate, free goods, allowance or other inducement.

B. The Alcoholic Beverage Laws Enforcement Commission is hereby authorized to promulgate rules which are necessary to carry out the purpose of this section and to prevent its circumvention by offering or giving of any rebate, allowance, free goods, discount or any other thing or service of value; provided, that the posting of

charges per order for processing minimum orders or per case for the handling or repacking of goods by wholesalers for sales in less than full case lots shall not constitute a violation of this section.

C. For the violation of any provision of this section or of any rule duly promulgated under this section, the ABLE Commission may suspend or revoke a license as follows: For the first offense, not exceeding ten (10) days' suspension of license; for a second offense, not exceeding thirty (30) days' suspension of license; and for a third offense, the ABLE Commission shall revoke the license.

SECTION 430. AMENDATORY 37 O.S. 1991, Section 538, is amended to read as follows:

Section 538. ~~A. Any person who shall operate a whiskey still with intent to produce alcoholic beverages or any person who shall carry on the business of a distiller without having in his possession a valid and existing distiller's license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be guilty of a felony and upon conviction be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not more than three (3) years, or both such fine and imprisonment.~~

~~B. Any person who shall file a false or fraudulent return in connection with any tax imposed by the Oklahoma Alcoholic Beverage Control Act, or willfully evade, or attempt to evade, any tax herein levied shall be guilty of a felony and upon conviction be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not more than three (3) years, or both such fine and imprisonment.~~

~~C. Any person who shall knowingly engage in any activity or perform any transaction or act for which a license is required under the Oklahoma Alcoholic Beverage Control Act, not having such~~

~~license, shall be guilty of a misdemeanor and for the first offense be fined not more than Two Thousand Five Hundred Dollars ($2,500.00) and imprisoned for not less than thirty (30) days nor more than six (6) months, and for a second or subsequent offense shall be guilty of a felony and be fined not more than Two Thousand Five Hundred Dollars ($2,500.00), or imprisoned in the State Penitentiary for not more than one (1) year, or both such fine and imprisonment.~~

~~D. Any person holding a license issued pursuant to the Oklahoma Alcoholic Beverage Control Act who shall sell or deliver alcoholic beverage to any person not entitled to purchase or receive same, except as provided in subsection F of this section, or who shall possess for sale any alcoholic beverage which he is not entitled to sell under his license, or any person who buys any alcoholic beverage, either retail or wholesale, from any person other than a licensed dealer under the terms of the Oklahoma Alcoholic Beverage Control Act, shall be guilty of a misdemeanor and upon conviction be fined not more than One Thousand Five Hundred Dollars ($1,500.00), or imprisoned in the county jail for not more than six (6) months, or both such fine and imprisonment.~~

~~E. Any person under twenty-one (21) years of age who shall misrepresent his age in writing or by presenting false documentation of age for the purpose of inducing any person to sell or serve him alcoholic beverage or issue him a bottle club membership card, or who enters or attempts to enter a package store or a separate or enclosed bar area as designated by the ABLE Commission, shall be guilty of a misdemeanor and fined not more than Fifty Dollars ($50.00). In addition, if a person is convicted or pleads guilty to a violation of the provisions of this subsection in any court having jurisdiction over said offense, the court may order the Department of Public Safety to cancel or deny the offender's privilege to operate a motor vehicle and, upon such order, shall require that the operator's or chauffeur's license, if any, be surrendered to the~~

~~Department pursuant to Section 6-209 of Title 47 of the Oklahoma Statutes. The cancellation or denial period shall be for one (1) year, or until the person reaches twenty-one (21) years of age, whichever is longer.~~

~~Any person whose driving privileges are ordered cancelled or denied pursuant to this section may petition the court of original jurisdiction for review of the order. Upon notice and hearing, the court may modify or withdraw the order as the court deems appropriate except:~~

~~1. A court may not withdraw an order for at least ninety (90) days following the issuance of the order if it is the first such order issued regarding the person named; and~~

~~2. A court may not withdraw an order for at least six (6) months following the issuance of the order if it is the second or subsequent such order issued regarding the person named.~~

~~If the Department receives written notice from the court of original jurisdiction that it has withdrawn such an order, the Department shall immediately reinstate any driving privileges that have been canceled or denied under this section, without requiring payment of a reinstatement fee.~~

~~F. Any person who shall knowingly sell, furnish or give alcoholic beverage to a person under twenty-one (21) years of age shall be guilty of a felony, and shall be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not more than five (5) years, or both such fine and imprisonment. The ABLE Commission shall revoke the license of any person convicted of a violation of this subsection.~~

~~G. Any person who shall knowingly sell, furnish or give alcoholic beverage to an insane, mentally deficient, or intoxicated person shall be guilty of a felony, and shall be fined not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars~~

~~($1,000.00), or imprisoned in the State Penitentiary for not more than one (1) year, or both such fine and imprisonment.~~

~~H.~~ A. The payment of the special tax required of liquor dealers by the United States by any person within this state without a corresponding state license shall constitute prima facie evidence of an intention to violate the provisions of the Oklahoma Alcoholic Beverage Control Act.

~~I.~~ B. Any person operating a cafe, restaurant, club or any place of recreation who permits any person to be drunk or intoxicated in said place of business shall be ~~guilty of a misdemeanor, and shall be fined~~ liable for a civil infraction and subject to a fine of not more than ~~One Hundred Dollars ($100.00), or imprisoned for not more than thirty (30) days or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00).

~~J.~~ C. Any person selling or keeping a package store open to sell any alcoholic beverage during any day or hours not authorized by the Oklahoma Alcoholic Beverage Control Act shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 431. AMENDATORY 37 O.S. 1991, Section 549, is amended to read as follows:

Section 549. Every person who shall have in his possession more than one (1) liter of alcoholic beverages, the bottle or other original container upon which the excise tax levied by Section 553 of this title has not been paid as provided for by the Oklahoma Alcoholic Beverage Control Act, shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00), and if such person is the holder of a license under this act such license shall be subject to revocation or suspension by the Alcoholic Beverage Laws Enforcement Commission. The ABLE Commission may adopt rules and regulations for hearings on a revocation of a license for violation of the provisions of this

section. Provided the ABLE Commission may suspend any license for a violation of this section for a period of thirty (30) days with notice of hearing as the ABLE Commission may determine.

SECTION 432. AMENDATORY 37 O.S. 1991, Section 560, is amended to read as follows:

Section 560. A. Every manufacturer, wholesaler, Class B wholesaler and nonresident seller, selling alcoholic beverages in this state, or selling alcoholic beverages for shipment into this state shall, at the time such sale is made, make and deliver to the purchaser or transporter an invoice, bill of lading, manifest, or other document describing such alcoholic beverages, showing the date of such sale or delivery, the name and Alcoholic Beverage Laws Enforcement Commission license number of the seller, the point of origin of the movement of such alcoholic beverages and the destination of same, the kind and quantity and a description of such alcoholic beverages, including the proof of all spirits, the name and ABLE Commission license number of the purchaser, the sale price and such other information as the Oklahoma Tax Commission may, by form or regulation, require. Every such invoice, bill of lading, manifest, or other document describing such alcoholic beverages, except beer, must be identified by consecutive numbers printed upon the invoice or document, and each such seller and purchaser must account for each copy of his invoice and each number thereof.

B. Every common carrier and private carrier, and every person who transports any alcoholic beverages from any point within this state to any other point within or without this state, or who transports alcoholic beverages into this state, shall at all times while such alcoholic beverages are in transit have in the possession of the driver or operator of the transporting carrier or vehicle the invoice, bill of lading, manifest, or other document describing such alcoholic beverages being transported.

C. Every manufacturer, wholesaler, or Class B wholesaler, importing into or purchasing in this state any alcoholic beverage, and any retailer purchasing any alcoholic beverage in this state, shall at the time of delivery or acceptance of such alcoholic beverage demand and receive a proper bill of lading, invoice, manifest, or other document, particularly describing such alcoholic beverage and showing the proof of all spirits.

D. Every manufacturer, wholesaler, Class B wholesaler, nonresident seller, and retailer shall retain one copy of each invoice, bill of lading, manifest, or similar document covering all such sales and purchases by such licensee, as a part of the permanent records of such licensee for a period of at least three (3) years.

E. Any person ~~violating~~ breaching any of the provisions of this section, whether acting for himself or as the agent or employee of any licensee hereunder, shall be ~~guilty of a misdemeanor and, upon conviction, shall be punished as provided by law~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any ~~violation~~ breach of the provisions of this section shall also constitute grounds for the revocation by the ABLE Commission of any license issued under the Oklahoma Alcoholic Beverage Control Act.

SECTION 433. AMENDATORY 37 O.S. 1991, Section 566, is amended to read as follows:

Section 566. ~~A.~~ Any person who shall ~~violate~~ breach any provision of this title for which no specific penalty is prescribed shall be ~~guilty of a misdemeanor and be fined~~ liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00), or imprisoned in the county jail for not more than six (6) months, or both such fine and imprisonment~~ One Thousand Dollars ($1,000.00).

~~B. Provided, however, notwithstanding any provision of law to the contrary, any offense, including traffic offenses, in violation of any of the provisions of this title which is not otherwise punishable by a term of imprisonment or confinement shall be punishable by a term of imprisonment not to exceed one day in the discretion of the court, in addition to any fine prescribed by law.~~

SECTION 434. AMENDATORY 37 O.S. 1991, Section 577, as amended by Section 19, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1994, Section 577), is amended to read as follows:

Section 577. A. Every holder of a mixed beverage, beer and wine, caterer, hotel beverage or special event license, issued by the Alcoholic Beverage Laws Enforcement Commission, shall obtain a mixed beverage tax permit from the Oklahoma Tax Commission prior to engaging, within this state, in the sale, preparation or service of mixed beverages, ice, or nonalcoholic beverages that are sold, prepared or served to be mixed with alcoholic beverages. Each licensee shall file a verified application for a mixed beverage tax permit with the Tax Commission, setting forth information as may be required by the Tax Commission.

The Tax Commission, or its designated agent, shall issue, without any fees or charges therefor, a mixed beverage tax permit in the name of the licensee for the place of business set forth in the application upon verification that:

1. The applicant is a holder of a mixed beverage, beer and wine, caterer, hotel beverage or special event license issued by the Alcoholic Beverage Laws Enforcement Commission;

2. The applicant has posted a surety bond or other negotiable collateral to protect the proper payment of the gross receipts taxes;

3. The applicant is a holder of a sales tax permit for the place of business set forth in the application; and

4. The applicant is not delinquent in the payment of any gross receipts taxes or sales taxes.

B. A separate mixed beverage tax permit for each place of business to be operated must be obtained and no charge therefor shall be made by the Tax Commission. The Tax Commission shall grant and issue to each applicant a separate permit for each place of business in this state, upon proper application therefor and verification thereof by the Tax Commission.

C. A mixed beverage tax permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated in the permit.

D. ~~It shall be unlawful for any person to engage in a business subject to the provisions of this section prior to the issuance of a mixed beverage tax permit. Any person who engages in a business subject to the provisions of this section without a mixed beverage tax permit or permits, or after a permit has been suspended, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than One Thousand Dollars ($1,000.00) or incarcerated for not more than sixty (60) days, or by both such fine and imprisonment.~~

~~E.~~ Any person operating under a mixed beverage tax permit as provided in this section shall, upon discontinuance of business by sale or otherwise, return such permit to the Tax Commission for cancellation, together with payment of any unpaid or accrued taxes. Failure to surrender a mixed beverage tax permit and pay any and all accrued taxes will be sufficient cause for the Tax Commission to refuse to issue a mixed beverage tax permit subsequently to such person to engage in or transact any business in this state subject to the provisions of this section.

~~F.~~ E. Whenever a holder of a mixed beverage tax permit fails to comply with any provisions of any state alcoholic beverage laws or tax laws, the Tax Commission, after giving ten (10) days' notice in

writing of the time and place of hearing to show cause why this permit should not be revoked, may revoke or suspend the permit. A mixed beverage tax permit shall be renewed upon removal of cause or causes of revocation or suspension. Mixed beverage tax permits are conditioned upon the proper and timely payment of all taxes due and in the event a holder of a mixed beverage tax permit becomes delinquent in reporting or paying any tax due under the provisions of state tax law, any duly authorized agent of the Tax Commission may cancel the permit and it shall be renewed only upon the filing of proper reports and payment of all taxes due and application for renewal in accordance with subsection A of this section.

~~G.~~ F. Upon revocation or suspension of the mixed beverage, beer and wine, caterer, hotel beverage or special event license by the ABLE Commission, the Tax Commission, or its duly authorized agent, shall temporarily suspend the mixed beverage tax permit issued to said licensee in accordance with Section 212 of Title 68 of the Oklahoma Statutes.

SECTION 435. AMENDATORY 37 O.S. 1991, Section 582, as amended by Section 21, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1994, Section 582), is amended to read as follows:

Section 582. A. No mixed beverage, beer and wine, caterer or special event licensee may possess or permit any person to possess on the premises any alcoholic beverage, other than mixed beverage coolers, beer or light beer, in any container that does not bear a serially numbered identification stamp issued by the Oklahoma Tax Commission. No mixed beverage, beer and wine, caterer or special event licensee may possess or permit any person to possess on the premises any container of mixed beverage cooler or beer which did not come from a case bearing a serially numbered identification stamp issued by the Tax Commission.

B. No wholesaler may knowingly sell, ship or deliver to any mixed beverage, beer and wine, caterer or special event licensee any

alcoholic beverage, other than mixed beverage coolers, beer or light beer, in any container or any case of beer or case of mixed beverage coolers that does not bear a serially numbered identification stamp issued by the Tax Commission.

C. No mixed beverage, beer and wine, caterer or special event licensee nor any officer, agent or employee of such licensee may possess or permit to be possessed on the premises, for which such license was issued, any container of an alcoholic beverage which is not listed on an invoice from the wholesaler from whom the alcoholic beverage was purchased.

D. All containers of alcoholic beverages, other than mixed beverage coolers, beer or light beer, or any case of mixed beverage coolers or beer on the premises of a holder of a mixed beverage, beer and wine, caterer or special event license which do not bear a serially numbered identification stamp pursuant to the provisions of this section are declared to be contraband. All containers of alcoholic beverages which are on the premises of a mixed beverage, beer and wine, caterer or special event licensee and which are not listed on an invoice from the wholesaler pursuant to the provisions of this section are declared contraband. Any duly authorized officer or employee of the ABLE Commission or the Oklahoma Tax Commission is authorized to seize such containers or cases and such seized containers or cases shall be subject to confiscation and forfeiture pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

E. Any holder of a wholesaler, mixed beverage, beer and wine, caterer or special event license who violates the provisions of this section shall be ~~guilty of a misdemeanor~~ <u>liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00),</u> and shall be subject to revocation or suspension of such license issued by the ABLE Commission pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 436. AMENDATORY 37 O.S. 1991, Section 583, as amended by Section 22, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1994, Section 583), is amended to read as follows:

Section 583. A. A holder of a mixed beverage, beer and wine, caterer or special event license or any person employed by the holder of such license who empties a bottle containing alcoholic beverages, other than beer or light beer, on which the tax levied by Section 553 of this title has been paid, shall immediately after emptying the bottle invalidate the identification stamp on the bottle in the manner prescribed by rule and regulation of the Alcoholic Beverage Laws Enforcement Commission. A holder of a mixed beverage, beer and wine, caterer or special event license or any person employed by the holder of such license who empties a case of beer on which the tax levied by Section 553 of this title has been paid, shall immediately after emptying the case invalidate the identification stamp on the case in the manner prescribed by rule and regulation of the ABLE Commission.

B. Each holder of a mixed beverage, beer and wine, caterer or special event license shall provide at all service counters where alcoholic beverages, other than beer or light beer, are poured from bottles the necessary facilities for the invalidation of identification stamps on bottles so that persons emptying bottles of such alcoholic beverages may immediately invalidate the identification stamps on them.

C. A holder of a mixed beverage, beer and wine, caterer or special event license or any of his officers, agents, or employees who is found in possession of an empty bottle of alcoholic beverages, other than beer or light beer, which contained such alcoholic beverages on which the tax levied by Section 553 of this title has been paid and on which the identification stamp has not been invalidated in accordance with this section commits a separate ~~offense~~ administrative violation and is subject to a fine of not

more than One Thousand Dollars ($1,000.00) for each bottle so possessed. A holder of a mixed beverage, beer and wine, caterer or special event license or any person employed by the holder of such license who is found in possession of an empty case of beer on which the tax levied by Section 533 of this title has been paid and on which the identification stamp has not been invalidated in accordance with this section commits a separate ~~offense~~ administrative violation and is subject to a fine of not more than One Thousand Dollars ($1,000.00) for each case so possessed.

SECTION 437. AMENDATORY 37 O.S. 1991, Section 590, is amended to read as follows:

Section 590. Sale of alcoholic beverages by the individual drink for on-premises consumption shall be ~~unlawful~~ a civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00) in any county of this state unless said sale has been approved by a majority of the registered voters of the county voting thereon at a Special Election called by the board of county commissioners. Such election shall be called by the board of county commissioners upon receipt of a petition signed by registered voters constituting not less than fifteen percent (15%) of the total votes cast in the county in the last General Election for the Office of Governor, or such election may be called by the board of county commissioners upon its own motion. At the time such election is called, the proposition shall include those days or portions of days, if any, on which sales of alcoholic beverages by the individual drink are not authorized. If the proposition is the result of a motion of the board of county commissioners then the board shall designate the days or portions of days, if any, on which the sales of alcoholic beverages are not authorized. If the proposition is the result of a petition, such petition shall specify days or portions of days, if any, on which the sales of alcoholic beverages are not authorized.

If, at the Special Election, the proposition to authorize the sale of alcoholic beverages by the individual drink for on-premises consumption fails to be approved by the registered voters of the county, the county shall not hold another election on whether or not to approve such sales, for at least two (2) years from the date the proposition failed to be approved.

SECTION 438. AMENDATORY 37 O.S. 1991, Section 593, as amended by Section 2, Chapter 58, O.S.L. 1992 (37 O.S. Supp. 1994, Section 593), is amended to read as follows:

Section 593. A. No person shall be allowed to enter or remain in the designated bar or lounge area of a bottle club unless that person possesses a valid membership card for that club issued by the club.

Membership cards issued by a bottle club shall be purchased by the club from the Alcoholic Beverage Laws Enforcement Commission at a cost of Three Dollars ($3.00) per temporary membership card and Twenty-five Dollars ($25.00) per annual membership card. A temporary membership card shall be valid for a period of seventy-two (72) consecutive hours from issuance to the member. The date of issuance of a temporary membership shall be clearly and prominently marked upon the card. When the card is issued to a member by the club, the club may require said members to reimburse the club for the cost of the card. No membership card shall be issued to any person under twenty-one (21) years of age.

The ABLE Commission shall have the authority to promulgate rules and regulations concerning bottle club membership cards.

B. A bottle club license authorizes alcoholic beverages belonging to members of the club to be:

1. Stored, possessed and mixed on club premises; and

2. Served for on-premises consumption to members. Each member shall be served only from the member's individually owned bottle of alcoholic beverage which shall be marked with the owner's full name

or code number. Such numbers shall be maintained on the club premises, available for inspection by agents of the ABLE Commission or by any other peace officer.

Pool systems of storage and purchase of alcoholic beverages in a bottle club are specifically prohibited.

C. The sale, preparation or service of ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages for consumption on the premises where such sale, preparation or service occurs shall be subject to the sales tax levied by the Oklahoma Sales Tax Code and to any municipal or county sales taxes.

D. Any bottle club licensee, or employee or agent of said licensee who sells to a member any alcoholic beverage shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be punished by~~ liable for an administrative violation and subject to a fine of One Thousand Dollars ($1,000.00) and the club license shall be revoked for a period of thirty (30) days. Any bottle club licensee, or employee or agent of said licensee who delivers or furnishes to a member any alcoholic beverage that does not belong to said member shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be punished by~~ liable for an administrative violation and subject to a fine of not ~~less than Five Hundred Dollars ($500.00) nor~~ more than One Thousand Dollars ($1,000.00) and the club license shall be revoked for a period of thirty (30) days. Any bottle club licensee, or employee or agent of said licensee who permits any person who is not a member to enter and remain in the designated bar or lounge area of the club premises shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be punished by~~ liable for an administrative violation and subject to a fine of One Thousand Dollars ($1,000.00) and the bottle club license shall be suspended for a period of thirty (30) days. No bottle club licensee, or employee or agent of said licensee shall serve

alcoholic beverages to any person that does not possess a valid membership card for that club issued by the club.

E. Any bottle club licensed under the provisions of the Oklahoma Alcoholic Beverage Control Act shall pay the license fee provided by law and obtain a separate license for each separate place of business.

F. In counties of this state where retail sale of alcoholic beverages by the individual drink has not been authorized no person shall serve alcoholic beverages by the individual drink for on-premises consumption or permit the consumption of alcoholic beverages except in a bottle club licensed pursuant to this section or in a private residence, provided, that this shall not prohibit a winery from serving visitors on the licensed premises free samples of wine produced on the premises. No member of a bottle club shall serve alcoholic beverages lawfully prepared for said member in the designated bar or lounge area of a bottle club to any person who does not possess a valid membership card for the bottle club.

SECTION 439. AMENDATORY 38 O.S. 1991, Section 34, is amended to read as follows:

Section 34. Every person, firm or corporation who discharges an employee or causes an employee to be discharged because of said employee's absence from his employment by reason of said employee's having been required to serve as a grand, multicounty grand, or petit juror on a grand, multicounty grand, or petit jury shall be ~~guilty of a misdemeanor and, upon conviction, shall be punishable by~~ liable for a civil infraction and subject to a fine of not ~~to exceed~~ more than Five Thousand Dollars ($5,000.00).

SECTION 440. AMENDATORY 40 O.S. 1991, Section 2-301, is amended to read as follows:

Section 2-301. Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this act shall be void. Any agreement by any individual in the

employ of any person or employing unit to pay all or any portion of an employer's contributions, required under this act from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him or require or accept any waiver of any right hereunder by any individual in his employ, discriminate in regard to the hiring or tenure of work on any term or condition of work of any individual on account of his claiming benefits under this act, or in any manner obstruct or impede the filing of claims for benefits. Any employer or officer or agent of an employer who ~~violates~~ breaches any provision of this section shall, for each ~~offense~~ breach, be ~~fined~~ liable for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than One Thousand Dollars ($1,000.00) ~~or be imprisoned for not more than six (6) months, or both such fine and imprisonment~~.

SECTION 441. AMENDATORY 40 O.S. 1991, Section 2-302, is amended to read as follows:

Section 2-302. (1) No individual claiming benefits shall be charged fees or costs of any kind in any proceeding under this act by the Board of Review, the Commission, or its representatives, or by any court or any officer thereof, except that a court may assess costs against the claimant or employer if the court determines that the proceedings for judicial review have been instituted or continued without reasonable grounds. Any individual claiming benefits in any proceeding before the Commission or the Board of Review or its representatives or a court may be represented by counsel but no such counsel shall either charge or receive for such services more than an amount approved by the Board of Review. Any person who ~~violates~~ breaches any provision of this section shall, for each such ~~offense~~ breach, be ~~fined not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or imprisoned~~

~~for not more than six (6) months, or both such fine and imprisonment~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

(2) Parties to any proceeding under this act may be represented in such proceeding by the individual of his or her choice regardless of whether or not said individual is an attorney duly licensed to practice law by the Supreme Court of the State of Oklahoma.

SECTION 442. AMENDATORY 40 O.S. 1991, Section 2-402, is amended to read as follows:

Section 2-402. (1) If the Commission determines that any individual has made a false statement or representation or has failed to disclose a material fact in violation of Section 5-102, such individual shall be ineligible to receive unemployment compensation for the week in which it is so determined by the Commission and for the next following fifty-one (51) weeks, and no benefit or base year shall be established during such period of ineligibility.

(2) Such ineligibility is in addition to the penalty provided by Section 5-102, and shall be invoked irrespective of whether such individual is ~~prosecuted~~ proceeded against for violation of Section 5-102, when the Commission makes such a determination of ineligibility. This section shall not apply to a determination made more than two (2) years after such violation occurred.

SECTION 443. AMENDATORY 40 O.S. 1991, Section 3-308, is amended to read as follows:

Section 3-308. Any person, or member of any firm or association, or any officer, agent, or employee of any corporation, who shall ~~knowingly~~ make false answer in writing to any question which may be put to him by the Oklahoma Employment Security Commission, touching the business or property of any such person, firm, association, or corporation, or the valuation thereof, or who shall make or present any false statement filed with said Commission

or required to be filed by this title or by any state unemployment compensation law, shall be ~~guilty of perjury, and upon conviction, shall be punished as provided for in Section 4-506 of Title 40 of the Oklahoma Statutes~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 444. AMENDATORY 40 O.S. 1991, Section 4-506, is amended to read as follows:

Section 4-506. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in its power so to do, in obedience to a subpoena of the Commission, the Board of Review, the chairman of an appeal tribunal, or any duly authorized representative of any of them, shall be ~~punished by a fine of not less than Five Hundred Dollars ($500.00) or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 445. AMENDATORY 40 O.S. 1991, Section 4-507, is amended to read as follows:

Section 4-507. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Commission, the Board of Review, the chairman of an appeal tribunal, or any duly authorized representative of any of them, or in obedience to the subpoena of any of them in any cause or proceeding before the Commission, the Board of Review, or an appeal tribunal, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence,

documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying, as provided in Title 21 of the Oklahoma Statutes.

SECTION 446. AMENDATORY 40 O.S. 1991, Section 4-508, as last amended by Section 8, Chapter 195, O.S.L. 1994 (40 O.S. Supp. 1994, Section 4-508), is amended to read as follows:

Section 4-508. INFORMATION TO BE KEPT CONFIDENTIAL - DISCLOSURE. A. Except as otherwise provided by law, information obtained from any employing unit or individual pursuant to the administration of the Employment Security Act of 1980, and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant or employer or such person as he may by writing authorize as his agent shall be supplied with information from the records of the Commission, to the extent necessary for the proper presentation of his claim or complaint in any proceeding under the Employment Security Act of 1980, Section 1-101 et seq. of this title, with respect thereto.

B. Upon receipt of written request by any employer who maintains a Supplemental Unemployment Benefit (SUB) Plan, the Commission or its designated representative may release to such employer information regarding weekly benefit amounts paid its workers during a specified temporary layoff period, provided such Supplemental Unemployment Benefit (SUB) Plan requires benefit payment information before Supplemental Unemployment Benefits can be paid to such workers. Any information disclosed under this provision shall be utilized solely for the purpose outlined herein and shall be held strictly confidential by the employer.

C. The provisions of this section shall not prevent the Commission from disclosing the following information and no

liability whatsoever, civil or criminal, shall attach to any member of the Commission or any employee thereof for any error or omission in the disclosure of such information:

1. The delivery to taxpayer or claimant a copy of any report or other paper filed by him pursuant to the provision of the act;

2. The disclosure of information to any person for a purpose as authorized by the taxpayer or claimant pursuant to a waiver of confidentiality. The waiver shall be in writing and shall be notarized;

3. The Oklahoma Department of Commerce may have access to data obtained pursuant to the Oklahoma Employment Security Act of 1980 pursuant to rules promulgated by the Oklahoma Employment Security Commission. The information obtained shall be held confidential by the Department and any of its agents and shall not be disclosed or be open to public inspection. The Oklahoma Department of Commerce, however, may release aggregated data, either by industry or county, provided that such aggregation meets disclosure requirements of the Oklahoma Employment Security Commission;

4. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

5. The disclosing of information or evidence to the Attorney General or any district attorney when said information or evidence is to be used by said officials or other parties to the proceedings to prosecute or defend allegations of violations of the act. Said information disclosed to the Attorney General or any district attorney shall be kept confidential by them and not be disclosed except when presented to a court in a prosecution of a violation of the act, and a violation by the Attorney General or district attorney by otherwise releasing the information shall ~~be a felony~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes;

6. The furnishing, at the discretion of the Commission, of any information disclosed by said records or files to any official person or body of this state, any other state or of the United States who is concerned with the administration of assessment of any similar tax in this state, any other state or the United States;

7. The furnishing of information to other state agencies for the limited purpose of aiding in the collection of debts owed by individuals to said requesting agencies;

8. The release to officials, employees, and agents of the Oklahoma Department of Transportation of information required for use in federally mandated regional transportation planning, which is performed as a part of their official duties;

9. The release to officials, employees and agents of the State Treasurer's office of information required to verify or evaluate the effectiveness of the Oklahoma Small Business Linked Deposit Program on job creation;

10. The release to officials, employees, and agents of the Attorney General or the State Insurance Fund for use in investigation of workers' compensation fraud; or

11. The release to employees of the Oklahoma State Bureau of Investigation or release to employees of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for use in criminal investigations and the location of missing persons or fugitives from justice.

D. Should any of the disclosures provided for in this section require more than casual or incidental staff time, the Commission may charge the cost of such staff time to the party requesting the information.

E. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Commission.

SECTION 447. AMENDATORY 40 O.S. 1991, Section 5-103, is amended to read as follows:

Section 5-103. Any employer or any officer or agent of an employer or any other person who fails or refuses to make or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any employer or any officer or agent of an employer or any other person who makes a false statement or representation ~~knowing it to be false,~~ in writing or who ~~knowingly~~ fails to disclose a material fact in writing, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under this act or under the unemployment compensation law of any state or of the federal government~~, or who willfully fails or refuses to make or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment for not longer than ninety (90) days, or by both fine and imprisonment; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 448. AMENDATORY 40 O.S. 1991, Section 5-104, is amended to read as follows:

Section 5-104. Any person who shall ~~willfully violate~~ breach any provision of this act or any order, rule, or regulation thereunder, the ~~violation~~ breach of which is made unlawful or the observance of which is required under the terms of this act, and for

which a penalty is neither prescribed in this act nor provided by any other applicable statute, shall be ~~guilty of a misdemeanor and shall be punished by~~ liable for an administrative violation and subject to a fine of not ~~less than Fifty Dollars ($50.00) nor~~ more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00), ~~or by imprisonment for not longer than ninety (90) days, or by both such fine and imprisonment,~~ and each day such ~~violation~~ breach continues shall be deemed to be a separate offense.

SECTION 449. AMENDATORY 40 O.S. 1991, Section 5-107, is amended to read as follows:

Section 5-107. If any employee or member of the Board of Review or the Commission or any employee of the Commission, in violation of Section 4-508, makes any disclosure of information obtained from any employing unit or individual in the administration of this act, or if any person who has obtained any list of applicants for work, or of claimants or recipients of benefits, under this act shall use or permit the use of such list for any political purpose, he shall be ~~guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or imprisoned for not longer than ninety (90) days, or both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 450. AMENDATORY 40 O.S. 1991, Section 47, is amended to read as follows:

Section 47. Every person, company, corporation or association doing business in this state, who shall have persons brought into this state or transferred from one point to another within the state, for the purpose of employment through or by means of any employment agency operating in this or any other state, shall immediately fulfill the terms of the contract made between such persons shipped in for the purpose of employment and the employment agency, or shall, within twelve (12) hours after the arrival of such

persons desiring employment, in case of failure or refusal to furnish such employment provide such persons with transportation to their original starting point, and such meals and lodging as may be necessary for the proper sustenance of such persons until they arrive at their destination. Failure to comply with this section shall subject the offending parties to liability for an administrative violation subject to a fine of not ~~less than Fifty Dollars ($50.00), nor~~ more than ~~One Hundred Dollars ($100.00)~~ One Thousand Dollars ($1,000.00) for each ~~offense~~ breach.

SECTION 451. AMENDATORY 40 O.S. 1991, Section 53, as amended by Section 46, Chapter 270, O.S.L. 1993 (40 O.S. Supp. 1994, Section 53), is amended to read as follows:

Section 53. (a) No person shall open, operate or maintain an employment agency in the State of Oklahoma without first procuring a license from the Administrator. Any person who shall open or conduct any such agency without first having procured a license shall be ~~guilty of a misdemeanor and, upon conviction, shall be punished as provided in Section 57 of this title~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Application for the first license to be issued to any employment agency following the effective date of this act shall be accompanied by a fee of Two Hundred Fifty Dollars ($250.00); renewal applications for a license to be issued to any employment agency shall be accompanied by a fee of Two Hundred Fifty Dollars ($250.00). The license fee shall not be returnable, and shall be placed in the General Revenue Fund of the State Treasury.

(b) Every applicant for a license shall have been a resident of the State of Oklahoma for at least one (1) year immediately preceding the filing of such application, and shall have had at least one (1) year of experience as a placement counsellor in a licensed employment agency either within or without the state. In the case of corporation applicants, at least one of the

incorporators and one of the principal officers thereof, together with the person who is to be responsible for the general management of the office shall meet the above requirements as to Oklahoma residence and experience.

(c) Every applicant for a license shall file with the Administrator a written application stating the name and address of the applicant; the street and number of the building in which the employment agency is to be conducted; the name of the person who is to be responsible for the general management of the office; the names and addresses of all those financially interested therein; the name under which the business is to be conducted; whether or not the applicant is pecuniarily interested in any other business or businesses, and if so the nature of same and where carried on. Said applicant shall also state on the application whether or not he is engaged at the time of making application or at any previous time has been engaged or financially interested in an employment agency business in Oklahoma or any other state; and, if so, the name and address of such employment agency or agencies and the dates he was so engaged or interested. If applicant is now or has previously been employed in any employment agency he shall state the name and address of such agency, the name of the person conducting such agency, the dates employed, and in what capacity. All applications shall be sworn to, under oath, and shall remain confidential in the files of the Administrator.

(d) All applicants shall clearly state if they have operated or been employed by an employment agency in Oklahoma or any other state within the past fifteen (15) years and, if so, under what authority; and if ever cited for cause, give the final disposition of said breach of law or regulations charged governing such employment agency or employment. If applicant should be found guilty of perjury as to any material fact, after issuance of a license by the State of Oklahoma, after exhaustion of applicant's right of appeal,

the Administrator shall rescind such license immediately thereafter, and no license shall subsequently be issued to such applicant.

(e) The applicant shall give as reference the names and addresses of at least three (3) persons of reputed business or professional integrity. If applicant is a corporation, the application shall state the names and addresses of the officers and directors of said corporation and shall be signed and sworn to by the president and secretary, with seal affixed. If applicant is a copartnership, the application shall state the names and addresses of all partners therein and shall be signed and sworn to by all of them. The Administrator or Director shall be qualified to take sworn statements of applicants, under oath.

(f) Upon the filing of an application for the first license after the effective date of this act, as herein provided, the Administrator shall cause an investigation to be made of the applicant and all those financially interested therein, such investigation to be made by appropriate state agencies and other sources of information, and shall finally rule thereon within thirty (30) days after the application is filed. Unless the application shall be rejected by the Administrator on the grounds that the applicant or associated party or parties have been convicted of a felony, or for other good and sufficient reason within the meaning and purpose of this act, the same shall be granted. If the application is rejected, the Administrator shall state in the written order the specific reasons for such rejection. That there are already an adequate number of licensed employment agencies shall not be grounds for rejecting a license application. An appeal from an order of the Administrator rejecting an application for any reason other than conviction of a felony may be taken to the superior or district court of the county of applicant's residence, in accordance with the general statute of the state governing

appeals from decisions of administrative agencies in individual proceedings.

(g) A detailed report of such investigation and the action taken thereon by the Administrator shall be made in writing and become a part of the official records in the Administrator's office.

(h) Every initial application for a license shall be accompanied by a bond in the sum of Five Thousand Dollars ($5,000.00), issued by a duly licensed surety company authorized to do business in Oklahoma, to be approved by the Administrator and filed of record in his office, which bond shall be conditioned upon the applicant's complying with all the provisions of this act. Upon completion of one (1) year of operation, the amount of the bond shall be reduced to Three Thousand Dollars ($3,000.00) and shall remain fixed at that amount until the completion of two (2) years of operation, at which time, the amount of the bond shall be reduced to One Thousand Dollars ($1,000.00). The bond shall remain at One Thousand Dollars ($1,000.00) so long as the agency remains under the management of the originally licensed operator. If at any time, in the opinion of the Administrator, any of the sureties shall become irresponsible the person holding the license shall, upon written notice and demand from the Administrator, furnish a new bond, subject to the provisions of this section. Failure to furnish a new bond within fifteen (15) days after receipt of such notice and demand shall, in the discretion of the Administrator, constitute just cause for revocation of such license, and each license when revoked shall be obtained by the Administrator for cancellation.

(i) There shall appear on the license the name of the licensee, the location of the office where the employment agency is to be conducted, the name of the person who is to be charged with the general management and the precise name under which the employment agency is to be carried on. In the event of a change in location the Administrator shall be notified of same within ten (10) days and

the license shall be endorsed to show the correct address. Each license shall be numbered and dated and posted in a conspicuous place in the office of the employment agency.

(j) In the event the services of the person charged with the general management of the employment agency are terminated within the license year, the licensee shall so advise the Administrator and the name of the person taking over the management shall be substituted on the license for that of the former manager so that at all times the person charged with general management of the employment agency shall be known to the Administrator and shall appear on the license.

(k) Every license shall remain in force for twelve (12) months next after its issuance, unless sooner surrendered, suspended or revoked.

(l) The Administrator shall notify all license holders of the expiration date of their licenses at least ten (10) days prior thereto, and application for renewal shall be accompanied by the required license fee and bond.

(m) In the event the Administrator shall find that an employment agency has violated any of the provisions of this act, or that any other good and sufficient reason therefor has arisen within the meaning and purpose of this act, he may suspend or revoke said license or refuse to grant a new license upon the termination thereof; but in any case no action shall be taken until a written notice has been served on said employment agency specifying the charges against said agency, and a fair public hearing, in which the procedure prescribed for individual proceedings by the general administrative procedure acts of the state shall apply wherever not in conflict with the specific procedures herein prescribed, has been given same within thirty (30) days after such written notice has been posted by registered mail to the licensee. If, after such hearing, the Administrator shall find cause to suspend, revoke or

refuse to issue a license, the employment agency shall be given written notice of the Administrator's decision and the basis therefor, which decision shall become final at the end of thirty (30) days from the date of such notice, unless during the said thirty-day period the licensee shall take an appeal to the superior or district court of the county in which the license was issued from the Administrator's order, with opportunity for stay as provided in the general statutes of the state governing appeals from administrative orders in individual proceedings. All appeals from the Administrator's decisions and orders shall be taken in the manner prescribed by law.

(n) Every complaint against an employment agency shall be made in writing to the Administrator and shall be thoroughly investigated. A complete record of the investigation and disposition of the complaint shall be made and become a permanent record in the Administrator's office. Whenever, for any cause, a license is revoked, the Administrator shall not within two (2) years from the date of such revocation issue another license to the person whose license has been revoked.

(o) No license granted under the terms of this act shall be transferable, but an employment agency may, with the approval of the Administrator, at any time incorporate or admit a partner or partners to the business, or make changes in the corporate name, or sell the business; but no employment agency shall permit any person not mentioned in the application for license to become connected with such agency, either as a partner or as an officer of a corporation, unless the Administrator's written consent thereto shall first have been obtained. Such consent may be withheld only for any reason for which an original application for license might have been rejected if the person or persons in question had been mentioned therein. Nothing in this act shall be construed to prevent any executor, administrator or heir of a deceased licensee

from carrying on the employment agency's business for the remainder of the period for which licensed, or pending its sale to a qualified purchaser.

(p) No sale of a franchise for an agency operation in Oklahoma shall be legal, or enforceable in the courts of this state, unless and until the qualifications of such franchise purchaser shall first have been submitted to the Administrator as a prospective licensee under the provisions of this act, and approved by the Administrator.

SECTION 452. AMENDATORY 40 O.S. 1991, Section 55, is amended to read as follows:

Section 55. (a) Every employment agency shall enter into a written agreement with every applicant for services to be rendered and the time and method of payment, and on which there shall appear the definition of "Temporary Employment", "Permanent Employment" and "Method of Payment". Provided, that nothing herein shall be construed to prohibit an employment agency from making arrangements by wire or telephone without said employee having first entered into a written agreement with the agency; and provided further, if by oversight or intention an applicant fails to sign an employment contract, but is placed and accepts such employment, the employment agency shall be entitled to its fee for such placement. Every employment agency shall provide the applicant with a copy of any written agreement between the applicant and the agency. All contracts or agreements shall clearly state the fee and in no case shall the employment agency collect more than the stated fee or agreed percentage of the first year's total income.

(b) In all instances wherein permanent employment is terminated within the definition of temporary employment, every employment agency shall give to every person from whom an overpayment of fee has been received, if requested within six (6) months of such termination, a refund in the amount of such overpayment, such refund to be made promptly within ten (10) days following the agency's

receipt of verification from the employer of the inclusive dates of employment and the total gross earnings of the employee. This subsection shall not apply to any employment agency acting as a search consultant that is retained and compensated solely by the employer on a retainer or consulting basis.

(c) Every employment agency shall give to every person from whom a payment is received for services or assistance rendered or to be rendered a receipt bearing the name and address of the employment agency, the name of the employee, amount of the payment, date of payment, and for what it is paid. Each such receipt shall be numbered and bound in duplicate form. The duplicate copy shall be kept for two (2) years at the office of the employment agency.

(d) A record shall be kept of the name and address of every employee accepting employment, the name and address of the employer with whom employment is accepted, the nature of the employment, the rate of wage or salary to be paid the employee, the amount of the employment agency's service charge, the dates and amounts of payments, the date and amount of refund, if any, and for what, together with a space for remarks under which shall be recorded anything of an individual nature to amplify the foregoing account or record and as information in the event of any question arising concerning the transaction. Such records shall be open to inspection by the Administrator or Director during business hours, at the address where the employment agency is conducted, for the purpose of enforcing the provisions of this act. The Administrator may also by rules and regulations require reports from all agencies giving information on job placements, monthly or quarterly, both within and without the state, and classified by type of employment, to conform generally with employment data gathered and published by the Oklahoma Employment Security Commission.

(e) The Administrator may require of the employment agency against whom a written complaint is made, a detailed account in

writing, under oath, of the transaction referred to in the complaint.

(f) No employment agency shall direct an applicant to employment without having obtained, either orally or in writing, permission or authorization of the employer. No applicant for employment shall be required by any agency to list prospective employers to whom he shall previously have been referred by other agencies.

(g) No applicant for employment shall knowingly make false or misleading statements to an employment agency regarding age, education, training, experience or references; and no employment agency shall be held responsible for misinformation given it by an applicant and transmitted by it in good faith to an employer.

(h) No employment agency shall advertise openings for which it does not hold orders from employers or knowingly cause to be printed, published or circulated misleading, false or fraudulent information about employment opportunities.

(i) Other than the prescribed placement fee, no employment agency shall require either the employee or employer to contribute to the cost of its employment-related services, advertising, or incidental expenses. This subsection shall not apply to any employment agency acting as a search consultant that is retained and compensated solely by the employer on a retainer or consulting basis.

(j) No employment agency shall place, or cause to be placed, promotional advertising in any media without licensee's identification as to agency and address.

(k) No employment agency shall send any person to a prospective employer who is conducting a "lockout" against all or part of his employees, or whose employees or a part of them are out on strike, without first apprising said person of the existence of such lockout or strike.

(1) Any licensed agency, or agent thereof, who shall ~~be guilty of dividing~~ divide fees with any superintendent, manager, foreman or other employees of any person, company, corporation or association for whom employees are furnished, shall be ~~guilty of a misdemeanor and, upon conviction, shall be punished as provided in Section 57 of this title~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

(m) No licensed agency shall furnish employment to or refer any child to any vocation or establishment in violation of the laws regulating the labor of children or their compulsory attendance at school.

(n) No employment agency shall discriminate in the employment of its personnel because of the race, national origin, sex or religious belief of the applicant seeking employment with the agency.

SECTION 453. AMENDATORY 40 O.S. 1991, Section 57, is amended to read as follows:

Section 57. It shall be the duty of the Administrator and/or Director to enforce the provisions of this act. When informed of any ~~violation~~ breach thereof it shall be his duty to investigate same, and he may institute ~~criminal~~ proceedings for enforcement of this act, or apply to any court of competent jurisdiction and/or the Attorney General in order to seek injunctive relief on behalf of the State of Oklahoma. In order to make more effective the foregoing statutory provisions and rules and regulations, the Administrator is hereby authorized to prepare and promulgate such rules and regulations as may from time to time be deemed necessary, not inconsistent with the provisions of this act. A ~~violation~~ breach of such rules and regulations shall be deemed to be a violation of this act, and any person ~~convicted of violating~~ breaching the provisions of this act shall be ~~guilty of a misdemeanor and shall be fined not less than Fifty Dollars ($50.00), nor more than One Hundred Dollars~~

~~($100.00)~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00), or the fee charged for the service, whichever is greater, for each ~~offense or be imprisoned in the county jail for a period of not exceeding six (6) months, or both such fine and imprisonment,~~ breach, at the discretion of the ~~court~~ agency.

SECTION 454. AMENDATORY 40 O.S. 1991, Section 88, is amended to read as follows:

Section 88. Any person ~~violating~~ breaching any of the provisions of this article~~,~~ shall be ~~punished by~~ liable for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than ~~Five Hundred Dollars ($500.00), or imprisonment for not less than ten (10) nor more than thirty (30) days, or both such fine and imprisonment~~ One Thousand Dollars ($1,000.00). It shall be the duty of the Commissioner of Labor to see that the provisions of this article~~,~~ are enforced ~~with the exception of Section 85 of this title, which shall be enforced by the Mine Inspector or under his direction~~.

SECTION 455. AMENDATORY 40 O.S. 1991, Section 141.6, is amended to read as follows:

Section 141.6 A. All firms or corporations engaged in the service, repair and/or installation of boilers or pressure vessels located in this state shall be licensed by the Commissioner to perform such work. Provided, no license shall be required for any firms or corporations engaged in the service, repair and/or installation of hot water supply heaters as provided in paragraph 12 of subsection A of Section ~~2~~ 141.2 of this ~~act~~ title. The Commissioner of Labor shall abide by any existing code of installation presently adopted or as may be hereinafter adopted by this state or its agencies or by any county, municipality or school district as pertains to hot water supply heaters. The annual license fee shall be payable in advance on or before January 31 of

each calendar year. Each firm or corporation must furnish evidence suitable to the Commissioner that they are qualified to perform such work.

B. All hearings for the issuance or revocations of license under this section shall comply with the Oklahoma Administrative Procedures Act.

C. Any person who shall ~~violate~~ breach any of the provisions of this act or who ~~violates~~ breaches any rule or order of the Commissioner pursuant to this act shall be ~~guilty of a misdemeanor, and in~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. In addition thereto, the Commissioner may be enjoined from continuing such action. Each day upon which such violation occurs shall constitute a separate violation.

SECTION 456. AMENDATORY 40 O.S. 1991, Section 141.15, is amended to read as follows:

Section 141.15 After twelve (12) months for power boilers, twenty-four (24) months for low pressure steam heating, hot water heating and hot water supply boilers, and thirty-six (36) months for pressure vessels following the date on which this act becomes effective, it shall be unlawful for any person, firm, partnership or corporation to operate in this state a boiler or pressure vessel covered by this act, including boilers and pressure vessels covered by owner-user inspection service provided for in Section 14, without a valid certificate of operation. The operation of a boiler or pressure vessel without such certificate of operation, or at a pressure exceeding that specified in such certificate of operation or in ~~violation~~ breach of this act or the rules and regulations promulgated under it, shall ~~constitute a misdemeanor~~ be an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) on the part of the owner, user or operator thereof. Each day of such unlawful operation shall be deemed a separate ~~offense~~ breach.

SECTION 457. AMENDATORY 40 O.S. 1991, Section 165.8, is amended to read as follows:

Section 165.8 It shall be ~~a misdemeanor~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any employer to ~~violate~~ breach any of the provisions of Sections 165.1 through 165.11 of this title.

SECTION 458. AMENDATORY 40 O.S. 1991, Section 165.11, is amended to read as follows:

Section 165.11 Failure to pay benefits or furnish wage supplements pursuant to agreements.

A. In addition to any other penalty ~~or punishment~~ otherwise prescribed by law, any employer who is a voluntary party to or subject to a bona fide written agreement to pay or provide benefits or wage supplements to employees or to a third party or fund for the benefit of employees and who ~~willfully~~ fails, neglects or refuses to pay the amount or amounts necessary to provide such benefits or furnish such supplements within thirty (30) days after such payments are required to be made by law or by agreement, shall be ~~guilty of a misdemeanor,~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00), and each such failure to make payment as required herein shall constitute a separate ~~offense~~ breach. Where such employer is a corporation, the president, secretary, treasurer or officers exercising corresponding functions shall each ~~be guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

B. As used in this section, the term "benefits or wage supplements" includes, but is not limited to, reimbursement for expenses as agreed prior to contracting said expenses; health, welfare and retirement benefits; and vacation, separation or holiday pay.

SECTION 459. AMENDATORY 40 O.S. 1991, Section 168, is amended to read as follows:

Section 168. Any employer of labor of any kind doing business in this state, as well as its agent, attorney or servant, found guilty of violating the preceding section~~, or any part thereof, shall be fined not less than Five Hundred Dollars ($500.00) and not exceeding Two Thousand Dollars ($2,000.00), or confined in the county jail not less than one (1) month and not exceeding one (1) year or both such fine and imprisonment~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 460. AMENDATORY 40 O.S. 1991, Section 171, is amended to read as follows:

Section 171. Whenever any employee of any public service corporation, or of a contractor, who works for such corporation, doing business in this state, shall be discharged or voluntarily quits the service of such employer, it shall be the duty of the superintendent or manager, or contractor, upon request of such employee to issue to such employee a letter, setting forth the nature of the service rendered by such employee to such corporation or contractor, and the duration thereof, and truly stating the cause for which such employee was discharged from or quit such service, and, if any such superintendent, manager or contractor shall fail or refuse to issue such letter, to such employee, when so requested, or shall ~~willfully or negligently~~ refuse or fail to state the facts correctly, such superintendent, manager or contractor shall be ~~deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by~~ liable for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00), and not~~ more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00), ~~and by imprisonment in the county jail for a period of not less than one (1) month and not exceeding one (1) year:~~ provided, that such letter shall be written, in its entirety, upon a

plain sheet of white paper to be selected by such employee. No printed blank shall be used, and if such letter be written upon a typewriter, it shall be signed with pen and black ink and immediately beneath such signature shall be affixed the official stamp, or seal, of said superintendent, manager or other officer of such corporation or contractor, in an upright position. There shall be no figures, words or letters used, upon such piece of paper, except such as are plainly essential, either in the date line, address, the body of the letter or the signature and seal or stamp thereafter, and no such letter shall have any picture, imprint, character, design, device, impression or mark, either in the body thereof or upon the face or back thereof and any person of whom such letter is required who fails to comply with the foregoing requirements shall be liable to the penalties above prescribed.

SECTION 461. AMENDATORY 40 O.S. 1991, Section 176, is amended to read as follows:

Section1 176. Any person engaged in and having supervision and charge of the building, erection, or construction of any block, building or structure who shall neglect or refuse to place or have placed upon the joists of each and every story of such block, building or structure as soon as the joists are in position, counter floors of such quality and strength as to render perfectly safe the going to and fro thereon of all mechanics, laborers, and other persons engaged upon the work of construction or in supervising the same or in the building or placing of materials therefor, shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be fined in any sum not less than Twenty-five Dollars ($25.00) nor~~ liable for a civil infraction and subject to a fine of not more than ~~Two Hundred Dollars ($200.00)~~ One Thousand Dollars ($1,000.00), and each and every day that such person, contractor, agent, factor or architect shall neglect or refuse to have such floors so placed as aforesaid, after written

notice by the building inspector or from any person whose life or personal safety may be endangered by such neglect or refusal shall be held and considered a separate offense, severally liable to the penalties aforesaid.

SECTION 462. AMENDATORY 40 O.S. 1991, Section 177, is amended to read as follows:

Section 177. Any contractor or other person having charge of the erection, construction, repairing, alteration, removal or painting of any building, bridge, viaduct, steel tank, standpipe or other structure, within the provisions of the three preceding sections, shall comply with the terms thereof, and any such contractor or other person ~~violating~~ breaching any of the provisions of the three preceding sections shall~~, upon conviction thereof,~~ be ~~fined not less than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00), or imprisoned for not less than thirty (30) days nor more than one (1) year, or both such fine and imprisonment, in the discretion of the Court~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). In addition to the ~~penalties~~ fines herein provided, in the event of refusal or neglect of any person, firm or corporation, or his, or its agent, to comply with the provisions of the three preceding sections, the use of any such scaffold, hoist, crane, stays, ladder, support, or other mechanical contrivance, or the erection, repairing, alteration, removal or painting of any building, bridge, viaduct, steel tank, or other structure, may be prohibited by the Labor Commissioner, or inspector deputized by him, and a notice to that effect shall be posted upon the premises. Such notice shall not be removed until such scaffold, hoist, crane, stays, ladder, support or other mechanical contrivance or temporary floorings are properly and safely constructed.

SECTION 463. AMENDATORY 40 O.S. 1991, Section 192, is amended to read as follows:

Section 192. Each ~~and every violation~~ breach of any provision of Section ~~1~~ 191 of this ~~act~~ title shall ~~constitute a misdemeanor, punishable by a fine in any amount not exceeding One Hundred Dollars ($100.00)~~ be an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 464. AMENDATORY 40 O.S. 1991, Section 194, is amended to read as follows:

Section 194. Any corporation, partnership, firm or person contracting to do work for the State of Oklahoma who shall fail to employ at least ninety percent (90%) of the nonprofessional personnel used in the performance of said contract who are qualified residents, as defined above, of the State of Oklahoma, shall be ~~guilty of a misdemeanor and upon conviction thereof shall pay a fine of One Hundred Dollars ($100.00)~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Each day work is done in performance of said contract in violation of this act shall be a separate offense.

SECTION 465. AMENDATORY 40 O.S. 1991, Section 196.9a, is amended to read as follows:

Section 196.9a A. Any contractor ~~convicted of violating~~ breaching the provisions of this act or Sections 1701 through 1707 of Title 68 of the Oklahoma Statutes or determined by the Commissioner to have ~~violated~~ breached the provisions of Sections 196.1 through 196.12 of Title 40 of the Oklahoma Statutes or Sections ~~10 and 11~~ 196.13 and 196.14 of this ~~act~~ title shall be ineligible to bid on or be awarded any public works contract or to perform any construction work in any manner for any public body for a period of two (2) years from the date of such conviction or determination. Any firm, partnership, corporation or other entity in which such ineligible contractor is an officer, stockholder or has a financial interest or supervises or directs work shall be ineligible to bid on or be awarded any public works contract or

perform any construction work in any manner for any public body for a period of two (2) years from the date of such ~~conviction or~~ determination.

B. Beginning November 1, 1986, a contractor shall not be eligible to bid on a public works project unless the contractor has submitted valid payroll information to the Wage and Hour Division of the Employment Standards Administration of the United States Department of Labor. The information required to be submitted pursuant to the provisions of this subsection shall be the same as that information solicited by the United States Department of Labor pursuant to the Federal Davis-Bacon Act. All bids submitted on a public works project by a contractor shall include an affidavit from the contractor that the contractor is in compliance with the provisions of this subsection.

C. The Commissioner shall compile a monthly list which shall include:

1. The names of all contractors which the Commissioner has found to be in noncompliance with the provisions of this act within the previous two (2) years as of the date of such list;

2. The names of all contractors which the Commissioner has found to have failed to submit said payroll information as set forth in subsection B of this section within the previous two (2) years as of the date of such list;

3. The dates on which the latest violations of such contractors occurred; and

4. The names of all persons who have been convicted of violating the provisions of Section 10 of this act.

Upon request, the Commissioner shall mail such monthly list to any public body in this state which may award public works contracts. It shall be the duty of the public body to hold such contractor ineligible to bid on or to be awarded any public works contract for said period of time required in subsection A of this section and to

hold such person ineligible to perform any construction work in any manner for any public body pursuant to subsection B of Section 10 of this act.

SECTION 466. AMENDATORY 40 O.S. 1991, Section 196.11, is amended to read as follows:

Section 196.11 Any officer, agent or representative of any public body who ~~knowingly violates~~ breaches or omits to comply with any of the provisions of Sections 196.1 through 196.12 of this title, any contractor, or agent or representative thereof, doing public work who neglects to keep an accurate record of the names, occupation, and actual wages paid to each workman employed by him, in connection with the public work pursuant to the provisions of Section 196.9 of this title, or who refuses to allow access to same at any reasonable hour to any person authorized pursuant to the provisions of Section 196.9 of this title to inspect same, and any contractor, or agent or representative thereof, doing public work who refuses to allow access to any public works project to the Commissioner or his duly authorized representative authorized pursuant to the provisions of Section 196.4 of this title to investigate ~~violations~~ breaches of the provisions of this act ~~upon conviction~~ shall be ~~guilty of a misdemeanor and shall be punished by~~ liable for an administrative violation and subject to a fine of not ~~to exceed~~ more than One Thousand Dollars ($1,000.00) ~~or by imprisonment in the county jail for not to exceed six (6) months or by both such fine and imprisonment~~. In addition, such person shall be subject to a cease and desist order of the Commissioner, court injunction or mandamus, and any other remedy of law provided by Sections 196.1 through 196.12 of this title.

SECTION 467. AMENDATORY 40 O.S. 1991, Section 197.13, is amended to read as follows:

Section 197.13 Any employer, or the officer or agent of any corporation, who pays or agrees to pay to any employee less than the

rate of compensation required by Sections 197.2 and 197.5 of this title, upon conviction, shall be ~~guilty of a misdemeanor and shall be punished by~~ liable for an administrative violation and subject to a fine of not more than ~~Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00).

SECTION 468. AMENDATORY 40 O.S. 1991, Section 197.14, is amended to read as follows:

Section 197.14 Any employer failing to post the notice required by Section ~~6~~ 197.6 of this ~~act~~ title shall be ~~punished by~~ liable for an administrative violation and subject to a fine of not ~~to exceed Twenty-five Dollars ($25.00)~~ more than One Thousand Dollars ($1,000.00), and each week he fails to post such notice shall constitute a separate offense.

SECTION 469. AMENDATORY 40 O.S. 1991, Section 198.1, is amended to read as follows:

Section 198.1 It shall be ~~unlawful~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for any employer within the State of Oklahoma to ~~willfully~~ pay wages to women employees at a rate less than the rate at which he pays any employee of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility, except where such payment is made pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on any factor other than sex. Each breach of this provision shall be a separate breach.

SECTION 470. AMENDATORY 40 O.S. 1991, Section 199, is amended to read as follows:

Section 199. A. It shall be ~~a misdemeanor~~ unlawful for any employer, as defined in Section 165.1 of this title, or his agent to

discharge, penalize or in any other manner discriminate against any employee because:

1. The employee has filed a complaint with his employer, or the Commissioner of Labor or his authorized representative, to enforce any provision of Sections 71 through 198.2 of this title;

2. The employee has caused to be instituted a proceeding or investigation related to an alleged violation of any provision of Sections 71 through 198.2 of this title; or

3. The employee has testified or is about to testify in an investigation or proceeding under this title.

B. Every employer, as defined in Section 165.1 of this title, or his agent shall be ~~guilty of a misdemeanor~~ liable for an administrative violation if:

1. The filing of a complaint with the employer, Commissioner of Labor or his authorized representative, or the taking of any action directly related to the complaint by any employee is a substantial and material factor in the discharge, penalization of or any other discrimination against the employee by the employer or his agent; or

2. The employer or his agent has acted in a manner which has the effect of discouraging, restraining, coercing or interfering with any employee in the exercise of the employee's rights contained in Sections 71 through 198.2 of this title.

C. Every person ~~convicted of violating~~ breaching a prohibition of this section shall be ~~fined not less than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00) or imprisoned in the county jail for not less than five (5) days nor more than thirty (30) days, or both~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 471. AMENDATORY 40 O.S. 1991, Section 199.4, is amended to read as follows:

Section 199.4 Any person, partnership, agency, firm or corporation ~~violating~~ breaching this act shall be ~~guilty of a~~

~~misdemeanor and shall be punished by~~ liable for an administrative violation and subject to a fine of not ~~less than Five Hundred Dollars ($500.00) nor~~ more than ~~Two Thousand Five Hundred Dollars ($2,500.00), or by imprisonment in the county jail for not less than sixty (60) days nor more than one (1) year, or both, at the discretion of the court~~ Five Thousand Dollars ($5,000.00).

SECTION 472. AMENDATORY 40 O.S. 1991, Section 412, as amended by Section 5, Chapter 305, O.S.L. 1992 (40 O.S. Supp. 1994, Section 412), is amended to read as follows:

Section 412. A. Any person failing to comply with any standard or interfering with, impeding or obstructing in any manner the administration of standards pursuant to the provisions of the Oklahoma Occupational Health and Safety Standards Act~~, upon conviction, shall be guilty of a misdemeanor~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

B. Any person who ~~violates~~ breaches any of the provisions of the Oklahoma Occupational Health and Safety Standards Act~~, upon conviction, shall be guilty of a misdemeanor~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) and in addition thereto may be enjoined from continuing such ~~violation~~ breach. Each day upon which such ~~violation~~ breach occurs shall constitute a separate ~~violation~~ breach.

~~C. The Attorney General, on the request of the Commissioner, shall bring an action against any person violating any of the provisions of the Oklahoma Occupational Health and Safety Standards Act or violating any order or determination of the Commissioner promulgated pursuant to the Oklahoma Occupational Health and Safety Standards Act.~~

SECTION 473. AMENDATORY 40 O.S. 1991, Section 419, is amended to read as follows:

Section 419. Any employer or insurance company ~~willfully~~ failing to comply with any of the provisions of Sections ~~17 and 18 is guilty of a misdemeanor~~ 417 and 418 of this title shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 474. AMENDATORY 40 O.S. 1991, Section 456, as amended by Section 269, Chapter 145, O.S.L. 1993 (40 O.S. Supp. 1994, Section 456), is amended to read as follows:

Section 456. ~~A.~~ In addition to any administrative or civil penalty, any person who violates any of the provisions of the Oklahoma Asbestos Control Act or who violates any rule or order promulgated pursuant thereto shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) and may be enjoined from continuing such action. ~~Upon conviction thereof, said person shall be punished by imprisonment in the county jail for not more than six (6) months and by a fine of not less than One Hundred Dollars ($100.00).~~ Each day's ~~violations~~ breaches shall constitute a separate violation.

~~B. The Attorney General shall, upon request of the Commissioner, bring an action for injunction against any person violating any provision of the Oklahoma Asbestos Control Act or violating any order or determination of the Commissioner. In any action for injunction, any finding of the Commissioner, after notice, shall be prima facie evidence of the facts found therein.~~

~~C. A district attorney, upon request of the Commissioner, shall prosecute any violation of the Oklahoma Asbestos Control Act.~~

SECTION 475. AMENDATORY 40 O.S. 1991, Section 469, is amended to read as follows:

Section 469. Any ~~violation~~ breach of the provisions of this act shall be ~~a misdemeanor~~ an administrative violation and subject to a fine of not less than One Thousand Dollars ($1,000.00). ~~Conviction~~

~~thereof shall be punished by a fine not exceeding One Thousand Dollars ($1,000.00) or not more than one (1) year in the county jail, or both such fine and imprisonment.~~ Each day of ~~violation~~ breach shall constitute a separate offense.

Such fines shall not replace any prosecution under applicable crimes in Title 21 of the Oklahoma Statutes.

SECTION 476. AMENDATORY Section 8, Chapter 355, O.S.L. 1993 (40 O.S. Supp. 1994, Section 558), is amended to read as follows:

Section 558. A. On and after July 1, 1994, no testing facility shall provide laboratory services to an employer to test for the presence or absence of drugs or alcohol unless it meets the qualifications established for testing facilities pursuant to Section 7 of this act and is licensed by the State Department of Health to perform such tests. The State Board of Health shall promulgate rules relating to the issuance of such license, including rules governing license revocation, suspension and nonrenewal.

B. The fees for licensure of testing facilities by the State Department of Health shall be set by the State Board of Health and shall not be more than One Hundred Fifty Dollars ($150.00) annually.

C. Any testing facility providing laboratory services to an employer to test for the evidence of drugs or alcohol which is not licensed by the State Department of Health pursuant to this section shall be liable for administrative violation and subject to ~~an administrative~~ a fine of not more than Five Hundred Dollars ($500.00) for each offense. Each test performed by the unlicensed testing facility in violation of this section shall constitute a separate offense.

SECTION 477. AMENDATORY Section 15, Chapter 355, O.S.L. 1993 (40 O.S. Supp. 1994, Section 565), is amended to read as follows:

Section 565. Any person who ~~willfully and knowingly~~ violates the provisions of the Standards for Workplace Drug and Alcohol Testing Act shall be ~~guilty of a misdemeanor and, upon conviction, punishable by~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than Five Thousand Dollars ($5,000.00) ~~or imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment~~.

SECTION 478. AMENDATORY 41 O.S. 1991, Section 40, is amended to read as follows:

Section 40. When any lease on land heretofore or hereafter taken shall have become forfeited, it shall be the duty of the lessee, his, her, or their heirs, successors, assigns or legal representatives, within sixty (60) days from the date this act shall take effect, if such forfeiture occurs prior thereto, and within sixty (60) days from date of forfeiture of any and all other leases, to have such leases released from record in the county where such land is situated, without cost to the owner or owners thereof; and upon failure to make such release, the owner or owners of the land under lease may notify in writing the holder of the record title to such lease, that the same has become forfeited and demand a release of record of such lease, as herein provided; and if the owner or holder of such lease, or the officer, agent, or other persons whose duty it is to release such lease, shall fail or neglect to release same within thirty (30) days after demand to release has been made in writing, he shall be ~~guilty of a misdemeanor and upon conviction shall be punished by a fine of not exceeding One Hundred Dollars ($100.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 479. AMENDATORY 41 O.S. 1991, Section 115, is amended to read as follows:

Section 115. A. Any damage or security deposit required by a landlord of a tenant must be kept in an escrow account for the

tenant, which account shall be maintained in the State of Oklahoma with a federally insured financial institution. ~~Misappropriation of the~~ A person violating this provision shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). A person misappropriating a security deposit shall be ~~unlawful and punishable by a term in a county jail not to exceed six (6) months and by a fine in an amount not to exceed twice the amount misappropriated from the escrow account~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. Upon termination of the tenancy, any security deposit held by the landlord may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with this act and the rental agreement, all as itemized by the landlord in a written statement delivered by mail to be by return receipt requested and to be signed for by any person of statutory service age at such address or in person to the tenant if he can reasonably be found. If the landlord proposes to retain any portion of the security deposit for rent, damages or other legally allowable charges under the provisions of this act or the rental agreement, the landlord shall return the balance of the security deposit without interest to the tenant within thirty (30) days after the termination of tenancy, delivery of possession and written demand by the tenant. If the tenant does not make such written demand of such deposit within six (6) months after termination of the tenancy, the deposit reverts to the landlord in consideration of the costs and burden of maintaining the escrow account, and the interest of the tenant in that deposit terminates at that time.

C. Upon cessation of a landlord's interest in the dwelling unit including, but not limited to, termination of interest by sale, assignment, death, bankruptcy, appointment of receiver or otherwise,

the person in possession of the tenants' damage or security deposits at his option or pursuant to court order shall, within a reasonable time:

1. Transfer said deposits to the landlord's successor in interest and notify the tenants in writing of such transfer and of the transferee's name and address; or

2. Return the deposits to the tenants.

D. Upon receipt of the transferred deposits under paragraph 1 of subsection C of this section, the transferee, in relation to such deposits, shall have all the rights and obligations of a landlord holding such deposits under this act.

E. If a landlord or manager fails to comply with this section or fails to return any prepaid rent required to be paid to a tenant under this act, the tenant may recover the damage and security deposit and prepaid rent, if any.

F. Except as otherwise provided by the rental agreement, a tenant shall not apply or deduct any portion of the security deposit from the last month's rent or use or apply such tenant's security deposit at any time in lieu of payment of rent.

G. This section does not preclude the landlord or tenant from recovering other damages to which he may be entitled under this act.

SECTION 480. AMENDATORY 42 O.S. 1991, Section 102, is amended to read as follows:

Section 102. It shall be the duty of the holder of the lien under this act when the same is satisfied to immediately file a notice of discharge thereof with the county clerk of the county wherein the lien is filed. Failure to do so shall subject the holder of the lien to <u>liability for a civil infraction and</u> a fine of not ~~less than Twenty-five Dollars ($25.00) nor~~ more than ~~One Hundred Dollars ($100.00)~~ <u>One Thousand Dollars ($1,000.00)</u>.

SECTION 481. AMENDATORY 42 O.S. 1991, Section 118, is amended to read as follows:

Section 118. It shall be the duty of the holder of the lien under this act when same is satisfied to immediately file a notice of discharge thereof with the register of deeds of the county wherein the lien is filed.

Failure to do so shall subject the holder of the lien to liability for a civil infraction and a fine of not ~~less than Twenty-five Dollars ($25.00), nor~~ more than ~~One Hundred Dollars ($100.00)~~ One Thousand Dollars ($1,000.00).

SECTION 482. AMENDATORY 42 O.S. 1991, Section 144.2, is amended to read as follows:

Section 144.2 A. Except as provided by subsection F of this section, the amount payable under any oil and gas well drilling contract, reworking contract, operating agreement, or monies payable as a condition of participation in the drilling of an oil and gas well under the terms of a pooling order issued by the Oklahoma Corporation Commission shall, upon receipt by any oil and gas well operator, contractor or subcontractor, be held by such operator as trust funds for the payment of all lienable claims due and owing by such operator, contractor or subcontractor by reason of such drilling contract, reworking contract, operating agreement, or force pooling order.

B. The trust funds created under subsection A of this section shall be applied to the payment of said valid lienable claims and no portion thereof shall be used for any other purpose until all lienable claims due and owing or to become due and owing shall have been paid.

~~C. Any person willfully and knowingly appropriating such trust funds to a use not permitted by subsection A of this section, upon conviction, shall be guilty of embezzlement.~~

~~D. If the party receiving any money under subsection A of this section shall be a corporation, such corporation and its managing~~

~~officers shall be liable for the proper application of such trust funds and subject to punishment under subsection C of this section.~~

~~E.~~ C. The existence of such trust funds shall not prohibit the filing or enforcement of any labor, mechanic or materialmen's lien against the affected real property by any lien claimant, nor shall the filing of such a lien release the holder of such funds from the obligations created under this section.

~~F.~~ D. The provisions of this section shall not be applicable or affect payments owed to royalty owners by the operator of an oil or gas well and shall not affect or alter the terms or provisions of Section 87.1 of Title 52 of the Oklahoma Statutes.

SECTION 483. AMENDATORY 42 O.S. 1991, Section 153, is amended to read as follows:

Section 153. (1) The trust funds created under Section 152 of this title shall be applied to the payment of said valid lienable claims and no portion thereof shall be used for any other purpose until all lienable claims due and owing or to become due and owing shall have been paid.

~~(2) Any person willfully and knowingly appropriating such trust funds to a use not permitted by subsection (1) of this section, upon conviction, shall be guilty of embezzlement and shall be punished by imprisonment in the State Penitentiary for a period not to exceed five (5) years or by a fine not to exceed Ten Thousand Dollars ($10,000.00), or by both such imprisonment and fine.~~

~~(3) If the party receiving any money under Section 152 of this title shall be a corporation, such corporation and its managing officers shall be liable for the proper application of such trust funds and subject to punishment under subsection (2) of this section.~~

~~(4)~~ (2) The existence of such trust funds shall not prohibit the filing or enforcement of a labor, mechanic or materialmen's lien against the affected real property by any lien claimant, nor shall

the filing of such a lien release the holder of such funds from the obligations created under this section or Section 152 of this title.

SECTION 484. AMENDATORY 43 O.S. 1991, Section 17, is amended to read as follows:

Section 17. Any person ~~violating~~ breaching this act shall be ~~guilty of a misdemeanor and shall be punished by~~ liable for a civil infraction and subject to a fine of not ~~to exceed Twenty-five Dollars ($25.00) for the first conviction, and for any second or subsequent conviction by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00)~~ more than One Thousand Dollars ($1,000.00).

SECTION 485. AMENDATORY 43 O.S. 1991, Section 36, is amended to read as follows:

Section 36. Marriage licenses shall be issued to all applicants who have complied with the provisions of this act and who are otherwise entitled under the laws of the State of Oklahoma to apply therefor and to contract matrimony. Any person obtaining such marriage license from the court clerk shall deliver said license, within ten (10) days from the date of issue, to the clergyman or other qualified person who is to officiate before the marriage can be performed. Each such license, when issued, shall have endorsed thereon or annexed thereto, at the end thereof, a statement, subscribed by the person issuing the license, that the application for the license was accompanied by papers complying with the applicable requirements of Sections 1 and 3 of this act relative to examination and health of the parties or, if such compliance was dispensed with, wholly or partly, by order of the judge of the district court, a statement to that effect. The license issued, including the above statement, or including said statement in the certificate duly signed by the person who shall have performed the marriage therein authorized, shall be returned by him to the licensing authority who issued the same within five (5) days

succeeding the date of the performance of the marriage therein authorized, and any person or persons who shall ~~willfully~~ neglect to make such return within the time above required shall be deemed ~~guilty of a misdemeanor and upon conviction thereof shall be punished by~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00)~~ more than One Thousand Dollars ($1,000.00) for each and every ~~offense~~ breach.

SECTION 486. AMENDATORY 44 O.S. 1991, Section 71, is amended to read as follows:

Section 71. Each detachment and unit in the National Guard shall assemble for drill and instruction, including indoor target practice, not less than forty-eight (48) times each year, and shall, in addition thereto, participate in encampments, maneuvers, or other exercises, including outdoor target practice, at least fifteen (15) days in training each year, including target practice, unless such unit or detachment shall have been excused from any participation in any part thereof by the Governor. It shall be the duty of each commissioned officer and enlisted man or airman of the Oklahoma National Guard to be present and perform all the duties required of him at each assembly for drill and instruction, encampment, maneuvers or other exercises, unless regularly excused by competent authority. Any employer who refuses to permit an employee who may be a member of the National Guard of this state to attend any drill, ceremony, exercise, or any duty which he may be legally called upon to perform shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Fifty Dollars ($50.00) nor~~ more than ~~Two Hundred Dollars ($200.00), or by imprisonment for not less than ten (10) days, nor more than sixty (60) days in the county jail, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00).

SECTION 487. AMENDATORY 44 O.S. 1991, Section 208, is amended to read as follows:

Section 208. No person shall discriminate against any officer or enlisted man of the National Guard because of his membership therein. No person shall prohibit or refuse entrance to any officer or enlisted man of the Army or Navy of the United States, or of the military forces of this state, into any public entertainment or place of amusement because such officer or enlisted man is wearing a uniform of the organization to which he belongs. No employer, officer or agent of any corporation, company, firm or other person, shall discharge any person from employment because of being an officer, warrant officer or enlisted man of the military forces of the state, or hinder or prevent him from performing any military service he may be called upon to perform by proper authority, in respect to his employment, trade or business. Any person ~~violating~~ breaching any of the provisions of this section~~,~~ shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not ~~to exceed One Hundred Dollars ($100.00), or by imprisonment in the county jail for a period of not to exceed thirty (30) days, or by both such fine and imprisonment~~ more than One Thousand Dollars ($1,000.00).

SECTION 488. AMENDATORY 45 O.S. 1991, Section 1.2, is amended to read as follows:

Section 1.2 A. Whenever the Board determines there are reasonable grounds to believe there has been a violation of any order of the Board adopted pursuant to Title 45 of the Oklahoma Statutes, it shall give written notice to the alleged violator specifying the cause of the complaint. Such notice shall require that the matters complained of be corrected within a specified time or that the alleged violator appear before the Board at a time and place specified in the notice to answer the charges. The notice shall be delivered to the alleged violator in accordance with the

provisions of subsection C of this section not less than twenty (20) days before the time set for the hearing.

B. The Board shall afford the alleged violator an opportunity for a hearing in conformity with the Administrative Procedures Act. On the basis of the evidence produced at the hearing, the Board shall make findings of fact and conclusions of law and enter an order thereon. The Board shall give written notice of such order to the alleged violator. The order of the Board shall become final and binding on all parties unless appealed to the district court within thirty (30) days after notice of such order has been sent to the parties.

C. Any notice, order or other instrument issued by the Board pursuant to this section may be served either personally, by publication, or by mailing a copy by registered mail directed to the alleged violator at his last-known address as shown by the files or records of the Board. Proof of such service shall be filed in the office of the Board.

D. Unless otherwise specified by law, any person who ~~violates~~ breaches any of the provisions of Title 45 of the Oklahoma Statutes or who ~~violates~~ breaches any order or determination of the Board promulgated pursuant to this section shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) and in addition thereto may be enjoined from continuing such ~~violation~~ breach. Each day upon which such ~~violation~~ breach occurs shall constitute a separate ~~violation~~ breach. In addition, any person breaching an order of the Board may be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

~~The Attorney General, on the request of the Board, shall bring an action against any person violating any order or determination of the Board adopted pursuant to Title 45 of the Oklahoma Statutes.~~

SECTION 489. AMENDATORY 45 O.S. 1991, Section 2, is amended to read as follows:

Section 2. A. No person shall act as a mine superintendent, mine foreman, fire boss, shot-firer, certified surface blaster, hoisting engineer or miner without first having obtained a certificate of competency from the Oklahoma Mining Commission. No person shall employ such mine superintendent, mine foreman, fire boss, shot-firer, certified surface blaster, hoisting engineer or miner who does not hold such certificate. Any person who violates the provisions of this subsection~~, upon conviction, shall be fined not more than One Thousand Five Hundred Dollars ($1,500.00) or be imprisoned in the county jail for a term not more than six (6) months, or both~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. The examination for a certificate of competency as mine superintendent, mine foreman, fire boss, shot-firer, certified surface blaster or hoisting engineer shall be administered by only employees or advisors of the Department of Mines who also hold equal or higher certificates of competency. The examination shall be sufficient to determine that such applicant fully understands the requirements of the coal mining laws of this state.

Each applicant for mine superintendent, mine foreman, fire boss, certified surface blaster, hoisting engineer or shot-firer shall hold a first-aid certificate issued within one (1) year prior to the date of the examination of the Department by an organization recognized by the Oklahoma Mining Commission.

C. The Department shall hold monthly examinations for certificates of competency as underground miners. Applicants for such certificate may be granted a temporary permit by the Commission until an examination is held by the Department in the region in which the applicant resides. Applicants must successfully answer a written or oral examination pertaining to such requirements and

qualifications of underground miners as are determined necessary by the Commission.

D. Certificates of competency shall be granted by the Oklahoma Mining Commission to persons who have given the Department satisfactory evidence of their ability to perform the duties and skills as are required for the Council. Previous experience and record of service of the applicant shall have equal weight with the examination.

E. The minimum experience necessary for certificates of competency are as follows:

1. Shot-firer - 1 year's practical underground experience.
2. Certified surface blaster - 1 year's practical experience.
3. Hoisting engineer - 1 year's practical hoisting experience.
4. Fire boss - 2 years' practical underground experience.
5. Mine foreman - 3 years' practical underground experience.
6. Superintendent - 5 years' practical underground experience.
7. Practical miner - 1 year's practical experience as a miner or the equivalent experience as defined by the Commission.

Provided that the underground experience requirement for mine foreman and the superintendent shall not apply to those positions in surface mining.

F. A student who has completed an accredited two-year or four-year mining program shall be credited one (1) year of experience toward a fire boss, mine foreman or superintendent certification.

SECTION 490. AMENDATORY 45 O.S. 1991, Section 37, is amended to read as follows:

Section 37. The Chief Mine Inspector or assistant mine inspector is authorized to temporarily withdraw all persons from a dangerous mine or portion thereof. Any owner, operator, lessee or agent who impedes, hinders, or obstructs, either directly or indirectly, the Chief Mine Inspector or assistant mine inspector from carrying out duties required by this section~~, upon conviction, shall be guilty of a misdemeanor and shall be fined not more than Two Thousand Five Hundred Dollars ($2,500.00) or imprisoned in the county jail for not more than thirty (30) days, or both~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

Any mine employee who neglects to comply with an order of the Chief Mine Inspector or assistant mine inspector temporarily withdrawing persons from the mine~~, upon conviction, shall be guilty of a misdemeanor and shall be fined~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) ~~or imprisoned in the county jail not more than thirty (30) days, or both~~.

SECTION 491. AMENDATORY 45 O.S. 1991, Section 40, is amended to read as follows:

Section 40. Every person who ~~willfully~~ obstructs the Chief Mine Inspector or district mine inspector~~,~~ in the execution of his duties under this act shall be ~~guilty of a misdemeanor and upon conviction he shall be punished as hereinafter provided~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 492. AMENDATORY 45 O.S. 1991, Section 412, is amended to read as follows:

Section 412. The Mine Inspector of said mines in addition to other duties and powers herein conferred, shall be and he is hereby authorized, empowered and directed to examine carefully all places

and conditions where employees work in said mines. Where said Mine Inspector finds a condition existing in any of said mines either on the surface or underground, which makes the said mine a dangerous, unsafe or unusually unhealthful place for employees to work he shall, subject to the right of review hereinafter provided, serve notice in writing on the operator of said mine so affected, specifying in detail the things to be done to correct such condition making said mine a dangerous, unsafe or unusually unhealthful place for employees to work. This notice shall specify the time in which such required acts shall be done by the operator of said mine. A failure or refusal of said operator to correct the condition existing in said mine as set forth in the written notice of said Mine Inspector or as modified on review in accordance with the further provisions of this act shall be ~~a misdemeanor and punished as hereinafter provided~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). The operator may also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 493. AMENDATORY 45 O.S. 1991, Section 414, is amended to read as follows:

Section 414. It shall be the duty of the Mine Inspector from time to time to enter and examine any and all said mines in the State of Oklahoma and to inspect any and all machinery and equipment used in connection therewith, either underground or on the surface and including any mill, concentrating plant or tailing mill used in preparation of the product for market. And the operator shall at all reasonable times, while in operation, upon request furnish necessary facilities for such entry and examination. Such inspection shall be done at a time and in a manner so as not to obstruct or hinder the operation of said mine or mines except that in case of emergency where the life or safety of employees is in imminent peril, the Inspector shall make immediate examination and

it shall in such case of emergency be the duty of the operator upon request of the Inspector to furnish the use of any installed equipment for his assistance in making said examination. A failure of said operator to perform any duty imposed in this section shall be ~~a misdemeanor and be punished as such as hereinafter provided~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). In addition, said operator may be subject to prosecution for Indirect Legislative or Administrative Criminal Contempt in Title 21.

SECTION 494. AMENDATORY 45 O.S. 1991, Section 435, is amended to read as follows:

Section 435. The neglect, failure or refusal to perform or comply with the authorized requirement of said Mining Inspector, acting under the provisions of this act, by any firm, association, corporation, person or parties required to perform them, shall be ~~a misdemeanor,~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00), and where the duty so neglected, failed or refused to be performed is required of a corporation, then its officer or agent in charge of the mine, shall be ~~guilty, as hereinbefore provided for in this section, and shall upon conviction thereof be punished by~~ liable for an administrative violation and subject to a fine of not ~~exceeding Five Hundred Dollars ($500.00) provided, that as to duties imposed by the Mining Inspector taken before the said district court for review, this section shall not apply except as to, from and after the order finally promulgated by order of said district court and provided further~~ more than One Thousand Dollars ($1,000.00). This section shall not apply to an operator who has ceased mining operations and the working of men except such as are necessary to dewater and preserve the mine involved. Any violator may also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 495. AMENDATORY 45 O.S. 1991, Section 436, is amended to read as follows:

Section 436. Any person, firm or corporation, who ~~knowingly~~ maintains, uses or abandons an open vertical mine shaft wherein lead, zinc or other metals have been sought or produced, without covering suitably, or surrounding such installations with protective fencing, or plugging and filling, the particular method used to be approved by the Chief Mine Inspector's Department, shall be ~~deemed negligent as a matter of law and shall be guilty of a misdemeanor, and upon conviction thereof shall be fined~~ liable for an administrative violation and subject to a fine of not more than ~~Five Hundred Dollars ($500.00) or imprisoned for not more than one (1) year, or both such fine and imprisonment~~ One Thousand Dollars ($1,000.00). Any violator may also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 496. AMENDATORY 45 O.S. 1991, Section 437, is amended to read as follows:

Section 437. Any person, firm or corporation ~~found guilty of~~ destroying, removing, or damaging or otherwise interfering with the fencing, or other protective devices approved by the Chief Mine Inspector, as provided in Section ~~1 hereof~~ 436 of this title, shall be ~~fined~~ liable for an administrative violation and subject to a fine of not ~~less than Twenty-five Dollars ($25.00) or~~ more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00).

SECTION 497. AMENDATORY 45 O.S. 1991, Section 461, is amended to read as follows:

Section 461. It shall be unlawful for any person in this state to act as mine manager, superintendent, pit boss, hoisting engineer, or fire boss without first having obtained a certificate of competency from the State Mining Board hereinbefore provided for. ~~A violation of the provisions of this act shall be deemed a misdemeanor and shall be punishable by a fine of not less than Fifty~~

~~Dollars ($50.00), nor more than Two Hundred Dollars ($200.00), or by imprisonment in the county jail not less than ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment; provided, however, that the~~ Any violator shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The provisions of this act shall not apply to lead, zinc, jack, gold, silver or copper mines, and shall not apply to the employees of such mines.

SECTION 498. AMENDATORY 45 O.S. 1991, Section 478, is amended to read as follows:

Section 478. Every person who ~~willfully~~ obstructs the Chief Inspector or his assistant inspectors in the execution of his or their duties, and every owner, agent, lessee or manager of a mine who refuses or neglects to furnish to the Chief Mine Inspector or his assistants, the means necessary for making entry, inspection, examination or inquiry, as herein provided in relation to such mine shall be ~~guilty of a misdemeanor, and upon conviction, he shall be punished as hereinafter provided~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 499. AMENDATORY 45 O.S. 1991, Section 521, is amended to read as follows:

Section 521. The fire boss shall at each entrance to the mine, or to the main intake airway, near to the mine entrance, prepare a permanent station with the proper danger signals designated as follows:

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and it shall not be lawful for any person or persons, except the mine officials in cases of necessity, and such other persons as may be designated by them, to pass beyond said danger station, until the mine has been examined by the fire boss as aforesaid, and the same, or certain parts thereof, reported by him to be safe; and in all mines where operations are temporarily or indefinitely suspended,

the superintendent and mine foreman shall see that a danger signal be placed at the mine entrance, or entrances, which shall be a sufficient warning to persons not to enter the mine, and if ordinary circulation of air through the mine be stopped, each entrance to said mine shall be securely fenced off and a danger signal shall be displayed upon said fence, and any workman or other person (except those persons hereinbefore provided for) passing beyond any danger signal into the mine before it has been examined and reported to be safe as aforesaid, also any person passing beyond any danger signal placed at the entrance to a working place, or any other place, in the mine without permission of the mine foreman, his assistant or his fire boss, shall be ~~punished by~~ liable for an administrative violation and subject to a fine of not ~~less than Fifty Dollars ($50.00) nor~~ more than ~~Two Hundred Dollars ($200.00) or imprisonment in the county jail not to exceed thirty (30) days, or both such fine and imprisonment~~ One Thousand Dollars ($1,000.00); and it shall be the duty of the fire boss, mine foreman, or superintendent to forthwith ~~prosecute~~ bring an action against such person, or persons, before the proper legal authority, or to notify the mine inspector, who shall enter proceedings against such person.

SECTION 500. AMENDATORY 45 O.S. 1991, Section 524, is amended to read as follows:

Section 524. The oiling or greasing of cars inside of the mines is strictly forbidden, unless the place where said oil or grease is used is thoroughly cleansed once every day to prevent the accumulation of waste oil or grease on the roads or in the drains at that point. Not more than one barrel of lubricating oil shall be permitted in the mine at any one time. No explosive oil shall be used or taken into the mines for lighting purposes except when used in approved safety lamps, and oil shall not be stored or taken into the mines in quantities exceeding five gallons. Only pure oils, as free from smoke as pure animal oil shall be sold or used for

illuminating purposes in any mine. Any person selling for use in mines, or any person using, explosive or impure oils in any mine contrary to this section~~,~~ shall be ~~punished by~~ liable for an administrative violation and subject to a fine of not ~~less than Fifty Dollars ($50.00) nor~~ more than ~~Two Hundred Dollars ($200.00) or imprisonment in the county jail not to exceed thirty (30) days, or both such fine and imprisonment~~ One Thousand Dollars ($1,000.00). For special convenience, the operator shall keep on hand a supply of pure oil for illuminating purposes, to comply with the requirements of this section, when requested to do so by a majority of the miners working therein. A violator may also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 501. AMENDATORY 45 O.S. 1991, Section 528.2, is amended to read as follows:

Section 528.2 Any person or persons, partnership, association, corporation, owner, operator and/or lessee of any coal mine in this state, who shall ~~violate~~ breach the provisions of Sections 528.1, 528.2, and 528.3 of this title, shall be ~~deemed guilty of a misdemeanor and, upon conviction, shall be fined in any sum~~ liable for an administrative violation and subject to a fine of not ~~less than Fifty Dollars ($50.00), nor~~ more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00), and each separate instance of the ~~violation~~ breach of this act, either by the cutting machines or rock drills, shall be deemed a separate offense. This section is in addition to any appropriate punishment in Title 21 of the Oklahoma Statutes.

SECTION 502. AMENDATORY 45 O.S. 1991, Section 528.3, is amended to read as follows:

Section 528.3 It is hereby also unlawful for any person, miner, operator of a rock drill or machine runner to operate either a mining machine when cutting or drilling in rock without water on cutter bar or rock drill contrary to the provisions of Sections

528.1 through 528.3, and any such person so doing shall be ~~guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum~~ liable for an administrative violation and subject to a fine of not ~~less than Twenty-five Dollars ($25.00), nor~~ more than ~~One Hundred Dollars ($100.00),~~ One Thousand Dollars ($1,000.00), and each separate operation shall constitute a separate offense. This section is in addition to any appropriate punishment in Title 21 of the Oklahoma Statutes.

SECTION 503. AMENDATORY 45 O.S. 1991, Section 529, is amended to read as follows:

Section 529. (A) Any person or persons, partnership, association, corporation, owner, operator and/or lessee of any mine in this state must comply with the workers' compensation laws of the State of Oklahoma.

(B) Any ~~violation~~ breach of this section shall ~~constitute a misdemeanor and shall be punishable by~~ be an administrative violation and subject to a fine of not ~~exceeding~~ more than One Thousand Dollars ($1,000.00).

Provided the provisions of this act shall not apply to production of limestone and sand or gravel from open pits.

SECTION 504. AMENDATORY 45 O.S. 1991, Section 574, is amended to read as follows:

Section 574. Any miner, or other person, who shall fire any shot in ~~violation~~ breach of the preceding section shall be ~~punished by~~ liable for an administrative violation and subject to a fine of not ~~less than Fifty Dollars ($50.00), nor~~ more than ~~Two Hundred Dollars ($200.00), or imprisonment in the county jail, not to exceed thirty (30) days, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00). This section is in addition to any appropriate punishment in Title 21 of the Oklahoma Statutes.

SECTION 505. AMENDATORY 45 O.S. 1991, Section 578, is amended to read as follows:

Section 578. It shall be ~~unlawful~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for any shot-firer to light shots in more than one working place at any one time in any one split of air. This section is in addition to any appropriate punishment in Title 21 of the Oklahoma Statutes.

SECTION 506. AMENDATORY 45 O.S. 1991, Section 579, is amended to read as follows:

Section 579. It shall be ~~unlawful~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person, company or corporation owning and operating any mine in the state or operating as lessee, any mine in this state, or any officer, agent, representative, or mine foreman of such company or corporation or labor organization to interfere, or attempt to interfere in any way with the fire boss, of any mine in this state, in the performance of his duties, or by any sort of threat or threats, or duress, to intimidate, or attempt to intimidate such fire boss in the performance of his duties ~~or by persuasion or promise, or of extending hope of reward in any way to influence such fire boss in the performance of his duties,~~ or to attempt in any way to cause or induce such fire boss to fail or neglect to perform any duty required of him by the mining laws of this state. This section is in addition to any appropriate punishment in Title 21 of the Oklahoma Statutes.

SECTION 507. AMENDATORY 45 O.S. 1991, Section 615, is amended to read as follows:

Section 615. The neglect, failure or refusal to perform any of the duties required by any section of this chapter, by any firm, association, corporation, person or parties required to perform them, shall be ~~a misdemeanor~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00), and where the duty so neglected, failed or refused to be performed is by

the terms of this chapter, required of a corporation, then its officer or agent in charge of the mine, shall be ~~guilty, as hereinbefore provided for in this section, and, except as herein otherwise provided, shall upon conviction thereof, be punished by~~ liable for an administrative violation and subject to a fine of not ~~exceeding Five Hundred Dollars ($500.00), or imprisonment in the county jail, for a period not exceeding six (6) months, or both such fines and imprisonment;~~ more than One Thousand Dollars ($1,000.00) and in addition thereto, such corporation or other mine operator violating any of the provisions of this chapter shall be civilly liable to any person injured thereby to the extent of such injury.

SECTION 508. AMENDATORY 45 O.S. 1991, Section 616, is amended to read as follows:

Section 616. If any person shall construct or cause to be constructed for use, after the effective date of this act, any sewer or other method of drainage from any building or dwelling house for the carrying of sewage, offal, refuse or other offensive matter into any portion of any operating or abandoned mine, such person shall be ~~guilty of a misdemeanor, and upon conviction thereof shall be sentenced to~~ liable for a civil infraction and subject to a fine of not ~~exceeding~~ more than One Thousand Dollars ($1,000.00) ~~and shall be imprisoned in the county jail, not exceeding one (1) year, or by both such fine and imprisonment, at the discretion of the court~~. This section is in addition to any appropriate punishment in Title 21 of the Oklahoma Statutes.

SECTION 509. AMENDATORY 45 O.S. 1991, Section 735, is amended to read as follows:

Section 735. The Department is designated as the agency to make safety inspections in sand, sand and gravel and in quarrying operations. Any person required by this act to have a permit who engages in mining without a valid permit therefor issued pursuant to this act ~~is guilty of a misdemeanor, and on conviction thereof shall~~

~~be fined not less than Fifty Dollars ($50.00) nor more than One Thousand Dollars ($1,000.00). Each day of operation without the permit required by this act shall be deemed a separate violation~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 510. AMENDATORY 45 O.S. 1991, Section 767, is amended to read as follows:

Section 767. No employee of the Department of Mines or any other state employee performing any function or duty under this act shall be directly or indirectly interested in any mining operation, or any contract for purchase of any property or construction or any work for any mining operation. Any person ~~who knowingly violates the provision of this section shall be guilty of a misdemeanor and, upon conviction shall be punished by incarceration for a period not to exceed one (1) year or a fine not to exceed Five Thousand Dollars ($5,000.00)~~ violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes, or both.

SECTION 511. AMENDATORY 45 O.S. 1991, Section 769, is amended to read as follows:

Section 769. A. In the enforcement of a state program pursuant to this act any operator who ~~violates~~ breaches any permit condition or who ~~violates~~ breaches any other provision of this act ~~may be assessed a civil penalty~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) by the Department except that if such ~~violation~~ breach leads to the issuance of a cessation order under this act, ~~the civil penalty shall be assessed. Such penalty shall not exceed~~ it shall be an administrative violation subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each ~~violation~~ breach. Each day of continuing ~~violation~~ breach may be deemed a separate ~~violation~~ breach for purposes of ~~penalty~~ fine assessments.

In determining the amount of the ~~penalty~~ fine, consideration shall be given to the operator's history of previous ~~violations~~ breaches at the particular surface coal mining operation; the seriousness of the ~~violation~~ breach, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the ~~violation~~ breach.

B. ~~A civil penalty~~ Such fine shall be assessed by the Department only after the person charged with a ~~violation~~ breach described under subsection A of this section has been given an opportunity for a public hearing. Where such a public hearing has been held, the Chief Mine Inspector shall make findings of fact, and he shall issue a written decision as to the occurrence of the ~~violation~~ breach and the amount of the ~~penalty~~ fine which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. When appropriate, the Chief Mine Inspector shall consolidate such hearings with other proceedings under this act. Any hearing under this section shall be of record. Where the person charged with such a ~~violation~~ breach fails to avail himself of the opportunity for a public hearing, ~~a civil penalty~~ a fine shall be assessed by the Chief Mine Inspector after the Chief Mine Inspector has determined that a violation did occur, and the amount of the ~~penalty~~ fine which is warranted, and has issued an order requiring that the ~~penalty~~ fine be paid.

C. Upon the issuance of a notice or order charging that a ~~violation~~ breach of this act has occurred, the Department shall inform the operator within thirty (30) days of the proposed amount of said ~~penalty~~ fine. The person charged with the ~~penalty~~ fine shall then have thirty (30) days to pay the proposed ~~penalty~~ fine in full or, if the person wishes to contest either the amount of the ~~penalty~~ fine or the fact of the ~~violation~~ breach, forward the

proposed amount to the Department for placement in an escrow account. If through administrative or judicial review of the proposed ~~penalty~~ fine, it is determined that no ~~violation~~ breach occurred, or that the amount of the penalty should be reduced, the Department shall within thirty (30) days remit the appropriate amount to the person, with interest at the rate of six percent (6%), or at the prevailing United States Department of the Treasury rate, whichever is greater. Failure to forward the money to the Department within thirty (30) days shall result in a waiver of all legal rights to contest the ~~violation~~ breach or the amount of the ~~penalty~~ fine.

D. ~~Civil penalties owed under this act may be recovered in a civil action brought by the Attorney General at the request of the Chief Mine Inspector in any appropriate district court.~~

~~E.~~ Any person who ~~willfully and knowingly violates~~ breaches a condition of a permit issued pursuant to this act or fails or refuses to comply with any order issued under this act, or any order incorporated in a final decision issued by the Chief Mine Inspector under this act except an order incorporated in a decision issued under subsection B of this section, shall~~, upon conviction, be punished by~~ be liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) ~~or by imprisonment for not more than one (1) year, or both~~. This section is in addition to any appropriate punishment in Title 21 of the Oklahoma Statutes.

~~F.~~ E. Whenever a corporate permittee ~~violates~~ breaches a condition of a permit issued pursuant to this act or fails or refuses to comply with any order issued under this act, or any order incorporated in a final decision issued by the Chief Mine Inspector under this act except an order incorporated in a decision issued under subsection B of this section, any director, officer or agent of such corporation who ~~willfully and knowingly~~ authorized, ordered

or carried out such ~~violation~~ breach, failure or refusal shall be subject to the same ~~civil penalties,~~ fines ~~and imprisonment~~ that may be imposed upon a person under subsections A and ~~E~~ D of this section.

~~C. Whoever knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this act or any order of decision issued by the Department under this act, shall, upon conviction, be punished by a fine of not more than Ten Thousand Dollars ($10,000.00) or by imprisonment for not more than one (1) year, or both.~~

~~H.~~ F. Any operator who fails to correct a ~~violation~~ breach for which a citation has been issued within the period permitted for its correction shall be ~~assessed a civil penalty of not less than Seven Hundred Fifty Dollars ($750.00)~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each day during which such failure or ~~violation~~ breach continues.

The period permitted for corrections of violations shall not end until:

1. The entry of a final order by the Department after an expedited hearing, as provided by Section 53 of this act, which ordered the suspension of the abatement requirements of the citation because it was determined that the operator will suffer irreparable loss or damage from the application of the abatement requirements; or

2. The entry of an order by a court in any review proceedings initiated by the operator in which the court orders the suspension of the abatement requirements.

~~I. Any person who shall, except as permitted by law, willfully resist, prevent, impede or interfere with the Chief Mine Inspector~~

~~or any of the agents or employees of the Department in the performance of duties pursuant to this act shall, upon conviction, be punished by a fine of not more than Five Thousand Dollars ($5,000.00), or by imprisonment for not more than one (1) year, or both.~~

SECTION 512. AMENDATORY 45 O.S. 1991, Section 937, is amended to read as follows:

Section 937. Any person who ~~willfully~~ obstructs or hinders the Chief Mine Inspector or other public officer or employee from collecting the fee prescribed in this act~~, or who makes any false or fraudulent report or return thereof with intent to defraud the state, or to evade the payment of the fee or any part thereof; or~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any person who ~~willfully~~ refuses to make and file a report or return as required by the terms of this act; or who aids or abets another in any of the foregoing prohibited acts, shall be ~~guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section is in addition to any appropriate punishment in Title 21 of the Oklahoma Statutes.

SECTION 513. AMENDATORY 47 O.S. 1991, Section 2-105, as last amended by Section 3, Chapter 218, O.S.L. 1994 (47 O.S. Supp. 1994, Section 2-105), is amended to read as follows:

Section 2-105. (a) The Commissioner when appointing the subordinate officers such as majors, captains, first lieutenants, second lieutenants, and patrolmen shall determine, in consultation with the Administrator of the Office of Personnel Management, minimum qualifications and shall select such officers only after examinations to determine their physical and mental qualifications for such positions. The content of the examinations shall be

prescribed by the Commissioner, and all appointees shall complete a course of training in Highway Patrol operations and procedures as prescribed by the Commissioner. No person shall be appointed to the Oklahoma Highway Patrol Division unless the person is or has been a citizen of the State of Oklahoma, shall be of good moral character, shall be not less than twenty-three (23) years of age, and shall possess a minimum of thirty (30) successfully completed semester hours from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferrable between such recognized institutions.

No member, officer, major, captain, first lieutenant, second lieutenant, or patrolman of the Oklahoma Highway Patrol Division shall, while in such position, be a candidate for any political office or take part in or contribute any money or other thing of value, directly or indirectly, to any political campaign or to any candidate for public office. Anyone ~~convicted of~~ violating the provisions of this section shall be ~~guilty of a misdemeanor and shall be punished as provided by law~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). The Commissioner or any member of the Department shall not be a candidate for any political office, or in any way be active or participate in any political contest of any Primary, General, or Special Election, except to cast a ballot. No member of the Oklahoma Highway Patrol while in the performance of the member's assigned duty of providing security and protection shall be considered as participating in a political campaign. The provisions of this paragraph shall not be construed to preclude a member of the Oklahoma Highway Patrol Division of the Department of Public Safety from being a candidate for a position on a local board of education.

Drunkenness or being under the influence of intoxicating liquors shall be sufficient grounds for the removal of any member of the Highway Patrol, in and by the manner provided for in this section.

(b) Patrolmen provided for in this section shall be required to serve a probationary period of twelve (12) months. The Commissioner may extend the probationary period for up to three (3) additional months provided that the employee and the Office of Personnel Management are notified in writing as to such action and the reasons therefor. During such probationary period their services may be terminated at any time and for any reason at the discretion of the Commissioner. Retention in the service after expiration of the probationary period shall entitle such employee to be classified as a permanent employee and he shall be so classified. A member of the Oklahoma Highway Patrol Division may be promoted during the initial probationary period if such member satisfactorily completes all training requirements prescribed by the Commissioner. No permanent employee may be discharged or removed except as provided for in this section.

(c) 1. No permanent employee, as provided for in this section, may be suspended without pay or dismissed unless the employee has been notified in writing by the Commissioner of such intended action and the reasons therefor. No such notice shall be given by the Commissioner unless sworn charges or statements have been obtained to justify the action.

2. Whenever such charges are preferred the Commissioner at his discretion may suspend the accused pending the hearing and final determination of such charges. If the charges are not sustained in whole or in part, the accused shall be entitled to his pay during the period of such suspension. If the charges are sustained in whole or in part, the accused shall not receive any pay for the period of such suspension.

3. Uniformed members of the Oklahoma Highway Patrol Division of the Department of Public Safety are not entitled to appeal intraagency transfer to the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act, Section 840.1 et seq. of Title 74 of the Oklahoma Statutes, unless transfer is in violation of Section 841.7 or 841.10 of Title 74 of the Oklahoma Statutes.

4. The Department of Public Safety shall follow the uniform grievance procedure established and adopted by the Office of Personnel Management for permanent classified employees, except for those employees who are uniformed members of the Oklahoma Highway Patrol Division, the Oklahoma Lake Patrol Division and the Oklahoma Capitol Patrol Division. The Department of Public Safety shall establish and adopt a proprietary grievance procedure for uniformed members of the Oklahoma Highway Patrol Division, the Oklahoma Lake Patrol Division and the Oklahoma Capitol Patrol Division which is otherwise in compliance with the provisions of Section 841.9 of Title 74 of the Oklahoma Statutes.

(d) The Commissioner is hereby authorized to purchase uniforms and necessary equipment for all members of the Oklahoma Highway Patrol Division, and each of said members shall be entitled to his traveling, telephone, and telegraph expenses while away from the city or town designated by the Chief of the Oklahoma Highway Patrol Division as headquarters, when such expense is incurred in service of the state.

(e) The position of Chief of the Oklahoma Highway Patrol Division shall be filled from the membership of the uniformed body of the Oklahoma Highway Patrol Division and appointment to said position shall be based on qualifications, previous record as a member of the Oklahoma Highway Patrol Division, length of service, and efficiency of service performed. The Chief of the Oklahoma Highway Patrol Division shall have the rank of Colonel.

(f) The Commissioner of Public Safety is hereby authorized to send members of the Department of Public Safety to such schools as Northwestern University Traffic Institute, Northwestern University Police Administrator's Institute, the National Police Academy conducted by the Federal Bureau of Investigation, or to any other such schools of similar training which would be conducive to improving the efficiency of the Oklahoma Highway Patrol and the Department of Public Safety.

(g) The maximum age for the initial employment of any person employed as a member of the Oklahoma Highway Patrol Division shall be thirty-five (35) years of age. Any former member of the Oklahoma Highway Patrol Division whose separation from the organization was at his own request and not a result of his own actions contrary to the policy of the organization may make application for reinstatement as a member of the Oklahoma Highway Patrol Division, provided he will be able to complete twenty (20) years of credited service by the time he reaches fifty-five (55) years of age. The Commissioner may waive the requirements of possessing the number of semester hours as required in subsection (a) of this section for any former member making application for reinstatement as a member of the Oklahoma Highway Patrol Division. The Commissioner may require the applicant for reinstatement to attend selected courses of instruction, as prescribed by the Commissioner, at the Oklahoma Highway Patrol Academy. In the event of future hostilities wherein the Congress of the United States declares this nation in a state of war with a foreign nation, including military service brought about by the Vietnam War, any period of military service served by a member of the Oklahoma Highway Patrol Division shall be considered as continued service with such Oklahoma Highway Patrol Division, provided such member returns to duty within sixty (60) days after his release from military service.

SECTION 514. AMENDATORY 47 O.S. 1991, Section 2-108, is amended to read as follows:

Section 2-108. (a) The Commissioner is hereby vested with the power and is charged with the duty of observing, administering and enforcing the provisions of this act and of all laws regulating the operation of vehicles or the use of the highways the enforcement and administration of which are now or hereafter vested in the Department.

(b) The Commissioner is hereby authorized to adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this act and any other laws the enforcement and administration of which are vested in the Department.

(c) The Commissioner may adopt an official seal for the use of the Department.

(d) The Commissioner may in his discretion appoint any employee of the Department as his representative to affix his signature to administrative letters, notices and orders to enforce the provisions of the law, and authorize such employee to affix the facsimile signature of the Commissioner adopted by him as a facsimile signature. Provided, however, it shall be unlawful and shall ~~constitute the crime of forgery~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes to affix or endorse the facsimile signature of the Commissioner, as herein provided, to any instrument, voucher, check, claim or draft for the payment of money due and owing to the State of Oklahoma.

SECTION 515. AMENDATORY 47 O.S. 1991, Section 2-115, is amended to read as follows:

Section 2-115. (a) The Commissioner and officers of the Department designated by him shall have authority to summon witnesses to give testimony under oath or to give written deposition upon any matter under the jurisdiction of the Department. Such

summons may require the production of relevant books, papers and records.

(b) Every such summons shall be served at least five (5) days before the return date, either by personal service made by any person over eighteen (18) years of age or by registered mail, but return acknowledgement is required to prove such latter service. Failure to obey such a summons so served shall ~~constitute a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The fees for the attendance and travel of witnesses shall be the same as for witnesses before the district court and shall be paid from the Public Safety Fund.

(c) The district court, where not otherwise provided, shall have jurisdiction, upon application by the Commissioner, to enforce all lawful orders of the Commissioner under this section.

SECTION 516. AMENDATORY 47 O.S. 1991, Section 2-119, is amended to read as follows:

Section 2-119. The Commissioner shall issue to each member of the Division of Highway Patrol a badge of authority with the seal of this state in the center thereof, with the words "Oklahoma Highway Patrol" encircling said seal and below the designation of the position held by the member to whom issued. Every such badge shall be numbered or each number shall otherwise display a distinctive serial number.

~~1.~~ Neither the Commissioner nor any other person shall issue any such badge to any person who is not a duly appointed and acting member of said Division.

~~2. Any person who without authority wears the badge of a member of said Division, or a badge of similar design which would tend to deceive anyone, is guilty of a misdemeanor.~~

~~3. Any person who impersonates a member of said Division or other officer or employee of the Department with intent to deceive anyone, or who without authority wears a uniform likely to be~~

~~confused with the official uniform of any such officer, is guilty of a misdemeanor.~~

SECTION 517. AMENDATORY 47 O.S. 1991, Section 2-129, as last amended by Section 1, Chapter 25, O.S.L. 1993 (47 O.S. Supp. 1994, Section 2-129), is amended to read as follows:

Section 2-129. A. Any person charged with the custody and dissemination of confidential and privileged information or in receipt of such information from the statewide law enforcement data communications network provided for in Section 2-124 of this title shall neither divulge nor disclose any such information except to federal, state, county or city law enforcement or criminal justice agencies.

B. Any person charged with the custody and dissemination of confidential and privileged information shall not without authorization utilize the Oklahoma Law Enforcement Telecommunication System for any reason.

~~C. Any person violating the provisions of this section upon conviction shall be deemed guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year.~~

SECTION 518. AMENDATORY 47 O.S. 1991, Section 4-105, is amended to read as follows:

Section 4-105. Stolen, converted, recovered and unclaimed vehicles.

(a) It shall be the duty of every sheriff, chief of police or peace officer to make immediate report to the Department of all vehicles reported to their respective jurisdictions as being stolen or recovered. Such report shall be made as prescribed by the Department.

(b) An owner or a lienholder may report the theft of a vehicle, or its conversion if a crime, to the Department, but the Department may disregard the report of a conversion unless a warrant has been issued for the arrest of a person charged with the conversion. A

person who has so reported the theft or coversion of a vehicle shall, forthwith after learning of its recovery, report the recovery to the Department.

(c) An operator of a place of business for garaging, repairing, parking or storing vehicles for the public, in which a vehicle remains unclaimed for a period of thirty (30) days, shall, within five (5) days after the expiration of that period, report the vehicle as unclaimed to the Department. Such report shall be on a form prescribed by the Department.

A vehicle left by its owner whose name and address are known to the operator or his employee is not considered unclaimed. A person who fails to report a vehicle as unclaimed in accordance with this subsection forfeits all claims and liens for its garaging, parking or storing and is ~~guilty of a misdemeanor punishable by~~ liable for a civil infraction and subject to a fine or not more than ~~Twenty-five Dollars ($25.00)~~ One Thousand Dollars ($1,000.00) for each day his failure to report continues.

(d) The Department shall maintain and appropriately index cumulative public records of stolen, converted, recovered and unclaimed vehicles reported to it pursuant to this section. The Department may make and distribute weekly lists of such vehicles so reported to it to peace officers upon request without fee and to others for the fee, if any, the Department prescribes.

(e) Any peace officer who has reason to believe or upon receiving information that a motor vehicle has been stolen shall have and is hereby vested with authority to confiscate and hold such vehicle until satisfactory proof of ownership is established.

SECTION 519. AMENDATORY 47 O.S. 1991, Section 4-110, is amended to read as follows:

Section 4-110. ~~A.~~ Except as otherwise authorized by law, it shall be unlawful for any person to commit any of the following acts:

1. To lend or to sell to, or ~~knowingly~~ permit the use of by, one not entitled thereto any certificate of title or number plate issued to or in the custody of the person so lending or permitting the use thereof;

2. To alter or in any manner change a certificate of title, registration certificate or number plate issued under the laws of this state or any other state;

3. To purchase identification or number plates on an assigned certificate of title. This paragraph shall be applicable to all persons except bona fide registered dealers in used motor vehicles who are holders of current and valid used motor vehicle dealers' licenses;

4. To sell or dispose of, in any manner, a used vehicle without delivering to the purchaser an Oklahoma certificate of title in such purchaser's name or one properly and completely assigned to him at the time of sale.

Anyone ~~violating~~ breaching any of the provisions of this subsection, upon conviction, shall be ~~guilty of a misdemeanor and shall be fined not less than Ten Dollars ($10.00) and not to exceed One Hundred Dollars ($100.00)~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00). In addition, any who violates paragraph 2 of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

~~B. Except as otherwise authorized by law, no person shall:~~

~~1. lend or sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title issued for a manufactured home, manufactured home registration receipt, Manufactured Home Registration Decal or excise tax receipt;~~

~~2. alter or in any manner change a certificate of title issued for a manufactured home under the laws of this state or any other state;~~

~~3. remove or alter a manufactured home registration receipt, Manufactured Home Registration Decal or excise tax receipt attached to a certificate of title or attach such receipts to a certificate of title with the intent to misrepresent the payment of the required excise tax and registration fees;~~

~~4. purchase identification, manufactured home registration receipt, Manufactured Home Registration Decal or excise tax receipt on an assigned certificate of title.~~

~~Anyone violating the provisions of this subsection, upon conviction, shall be guilty of a felony.~~

~~C. Any violation of any portion of this section where a specific penalty has not been imposed shall constitute a misdemeanor and upon conviction thereof the person having violated it shall be fined not less than Ten Dollars ($10.00) and not to exceed One Hundred Dollars ($100.00).~~

SECTION 520. AMENDATORY 47 O.S. 1991, Section 6-112, is amended to read as follows:

Section 6-112. Every licensee shall have his driver's license in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand of a peace officer. However, no person charged with ~~violating~~ breaching this section shall be ~~convicted~~ proceeded against if he produces in court or the office of the ~~arresting~~ citating officer a driver's license theretofore issued to him and valid at the time of his ~~arrest~~ receiving the citation.

SECTION 521. AMENDATORY 47 O.S. 1991, Section 6-113, is amended to read as follows:

Section 6-113. A. The Department of Public Safety upon issuing a driver's license shall have the authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate

or such other restrictions applicable to the licensee as the Department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

B. The Department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

C. The Department may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same but the licensee shall be entitled to a hearing as upon a suspension or revocation under this chapter.

D. It is a ~~misdemeanor~~ civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to operate a motor vehicle in any manner in ~~violation~~ breach of the restrictions imposed in a restricted license issued to him.

SECTION 522. AMENDATORY 47 O.S. 1991, Section 6-205.2, as last amended by Section 4, Chapter 238, O.S.L. 1993 (47 O.S. Supp. 1994, Section 6-205.2), is amended to read as follows:

Section 6-205.2 A. As used in this section, "person" shall mean a resident of this state or an Oklahoma licensee. Also, as used in this section, "conviction" shall mean:

1. An unvacated adjudication of guilt; or

2. A determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal; or

3. An unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court; or

4. The payment of a fine and court costs; or

5. Violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.

B. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for a period of not less than one (1) year upon receiving a record of such

person's conviction of any of the following offenses, when such conviction has become final:

1. Driving, operating or being in actual physical control of a Class A, B or C commercial motor vehicle while having a blood or breath alcohol concentration, as defined in Section 756 of this title, or as defined by the state in which the arrest occurred, of four-hundredths (0.04) or more;

2. Refusing to submit to a test for determination of alcohol concentration, as required by Section 751 of this title, or as required by the state in which the arrest occurred, while operating a Class A, B or C commercial motor vehicle;

3. Driving or being in actual physical control of a Class A, B or C commercial motor vehicle while under the influence of alcohol or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance;

4. Knowingly failing to stop and render aid as required under the laws of this state in the event of a motor vehicle accident which occurs while operating a Class A, B or C commercial motor vehicle; or

5. Any felony during the commission of which a Class A, B or C commercial motor vehicle is used, except a felony involving the manufacture, distribution or dispensation of a controlled dangerous substance.

Provided, however, the Department shall not disqualify such person pursuant to this section if said person's driving privilege has previously been disqualified in this state as a result of any violation arising from the same incident.

C. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for a period of not less than three (3) years upon receiving a record of such person's conviction of any of the following offenses, committed in connection with the operation of a motor vehicle which is

required to be placarded for hazardous materials under 49 C.F.R., Part 172, subpart F, when such conviction has become final:

1. Driving, operating or being in actual physical control of a Class A, B or C commercial motor vehicle while having a blood or breath alcohol concentration, as defined in Section 756 of this title, or as defined by the state in which the arrest occurred, of four-hundredths (0.04) or more;

2. Refusing to submit to a test for determination of alcohol concentration, as required by Section 751 of this title, or as required by the state in which the arrest occurred, while operating a Class A, B or C commercial motor vehicle;

3. Driving or being in actual physical control of a Class A, B or C commercial motor vehicle while under the influence of alcohol or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance;

4. Knowingly failing to stop and render aid as required under the laws of this state in the event of a motor vehicle accident which occurs while operating a Class A, B or C commercial motor vehicle; or

5. Any felony during the commission of which a Class A, B or C commercial motor vehicle is used, except a felony involving the manufacture, distribution or dispensation of a controlled dangerous substance.

Provided, however, the Department shall not disqualify such person pursuant to this section if said person's driving privilege has previously been disqualified in this state as a result of any violation arising from the same incident.

D. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for life upon receiving a record of such person's conviction in any court of any of the following offenses after a former conviction of any of

the following offenses, when such second conviction has become final:

1. Driving, operating or being in actual physical control of a Class A, B or C commercial motor vehicle while having a blood or breath alcohol concentration, as defined in Section 756 of this title, or as defined by the state in which the arrest occurred, of four-hundredths (0.04) or more;

2. Refusing to submit to a test for determination of alcohol concentration, as required by Section 751 of this title, or as required by the state in which the arrest occurred, while operating a Class A, B or C commercial motor vehicle;

3. Driving or being in actual physical control of a Class A, B or C commercial motor vehicle while under the influence of alcohol or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance;

4. Knowingly failing to stop and render aid as required under the laws of this state in the event of a motor vehicle accident which occurs while operating a Class A, B or C commercial motor vehicle; or

5. Any felony during the commission of which a Class A, B or C commercial motor vehicle is used, except a felony involving the manufacture, distribution or dispensation of a controlled dangerous substance.

Provided, however, the Department shall not disqualify such person pursuant to this section if said person's driving privilege has previously been disqualified in this state as a result of any violation arising from the same incident.

The Department of Public Safety may promulgate rules establishing conditions under which a disqualification for life pursuant to the provisions of this paragraph may be reduced to a period of not less than ten (10) years.

E. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for life upon receiving a record of such person's conviction for any felony related to the manufacture, distribution or dispensation of a controlled dangerous substance in the commission of which a Class A, B or C commercial motor vehicle is used, when such conviction has become final.

F. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for sixty (60) days upon receiving a record of such person's second conviction for a serious traffic offense arising out of separate transactions or occurrences within a three-year period, when such convictions have become final. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for one hundred twenty (120) days upon receiving a record of such person's third conviction for a serious traffic offense arising out of separate transactions or occurrences within a three-year period, when such convictions have become final. As used in this subsection, "serious traffic offense" shall mean any of the following offenses committed while operating a commercial motor vehicle:

1. Speeding in excess of fifteen (15) miles per hour over the limit;

2. Reckless driving;

3. Any traffic offense committed that results in or in conjunction with a motor vehicle accident resulting in a fatality;

4. Erratic or unsafe lane change;

5. Following too close; or

6. Violating a lawful out-of-service order issued by the Department as authorized by the Commissioner of Public Safety.

G. ~~Any person who drives a Class A, B or C commercial motor vehicle on any public roads, streets, highways, turnpikes or any~~

~~other public place of this state at a time when he is disqualified or when his privilege to do so is canceled, denied, suspended or revoked shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. Each act of driving as prohibited shall constitute a separate offense.~~

~~H.~~ Such periods of disqualification as defined by this section shall not be modified. A person may not be granted driving privileges to operate a Class A, B or C commercial vehicle until the disqualification is reinstated.

SECTION 523. AMENDATORY 47 O.S. 1991, Section 6-209, as last amended by Section 5, Chapter 218, O.S.L. 1994 (47 O.S. Supp. 1994, Section 6-209), is amended to read as follows:

Section 6-209. A. The Department upon canceling or denying a person's driver license or upon suspending or revoking a person's driving privilege shall require that such person's license be surrendered to the Department. Such driver license so surrendered, unless said driver license has expired, shall be returned to the licensee, when statutory requirements for reinstatement are met in accordance with Oklahoma Statutes; provided the Department has determined that the licensee is a person not prohibited from holding a driver license under Section 6-103 of this title, and has successfully completed the customary written, physical and driving tests, if such tests are required.

B. The Department, upon entering an order canceling or denying a driver license or suspending or revoking a person's driving privilege, shall forward a copy of said order to the licensee pursuant to the provisions of Section 2-116 of this title and request the immediate return of the license to the Department of Public Safety, Oklahoma City, Oklahoma, or the order may be served

upon the licensee by an authorized member of the Department. Failure to comply with the order of the Department shall ~~constitute a misdemeanor, and upon conviction thereof such person so convicted shall be punished by~~ be a civil infraction subject to a fine of not ~~less than Fifty Dollars ($50.00) nor~~ more than ~~One Hundred Dollars ($100.00)~~ Two Hundred Fifty Dollars ($250.00). A violator may also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

C. Any peace officer of this state may seize the license of any person who, according to Department records, is under suspension, cancellation, revocation or denial under the provisions of this title. The officer shall immediately forward the license to the Department of Public Safety, Oklahoma City, Oklahoma.

SECTION 524. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-301.6 of Title 47 of the Oklahoma Statutes unless there is duplication in numbering to read as follows:

Any person breaching any provision of this title shall be liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 525. AMENDATORY 47 O.S. 1991, Section 6-308, as amended by Section 15, Chapter 217, O.S.L. 1992 (47 O.S. Supp. 1994, Section 6-308), is amended to read as follows:

Section 6-308. ~~A. It is a misdemeanor for any person to violate any of the provisions of Section 6-101 et seq. of this title unless such violation is by Section 6-101 et seq. of this title or other law of this state declared to be a felony.~~

~~B. Unless another penalty is in Section 6-101 et seq. of this title or by laws of this state provided, every person convicted of a misdemeanor for the violation of any provision of Section 6-101 et seq. of this title shall be punished by a fine of not more than Five~~

~~Hundred Dollars ($500.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.~~

~~C.~~ The Department of Public Safety may~~, in addition to the penalty above,~~ suspend for a period not exceeding thirty (30) days the registration certificate of a motor vehicle owned by any person who permits said vehicle to be used in violation of Section 6-304, 6-305 or 6-306 of this title. The Department may suspend, for a period of not to exceed six (6) months, the registration certificate of any motor vehicle, when the owner permits said vehicle to be operated by an individual whose driving privilege is under denial, cancellation, suspension or revocation. A violation of Section 6-101 through 6-309 of this title, not specifically designated as a crime or a civil offense, shall be an administrative violation and subject the violator to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 526. AMENDATORY 47 O.S. 1991, Section 7-402, is amended to read as follows:

Section 7-402. (a) Any person whose license or registration shall have been suspended under any provision of this act, or whose policy of insurance or bond, when required under this act, shall have been canceled or terminated, shall immediately return his license and registration to the Department. If any person shall fail to return to the Department the license or registration as provided herein, the Department shall forthwith direct any peace officer to secure possession thereof and to return the same to the Department.

(b) Any person ~~willfully~~ failing to return license or registration as required in paragraph (a) of this section shall be ~~fined~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00) ~~or imprisoned not to exceed thirty (30) days, or both~~.

SECTION 527. AMENDATORY 47 O.S. 1991, Section 7-602, is amended to read as follows:

Section 7-602. A. ~~Until July 1, 1983, every person registering a motor vehicle in this state, except a licensed used car dealer, at the time of registration of such vehicle, shall certify the existence of security with respect to such vehicle on a form prescribed by the Department.~~

~~Any person who knowingly issues or promulgates a false or fraudulent writing in connection with this subsection or otherwise fails to comply with this subsection shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding Five Hundred Dollars ($500.00).~~

~~Motor carriers required by the Corporation Commission, or any other entity, to maintain liability insurance are hereby exempt from Sections 7-600 through 7-610 of this title.~~

~~B.~~ On and after July 1, 1983:

1. The owner of a motor vehicle registered in this state shall carry in such vehicle at all times a current owner's security verification form listing the vehicle or an equivalent form which has been issued by the Department and shall produce such form upon request for inspection by any law enforcement officer or representative of the Department of Public Safety and, in case of a collision, the form shall be shown upon request to any person affected by said collision.

2. Every person registering a motor vehicle in this state, except a motor vehicle which is not being used upon the public highways or public streets, or a manufactured home while said manufactured home is on a permanent foundation, at the time of registration of such vehicle, shall certify the existence of security with respect to such vehicle by surrendering to a motor license agent or other registering agency a current owner's security verification form or an equivalent form issued by the Department. A

motor license agent or other registering agency shall require the surrender of such form prior to processing an application for registration or renewal.

3. The following shall not be required to carry an owner's or operator's security verification form or an equivalent form from the Department during operation of the vehicle and shall not be required to surrender such form for vehicle registration purposes:

a. any vehicle owned or leased by the federal or state government, or any agency or political subdivision thereof,

b. any vehicle bearing the name, symbol, or logo of a business, corporation or utility on the exterior and which is in compliance with the provisions of Sections 7-600 through 7-610 of this title according to records of the Department of Public Safety which reflect a deposit, bond, self-insurance, or fleet policy,

c. any vehicle authorized for operation pursuant to a permit number issued by the Interstate Commerce Commission or the Corporation Commission,

d. any licensed taxicab, and

e. any vehicle owned by a licensed used motor vehicle dealer.

~~4. Any person who knowingly issues or promulgates false or fraudulent information in connection with either an owner's or operator's security verification form or an equivalent form which has been issued by the Department of Public Safety shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding Five Hundred Dollars ($500.00), or imprisonment for not more than six (6) months, or by both such fine and imprisonment.~~

~~C.~~ B. Each motor license agent is authorized to charge a fee of One Dollar and fifty cents ($1.50) to each person to whom said agent issues a certificate of registration and who is required to

surrender proof of financial responsibility pursuant to the provisions of Sections 7-600 through 7-610 of this title. Said fee may be retained by the agent as compensation for his services in processing the proof of financial responsibility and for processing the driver's license information, insurance verification information, and other additional information furnished to the agent pursuant to Section 1112 of this title, if such agent does not receive the maximum compensation as authorized by law.

SECTION 528. AMENDATORY 47 O.S. 1991, Section 7-606, is amended to read as follows:

Section 7-606. A. 1. An owner or operator who fails to comply with the Compulsory Insurance Law of this state, or who fails to produce for inspection a valid and current security verification form or equivalent form which has been issued by the Department of Public Safety upon request of any peace officer, representative of the Department of Public Safety or other authorized person, shall be ~~guilty of a misdemeanor and upon conviction shall be~~ <u>liable for a civil infraction and</u> subject to a fine of not more than Two Hundred Fifty Dollars ($250.00), ~~or imprisonment for not more than thirty (30) days, or by both such fine and imprisonment,~~ and in addition thereto, shall be subject to suspension of license and registration in accordance with Section 7-605 of this title.

2. ~~An owner who fails to provide proof of security pursuant to the provisions of Section 7-603.1 of this title shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than Five Hundred Dollars ($500.00), or imprisonment for not more than six (6) months, or by both fine and imprisonment, and in addition thereto, the driver's license of the owner and registration of any motor vehicle not covered by security shall be suspended in accordance with the provisions of Section 7-605 of this title. The penalties provided for in this paragraph only apply to the~~

~~registered vehicle owner. Beginning July 1, 1991, the provisions of this subsection shall cease to have the force or effect of law.~~

~~3.~~ An owner other than an owner of an antique or a classic automobile as defined by the Oklahoma Tax Commission who files an affidavit that a vehicle shall not be driven upon the public highways or public streets, pursuant to Section 7-607 of this title, who drives or permits the driving of the vehicle upon the public highways or public streets, shall be ~~guilty of a misdemeanor and upon conviction thereof shall be~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00), ~~or imprisonment for not more than thirty (30) days, or by both such fine and imprisonment,~~ and in addition thereto, shall be subject to suspension of license and registration in accordance with Section 7-605 of this title. This section is in addition to any appropriate punishment in Title 21 of the Oklahoma Statutes.

B. ~~A sentence imposed for any violation of Section 7-600 et seq. of this title may be suspended or deferred in whole or in part by the court.~~

~~C.~~ Any person producing proof in court that a current security verification form or equivalent form which has been issued by the Department reflecting liability coverage for such person was in force at the time of the alleged offense shall be entitled to dismissal of such charge upon payment of court costs; however, if proof of security verification is presented to the court within forty-eight (48) hours after the violation, the charge shall be dismissed without payment of court costs.

~~D.~~ C. Upon ~~conviction~~ determination of liability, bond forfeiture or deferral of sentence, the court clerk shall forward an abstract to the Department of Public Safety within ten (10) days reflecting the action taken by the court.

SECTION 529. AMENDATORY 47 O.S. 1991, Section 7-609, as last amended by Section 10, Chapter 218, O.S.L. 1994 (47 O.S. Supp. 1994, Section 7-609), is amended to read as follows:

Section 7-609. A. In the event the owner fails to timely furnish proof of insurance or fails to timely respond to the Department's request as required by subsection D of Section 7-608 of this title, the Department shall suspend the person's driving privilege and the registration of any motor vehicle registered in the name of such person as owner and not covered by security, effective immediately upon the lapse of the thirty-day response period as provided in subsection D of Section 7-608 of this title. Such suspension shall remain in effect until payment of the fees provided for in Section 6-212 of this title and proof of insurance is presented to the Department. Provided, if the person is not an owner of any motor vehicle or if the motor vehicle in which the person has an ownership interest has been repossessed, or if the person proves by sworn affidavit or otherwise to the satisfaction of the Department that the request of the Department to provide proof of insurance was not received, proof of insurance and payment of the reinstatement fee shall not be required for reinstatement of the person's driving privilege.

B. Any person whose driving privilege and registration have been suspended pursuant to the provisions of subsection A of this section shall submit his driver license and license plate to the Department within thirty (30) days from the date of such suspension. Any owner failing to submit the driver license or license plate to the Department within such time shall ~~pay a fee of Fifty Dollars ($50.00)~~ <u>be liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00)</u> in addition to the fees provided for in Section 6-212 of this title.

C. Whenever any person's driving privilege or registration of any motor vehicle is suspended pursuant to this section according to

the records of the Department, the Department may accordingly notify any law enforcement agency, police officer, sheriff, deputy sheriff, highway patrol trooper or other peace officer of such suspension.

D. Any peace officer who has been notified that a person's driving privilege or registration of a motor vehicle is currently under suspension according to the records of the Department may, upon observing such person or motor vehicle anywhere upon a public street, highway, roadway, turnpike or public parking lot within this state, forthwith stop such person or motor vehicle and seize such person's driver license or license plate.

E. No person who has been issued a driver license, vehicle registration or vehicle license plate pursuant to the laws of this state shall obtain or retain a property interest therein and it shall be the duty of every person whose driving privilege or motor vehicle registration has been suspended to forthwith surrender such driver license or license plate upon the request of any peace officer or representative of the Department of Public Safety.

F. Any person upon a public street, highway, roadway, turnpike or public parking lot within this state who willfully refuses to surrender possession of a driver license or license plate after being informed by a peace officer or representative of the Department of Public Safety that the driving privilege or motor vehicle registration of such person is currently under suspension according to the records of the Department, shall be ~~guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than ten (10) days or~~ liable for a civil infraction and subject to a fine of not ~~to exceed~~ more than Five Hundred Dollars ($500.00) ~~or by both such fine and imprisonment~~.

G. Any driver license or license plate surrendered to or seized by a peace officer pursuant to this section shall be submitted to a representative of the Department of Public Safety in a manner and with a form or method approved by the Department.

H. Following receipt of the fifty-dollar fee collected pursuant to subsection B of this section, the Department shall deposit said fee in the office of the State Treasurer. The State Treasurer shall credit said fees into a special account to be distributed as hereinafter provided.

I. The Department shall certify to the State Treasurer the name of the employing law enforcement agency from which a suspended driver license or license plate has been received pursuant to this section, together with a certification that the fifty-dollar fee required by subsection B of this section has been paid. Following receipt of certification from the Department as provided herein, the State Treasurer shall reimburse the law enforcement agency named in the certificate the sum of Twenty-five Dollars ($25.00) for each driver license and the sum of Twenty-five Dollars ($25.00) for each vehicle registration plate as shown on the certificate, from the special account.

J. Any unencumbered monies remaining in said special account at the close of each calendar month shall be transferred to the General Revenue Fund of the State Treasury.

K. The State of Oklahoma, the departments and agencies thereof, including the Department of Public Safety, all political subdivisions, and the officers and employees of each, shall not be held legally liable in any suit in law or in equity for any erroneous entry of a suspension upon the records of the Department, nor for the enforcement of the provisions of this act performed in good faith.

SECTION 530. AMENDATORY 47 O.S. 1991, Section 8-101, is amended to read as follows:

Section 8-101. (a) It shall be unlawful for the owner of any motor vehicle engaged in the business of renting motor vehicles without drivers to rent a motor vehicle without a driver otherwise than as a part of a bona fide transaction involving the sale of such

motor vehicle, unless he has previously notified the Department of the intention to so rent such vehicle and has given proof of financial responsibility, and the Tax Commission shall not register any such vehicle unless and until the owner gives proof of financial responsibility either as provided in this section or, in the alternative, as provided in Section 8-102 of this title. The Department shall cancel the registration of any motor vehicle rented without a driver whenever the Department ascertains that the owner has failed or is unable to give and maintain such proof of financial responsibility.

(b) Such owner shall submit to the Commissioner evidence that there has been issued to him by an insurance carrier authorized to do business in this state a public liability insurance policy or policies covering each such motor vehicle so rented in the amounts as hereinafter stated and insuring every person operating such vehicle under a rental agreement or operating the vehicle with the express or implied permission of the owner against loss from the liability imposed by law upon such person arising out of the operation of said vehicle in the amount of Twenty Thousand Dollars ($20,000.00) for bodily injury to or death of one person and, subject to said limit as respects bodily injury to or death of any one person, the amount of Forty Thousand Dollars ($40,000.00) on account of bodily injury to or death of more than one person in any one accident and Ten Thousand Dollars ($10,000.00) for damage to property of others in any one accident. Provided, that the Commissioner is authorized to accept, in lieu of such public liability insurance policy covering specific vehicles, proof by evidence satisfactory to the Commissioner of a valid and binding lease contract between the owner and a renter wherein it is agreed between such owner and the lessee-renter that such lessee-renter accepts responsibility for loss from any liability imposed by law upon any person arising out of the operation, either by express or

implied permission of the lessee-renter, of any vehicle covered by such lease in amounts not less than the minimum amounts before set out in this subsection, together with satisfactory evidence of issuance to such lessee-renter, by an insurance carrier authorized to do business in this state, proper public liability insurance policies in amounts of not less than the minimum amounts before set out in this subsection or sufficient showing of financial responsibility of such lessee-renter as is required of owners by the provisions of Section 8-102 of this title.

(c) The owner shall maintain such policy or policies in full force and effect during all times that he is engaged in the business of renting any motor vehicle without a driver unless said owner shall have given proof of financial responsibility as provided in Section 8-102 of this title.

(d) Said policy or policies need not cover any liability incurred by the renter of any vehicle to any passenger in such vehicle.

(e) When any suit or action is brought against the owner of a for-rent motor vehicle upon a liability under this title, it shall be the duty of the judge of the court before whom the case is pending to cause a preliminary hearing to be had, in the absence of the jury, for the purpose of determining whether the owner has obtained and there is in full force and effect, a policy or policies of insurance covering the person operating the vehicle under a rental agreement, in the limits above mentioned. When it appears that the owner has obtained such policy or policies and that the same are in full force and effect, the judge or magistrate before whom such action is pending shall dismiss the action as to the owner of the motor vehicle.

(f) Whenever the owner of a motor vehicle rents such vehicle without a driver to another, it shall be unlawful for the latter to

permit any other person to operate such vehicle without the permission of the owner.

(g) Any person who ~~violates~~ breaches any of the provisions of this section shall be ~~guilty of a misdemeanor, and upon conviction thereof, shall be punished by~~ liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00).

SECTION 531. AMENDATORY 47 O.S. 1991, Section 10-102, as amended by Section 5, Chapter 382, O.S.L. 1992 (47 O.S. Supp. 1994, Section 10-102), is amended to read as follows:

Section 10-102. A. The driver of any vehicle involved in an accident resulting in ~~a~~ an ~~nonfatal~~ injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 10-104 of this title. Every such stop shall be made without obstructing traffic more than is necessary.

B. Any person ~~willfully, maliciously, or feloniously~~ failing to stop to avoid detection or prosecution or to comply with said requirements under such circumstances~~,~~ shall ~~upon conviction be guilty of a felony punishable by imprisonment for not less than ten (10) days nor more than two (2) years, or by a fine of not less than Fifty Dollars ($50.00) nor more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

C. The Commissioner of Public Safety shall revoke the license or permit to drive and any nonresident operating privilege of the person so convicted.

SECTION 532. AMENDATORY 47 O.S. 1991, Section 10-103, is amended to read as follows:

Section 10-103. The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of Section 10-104 of this title. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished by~~ liable for a civil infraction and subject to a fine of not ~~to exceed~~ more than ~~Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00). In addition to the ~~criminal penalties~~ fines imposed by this section, any person ~~violating~~ breaching the provisions of this section shall be subject to liability for damages in an amount equal to three times the value of the damage caused by the accident. Said damages shall be recoverable in a civil action. Nothing in this section shall prevent a judge from ordering restitution for any damage caused by a driver involved in an accident provided for in this section.

SECTION 533. AMENDATORY 47 O.S. 1991, Section 10-114, is amended to read as follows:

Section 10-114. The Commissioner of Public Safety may suspend the license or permit to drive and any nonresident operating privileges of any person failing to report an accident as herein provided until such report has been filed, and the Commissioner may extend such suspension not to exceed thirty (30) days. Any person ~~convicted of failing~~ determined to have failed to make a report as

required herein shall be ~~punished as provided in Section 17-101~~ liable for a civil infraction and subject to a fine of not more than Two Hundred Fifty Dollars ($250.00).

SECTION 534. AMENDATORY 47 O.S. 1991, Section 11-102, is amended to read as follows:

Section 11-102. It is ~~unlawful and, unless otherwise declared in this chapter with respect to particular offenses, it is a misdemeanor~~ a civil infraction and subject to a fine of not more than Two Hundred Fifty Dollars ($250.00) for any person to do any act forbidden or fail to perform any act required in this chapter.

SECTION 535. AMENDATORY 47 O.S. 1991, Section 11-308a, is amended to read as follows:

Section 11-308a. Upon application by the governing board of a public trust, as defined in Sections 164 and 176 of Title 60 of the Oklahoma Statutes, the Transportation Commission may set speed limits and promulgate regulations governing uniform traffic control to comply with the provisions of Title 47 of the Oklahoma Statutes for the reasonable and safe operation of motor vehicles on property situated within the state and owned by or under the control of the public trust.

Speed limits and regulations so established shall be enforceable when appropriate signs giving notice thereof are erected. The cost of such signs shall be borne by the public trust. Any person driving on such property in ~~violation~~ breach of the speed limit or regulation so established shall~~, upon conviction,~~ be ~~punished~~ fined in the same manner as provided for persons ~~convicted of violating~~ breaching other provisions of Sections 11-101 et seq. of Title 47 of the Oklahoma Statutes.

SECTION 536. AMENDATORY 47 O.S. 1991, Section 11-807, is amended to read as follows:

Section 11-807. (a) In every charge of violation of any speed regulation in this article, the complaint, also the summons or

notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the maximum speed applicable within the district or at the location.

(b) The provision of this article declaring maximum speed limitations shall not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

(c) Every person ~~convicted of violating~~ breaching any provision of Article VIII, Sections 11-801 to 11-807 inclusive, shall be ~~guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten Dollars ($10.00) and~~ liable for a civil infraction and subject to a fine of not more than Two Hundred Dollars ($200.00)~~, or shall be sentenced to serve a term of not less than five (5) days nor more than thirty (30) days in jail, or by both such fine and imprisonment~~.

SECTION 537. AMENDATORY 47 O.S. 1991, Section 11-808, is amended to read as follows:

Section 11-808. A. It shall be unlawful for any person to operate a motor vehicle upon any public road, street, highway or turnpike of this state when such vehicle is equipped with any device designed for the purpose of, or capable of:

1. Jamming or distorting signals emitted by radar; or

2. Transmitting a signal capable of being received by radar.

B. It shall be unlawful to manufacture, advertise for sale, sell or otherwise distribute any such device in this state.

C. A license issued by the Federal Communications Commission for the use of such device shall exempt operation of such device from the provisions of this act.

D. Any person ~~convicted of violating~~ breaching subsection A or B of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not more than ~~Two Hundred Dollars ($200.00)~~ Five Hundred Dollars ($500.00).

SECTION 538. AMENDATORY 47 O.S. 1991, Section 11-902, as last amended by Section 5, Chapter 387, O.S.L. 1994 (47 O.S. Supp. 1994, Section 11-902), is amended to read as follows:

Section 11-902. A. ~~It is unlawful and punishable as provided in this section for any person to drive, operate, or be in actual physical control of a motor vehicle within this state who:~~

~~1. Has a blood or breath alcohol concentration, as defined in Section 756 of this title, of ten-hundredths (0.10) or more at the time of a test of such person's blood or breath administered within two (2) hours after the arrest of such person;~~

~~2. Is under the influence of alcohol;~~

~~3. Is under the influence of any other intoxicating substance to a degree which renders such person incapable of safely driving or operating a motor vehicle; or~~

~~4. Is under the combined influence of alcohol and any other intoxicating substance to a degree which renders such person incapable of safely driving or operating a motor vehicle.~~

~~B. The fact that any person charged with a violation of this section is or has been lawfully entitled to use alcohol or a controlled dangerous substance or any other intoxicating substance shall not constitute a defense against any charge of violating this section.~~

~~As used in this title, the term "other intoxicating substance" shall mean any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes, and any other substance, other than alcohol, which is capable of being ingested, inhaled, injected, or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.~~

~~C. Every person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor~~

~~for the first offense and shall be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year, and a fine of not more than One Thousand Dollars ($1,000.00). Any person who within ten (10) years after a previous conviction of a violation of this section is convicted of a second or subsequent offense pursuant to the provisions of this section or has a prior conviction after October 31, 1984, in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section and within ten (10) years of such municipal conviction is convicted under the provision of this section shall be deemed guilty of a felony and shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed five (5) years, and a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00).~~

~~D.~~ When a person is sentenced to the custody of the Department of Corrections for commission of the crime of Operating a Vehicle Under the Influence as provided in Title 21 of the Oklahoma Statutes, the person shall be processed through the Lexington Assessment and Reception Center. The Department of Corrections shall classify and assign the person to one or more of the following:

1. The Department of Mental Health and Substance Abuse Services pursuant to paragraph 1 of subsection A of Section 612 of Title 57 of the Oklahoma Statutes;

2. The Electronic Monitoring Program pursuant to Section 510.9 of Title 57 of the Oklahoma Statutes with participation in a substance abuse treatment program and follow-up treatment;

3. A correctional facility operated by the Department of Corrections; or

4. Other alternative to incarceration authorized by law.

~~E.~~ B. In the event a felony conviction does not result in the person being sentenced to the custody of the Department of

Corrections, the person shall be required to serve not less than ten (10) days of community service, or to undergo inpatient rehabilitation or treatment in a public or private facility with at least minimum security for a period of not less than forty-eight (48) consecutive hours, notwithstanding the provisions of Sections 991a, 991a-2 and 996.3 of Title 22 of the Oklahoma Statutes.

~~F.~~ C. The Department of Mental Health and Substance Abuse Services and the Department of Corrections may certify to the Department of Public Safety that a person has successfully completed a treatment program and is successfully complying with any follow-up treatment required by the Department of Corrections. In such case, the person shall be given credit therefor as fulfillment of all provisions of Section 3-453 of Title 43A of the Oklahoma Statutes and shall be permitted to apply for reinstatement of any suspension, revocation, cancellation or denial order withdrawing his privilege to drive.

~~G.~~ D. The Department of Public Safety is hereby authorized to reinstate any suspended or revoked license when the applicant meets the statutory requirements which affect his existing driving privilege.

~~H.~~ E. Any person who is found guilty of a violation of ~~the provisions of this section~~ Operating a Vehicle Under the Influence as provided in Title 21 of the Oklahoma Statutes may be referred, prior to sentencing, to an alcoholism evaluation facility designated by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility for the evaluation in an amount not to exceed Seventy-five Dollars ($75.00). The facility shall, within seventy-two (72) hours, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. If a person is sentenced to the custody of the Department of Corrections and the

court has received a written evaluation report pursuant to this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence and any other sanction authorized by law for failure or refusal to comply with an order of the court.

~~I.~~ F. Any person who is found guilty of a violation of ~~the provisions of this section~~ Operating a Vehicle Under the Influence as provided in Title 21 of the Oklahoma Statutes may be required by the court to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than Five Dollars ($5.00) nor more than Fifteen Dollars ($15.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

SECTION 539. AMENDATORY 47 O.S. 1991, Section 11-903, is amended to read as follows:

Section 11-903. ~~(a) When the death of any person ensues within one (1) year as a proximate result of injury received by the driving of any vehicle by any person sixteen (16) years of age or older in reckless disregard of the safety of others, the person so operating such vehicle shall be guilty of negligent homicide.~~

~~(b) Any person convicted of negligent homicide shall be punished by imprisonment in the county jail for not more than one (1) year or by fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.~~

~~(c)~~ The Commissioner of Public Safety shall revoke the license or permit to drive and any nonresident operating privilege of any person convicted of ~~negligent homicide~~ driving related Negligent Homicide as provided in Title 21 of the Oklahoma Statutes.

SECTION 540. AMENDATORY 47 O.S. 1991, Section 11-1007, is amended to read as follows:

Section 11-1007. A. It shall be unlawful for any person to place or park a motor vehicle in any parking space on private property accessible to the public and where the public is invited or public property that is designated and posted as a reserved area for parking of motor vehicles of a physically disabled person unless such is eligible for a detachable insignia as a physically disabled person under the provisions of Section 15-112 of this title, and such insignia is displayed as provided in Section 15-112 of this title or regulations adopted pursuant thereto.

B. ~~Violation~~ Breach of these provisions shall be a ~~misdemeanor and upon conviction such person shall be fined~~ civil infraction subject to a fine of not more than ~~Fifty Dollars ($50.00)~~ One Hundred Dollars ($100.00) and, in addition thereto, such person shall pay any and all reasonable and necessary charges incurred by the landowner or other person in having any motor vehicle removed from the property and stored.

C. The Commissioner of Public Safety is hereby authorized to enter into reciprocity agreements with other states for the purpose of recognizing handicapped parking permits issued by those states.

SECTION 541. AMENDATORY 47 O.S. 1991, Section 11-1009, as amended by Section 1, Chapter 153, O.S.L. 1993 (47 O.S. Supp. 1994, Section 11-1009), is amended to read as follows:

Section 11-1009. A. No person shall place, stop, park, or stand any vehicle including trailers or implements of husbandry contrary to any official sign reserving, restricting, or regulating the placing, stopping, standing, or parking of a vehicle within the boundaries of the following:

1. State Capitol Park as defined in Section 1811.4 of Title 74 of the Oklahoma Statutes;

2. Cowboy Hall of Fame Park; and

3. State Capitol Complex in Tulsa.

B. The Department of Public Safety shall be responsible for the enforcement of subsection A of this section.

C. Any person ~~violating~~ breaching the provisions of subsection A of this section shall be ~~subject to a civil fine~~ liable for a civil infraction and subject to a fine of not more than Fifty Dollars ($50.00). A ~~violation~~ breach shall be indicated by the placing of a notice of such ~~violation~~ breach on the windshield of the vehicle improperly placed, stopped, parked, or standing.

The notice shall be on a form prescribed by the Commissioner of Public Safety. ~~The civil fine for such violation shall be Five Dollars ($5.00) if paid within ten (10) days from the date of the violation and Twenty Dollars ($20.00) if paid after ten (10) days from the date of the violation.~~

D. The fine may be paid by mailing or personally delivering the notice and a personal check or money order to cover the fine to the Office of State Treasurer of Oklahoma. Should the violator elect to object to the imposition of the fine and to have a hearing on the violation, the person may so indicate on the notice and mail or present it to the State Treasurer with a bond by cash or money order equal to the amount of the fine pending the outcome of the hearing. The bond may be used to pay the fine in the event the determination of the hearing examiner upholds the imposition of the civil fine. If no bond accompanies the request for hearing, no hearing shall be granted.

E. The request for a hearing shall be forwarded by the State Treasurer to the Department of Public Safety and the violation shall be set for hearing before a hearing examiner appointed by the Commissioner. The person requesting the hearing shall be notified of the time and place of the hearing by the Department of Public Safety by mailing a copy of the notice by regular mail to the address indicated on the request for hearing. The hearing examiner

may take evidence of the violation and shall determine if there has been a violation of the provisions of subsection A of this section. If it is determined that there was a violation, the hearing examiner shall enforce the fine indicated on the notice.

F. Any vehicle having outstanding fines against it may be impounded by the Department of Public Safety. The vehicle may be retained by the Department pending the payment of all fines, towing, and storage charges and shall be retained by the Department until the owner furnishes to the Department proof of security or an affidavit that the vehicle is insured by a policy of liability insurance or will not be used on public highways or public streets, as required pursuant to Section 7-600 et seq. of this title. The State of Oklahoma shall have a possessory lien against any vehicle which is found to have outstanding fines against it until such fines are paid. The lien may be foreclosed pursuant to the procedures provided for in Sections 91 through 96 of Title 42 of the Oklahoma Statutes.

G. All the monies generated from such fines shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury.

SECTION 542. AMENDATORY 47 O.S. 1991, Section 11-1112, is amended to read as follows:

Section 11-1112. A. Every driver when transporting a child under four (4) years of age in a motor vehicle operated on the roadways, streets, or highways of this state shall provide for the protection of said child by properly using a child passenger restraint system, or a properly secured seat belt in the rear seat of the motor vehicle. For purposes of Sections 11-1112 and 11-1113 of this title, "child passenger restraint system" means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the United States Department of Transportation.

B. Children four (4) or five (5) years of age shall be protected by use of a child passenger restraint system or a seat belt.

C. The provisions of this section shall not apply to:

1. A nonresident driver transporting a child in this state; and

2. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal laws; and

3. The driver of an ambulance or emergency vehicle; and

4. A driver of a vehicle if all of the seat belts in the vehicle are in use; and

5. The transportation of children who for medical reasons are unable to be placed in such devices.

D. A law enforcement officer is hereby authorized to stop a vehicle if it appears that the driver of the vehicle has violated the provisions of this section and to give an oral warning to said driver. The warning shall advise the driver of the possible danger to children resulting from the failure to install or use a child passenger restraint system or seat belts in the motor vehicle.

E. A violation of the provisions of this section shall not be admissible as evidence in any civil action or proceeding for damages.

F. In any action brought by or on behalf of an infant for personal injuries or wrongful death sustained in a motor vehicle collision, the failure of any person to have the infant properly restrained in accordance with the provisions of this section shall not be used in aggravation or mitigation of damages.

G. Any person ~~convicted of violating~~ breaching subsection A or B of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of ~~Ten Dollars ($10.00)~~ not more than One Hundred Dollars ($100.00) and shall pay a maximum of Fifteen Dollars ($15.00) court costs thereof. This fine shall be suspended in the

case of the first offense upon proof of purchase or acquisition by loan of a child passenger restraint system. Provided, the Department of Public Safety shall not assess points to the driving record of any licensed or unlicensed person ~~convicted of a violation~~ in breach of this section.

SECTION 543. AMENDATORY 47 O.S. 1991, Section 11-1114, is amended to read as follows:

Section 11-1114. A. No operator of a motor vehicle shall allow a passenger to ride outside the passenger compartment of the vehicle on the streets, highways or turnpikes of this state; provided, this section shall not apply to persons so riding on private property or for parades or special events nor shall this section apply to passengers riding on the bed of a pickup truck.

B. Any person ~~convicted of violating~~ breaching the provisions of subsection A of this section shall be ~~punished by~~ liable for a civil infraction and subject to a fine of ~~Ten Dollars ($10.00)~~ not more than One Hundred Dollars ($100.00) and shall pay court costs of Fifteen Dollars ($15.00), provided the Department of Public Safety shall not assess points to the driving record of any licensed or unlicensed person ~~convicted of a violation~~ in breach of this section.

SECTION 544. AMENDATORY 47 O.S. 1991, Section 11-1201, is amended to read as follows:

Section 11-1201. (a) It is a ~~misdemeanor and punishable by~~ civil infraction and subject to a fine of not ~~less than One Dollar ($1.00) nor~~ more than ~~Twenty-five Dollars ($25.00)~~ One Hundred Dollars ($100.00) for any person to do any act forbidden or fail to perform any act required in this article.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

SECTION 545. AMENDATORY 47 O.S. 1991, Section 11-1302, is amended to read as follows:

Section 11-1302. (a) The state through the Department of Highways and any county or city in this state through their respective governing bodies are hereby authorized to close any highway or section thereof, within their respective jurisdiction, to traffic while such highway is under repair, maintenance or construction and, in exercising such authority, shall erect or cause to be erected control devices and barricades to warn and notify the public that said highway has been closed to traffic.

(b) When any highway has been closed to traffic under the provisions of paragraph (a) and traffic-control devices or barricades have been erected, it shall be unlawful for any person to drive any vehicle through, under, over, or around such traffic-control devices or barricades, or otherwise to enter said closed area; except, that the provisions of this paragraph shall not apply to persons while engaged in the construction, maintenance and repair of said highway or to persons entering therein for the protection of lives or property; provided that persons having their places of residence or places of business within such closed area may travel, when possible to do so, through such area at their own risk.

(c) Whenever construction, repair and maintenance of any highway is being performed under traffic, the governing body having jurisdiction over said highway shall erect, or cause to be erected, traffic-control devices to warn and guide the public, and every person using such highway shall obey all signs, signals, markings, flagmen or other traffic-control devices which are placed to

regulate, control, and guide traffic through the construction or maintenance area.

(d) No person shall remove, change, modify, deface or alter any traffic-control device or barricade which has been erected on any highway under the provisions of this article.

(e) Nothing in this article shall relieve the state or any of its subdivisions or their contractors, agents, servants or employees from liability for failure to perform any of the duties imposed herein.

(f) Any person who ~~violates~~ breaches any provision of this article shall be ~~guilty of a misdemeanor and upon conviction thereof shall be~~ liable for a civil infraction and subject to a fine of not ~~to exceed One Hundred Dollars ($100.00) and imprisonment in the county jail not to exceed thirty (30) days, or both such fine and imprisonment,~~ more than Two Hundred Fifty Dollars ($250.00) and shall be liable for any damage to property, or injury to or death to persons caused by such ~~violations~~ breaches.

SECTION 546. AMENDATORY 47 O.S. 1991, Section 11-1401, as amended by Section 1, Chapter 303, O.S.L. 1993 (47 O.S. Supp. 1994, Section 11-1401), is amended to read as follows:

Section 11-1401. (a) It shall be unlawful for any person to enter that part of a turnpike enclosed by fence except in a vehicle at authorized entrances.

(b) It shall be unlawful for the driver of any vehicle to fail to pay the toll as prescribed by the Turnpike Authority.

(c) It shall be unlawful for any person to cross a turnpike except at grade separations provided for cross traffic or through drainage structures under the turnpike.

(d) It shall be unlawful for any person to travel a turnpike on foot except to leave or service a disabled vehicle, or for any person to hitchhike on a turnpike.

(e) It shall be unlawful for any person to tear down, damage or remove any turnpike fence.

(f) Subsections (a) through (e) of this section shall not apply to officers, employees, agents or contractors of the Turnpike Authority in performance of their duties, or to agents, servants, employees or contractors of public utilities while actually engaged in work in furtherance of construction, maintenance or repair of such public utilities located on, above or below a turnpike.

(g) It shall be unlawful to drive, operate or ride any bicycle or other man-powered vehicle or means of transportation on a turnpike, and the Authority may prohibit any light mechanically-powered vehicle from entering the turnpike, or any other vehicle which it determines would be injurious to the turnpike surfacing or a traffic hazard.

(h) Any person driving a vehicle on a turnpike shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the turnpike and any other conditions then existing, and no person shall drive any vehicle upon a turnpike at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead.

(i) The Turnpike Authority is hereby authorized to prescribe maximum and minimum speeds for trucks, buses and automobiles using turnpikes. The regulation pertaining to automobiles shall apply to all vehicles not commonly classified as either trucks or buses. Such regulations shall become effective only after approval by the Commissioner of Public Safety, and after signs have been posted on the turnpike giving notice thereof. Such regulations may apply to an entire turnpike project or to selected sections thereof as may be designated by the Turnpike Authority. It shall be a violation of this section to drive a vehicle at a faster rate of speed than such prescribed maximum speed or at a slower rate of speed than such

prescribed minimum speed. However, all vehicles shall at all times conform to the requirements of subsection (h) of this section. Copies of such regulations, certified as in effect on any particular date by the Secretary of the Turnpike Authority, shall be accepted in evidence in any court in this state.

(j) It shall be unlawful for any vehicle, except police cars, ambulances, vehicles owned by the Turnpike Authority, its agents or contractors, and vehicles owned by public utilities, their agents, servants, employees or contractors, while actually engaged in construction, maintenance or repair of such public utilities, to cross the center dividing strip of a turnpike, or to travel on any lane of a turnpike in a direction contrary to the direction of traffic on such lane.

(k) All vehicles traveling on a turnpike shall comply at all times with signs placed on the turnpike regulating traffic thereon.

(l) No vehicle shall move from one lane to another unless the way is clear to do so and upon proper signaling.

(m) Any person ~~guilty of violating~~ breaching any provisions of this section shall be ~~guilty of a misdemeanor and upon conviction shall be fined in a sum~~ liable for a civil infraction and subject to a fine of not ~~less than Ten Dollars ($10.00) and not~~ more than Two Hundred Dollars ($200.00) ~~or shall be sentenced to serve a term of not less than five (5) days nor more than thirty (30) days in jail, or by both such fine and imprisonment~~. This section is in addition to any appropriate punishment as provided in Title 21 of the Oklahoma Statutes.

SECTION 547. AMENDATORY 47 O.S. 1991, Section 12-101, as amended by Section 2, Chapter 13, O.S.L. 1993 (47 O.S. Supp. 1994, Section 12-101), is amended to read as follows:

Section 12-101. A. Except as otherwise provided, it shall be a ~~misdemeanor, upon conviction, punishable by~~ civil infraction and subject to a fine of not more than ~~Ten Dollars ($10.00)~~ One Hundred

Dollars ($100.00), for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter.

B. Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with provisions of this chapter, and compliance with regulations of the Interstate Commerce Commission governing motor carriers operating in interstate commerce shall be deemed to be a compliance with all provisions of this chapter.

C. The provisions of this article with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as herein made applicable.

SECTION 548. AMENDATORY 47 O.S. 1991, Section 12-217, as amended by Section 3, Chapter 13, O.S.L. 1993 (47 O.S. Supp. 1994, Section 12-217), is amended to read as follows:

Section 12-217. A. Any motor vehicle may be equipped with not to exceed two spot lamps which shall not be used in substitution of headlamps.

B. Every spot lamp mounted upon a motor vehicle shall be located with the center of such lamps at a height of not less than thirty inches, nor more than seventy-two (72) inches above the level surface upon which the vehicle stands and every spot lamp shall be so directed when in use:

1. That no portion of the main substantially parallel beam of light will strike the roadway to the left of the prolongation of the left side of the vehicle; and

2. That the top of the beam will not strike the roadway at a distance in excess of five hundred (500) feet from the vehicle.

C. The operator of any motor vehicle which has in use a spot lamp attached thereto shall upon discerning the approach of another vehicle immediately turn said spot lamp off. The operator of a motor vehicle shall not use or turn on a spot lamp when following another motor vehicle within five hundred (500) feet or to cause a vehicle to yield right-of-way and stop. The provisions of this subsection shall not apply to vehicles of any fire department, fire patrol, law enforcement vehicles, ambulances, or other authorized emergency vehicles.

D. Any motor vehicles may be equipped with not to exceed two fog lamps or two auxiliary lamps mounted upon the front below the level of the center of headlamps.

Fog lamps shall not be used in substitution of headlamps, except under conditions of rain or fog rendering disadvantageous the use of headlamps.

Whenever fog lamps are used in substitution of headlamps, as permitted herein, two such fog lamps mounted on opposite sides of the front of the vehicle must be lighted.

Every fog lamp or auxiliary lamp used upon a motor vehicle shall be so adjusted and aimed that no part of the high intensity portion of the beam shall, at a distance of twenty-five (25) feet, rise above the horizontal plane passing through the center of the lamp. Every such fog lamp or auxiliary lamp, or driving lamps, shall meet the requirements and limitations set forth in this section.

E. Any violation of this section shall be~~, upon conviction, a misdemeanor punishable by a fine of not less than Ten Dollars ($10.00) nor more than Fifty Dollars ($50.00)~~ a civil infraction and subject the violator to a fine of not more than One Hundred Dollars ($100.00).

SECTION 549. AMENDATORY 47 O.S. 1991, Section 12-218, as amended by Section 4, Chapter 13, O.S.L. 1993 (47 O.S. Supp. 1994, Section 12-218), is amended to read as follows:

Section 12-218. A. Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this act, be equipped with a siren, exhaust whistle or bell capable of giving an audible signal.

B. Every school bus used for transportation of school children and every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this act, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level, and these lights shall have sufficient intensity to be visible at five hundred (500) feet in normal sunlight or, as an alternative, authorized emergency vehicles may use one red signal lamp so located at or near the top of the vehicle which when lighted is visible for a distance of five hundred (500) feet in normal sunlight both to the front and to the rear of the vehicle.

C. A law enforcement vehicle when used as an authorized emergency vehicle may but need not be equipped with alternately-flashing red lights specified herein.

D. The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in Sections 11-405 and 11-705 of this act.

E. It shall be ~~unlawful~~ a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00) for any person to use audible signal equipment from a motor vehicle for the purpose of causing any other motor vehicle operator to yield right-of-way and stop. The provisions of this subsection shall not apply to

vehicles of any fire department, fire patrol, law enforcement vehicles, ambulances, or other authorized emergency vehicles.

SECTION 550. AMENDATORY 47 O.S. 1991, Section 12-315, is amended to read as follows:

Section 12-315. Any person or persons ~~violating~~ breaching the provisions of ~~47 O.S. 1961, Section~~ Sections 12-305 through ~~Section~~ 12-314 of this title shall be ~~deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Three Hundred Dollars ($300.00) nor~~ more than Five Hundred Dollars ($500.00)~~, or imprisoned for ninety (90) days, or by both such fine and imprisonment,~~ for each offense. In addition thereto, the Corporation Commission is hereby authorized to punish for contempt any person or persons violating the rules and regulations adopted by the Commission under this act. Any person found guilty of violating the rules and regulations of the Corporation Commission adopted pursuant to this act may be fined an amount not exceeding Five Hundred Dollars ($500.00) for each offense.

SECTION 551. AMENDATORY 47 O.S. 1991, Section 12-406, is amended to read as follows:

Section 12-406. (a) On and after the effective date of this Code no person shall sell any new motor vehicle as specified herein, nor shall any new motor vehicle as specified herein be registered thereafter unless such vehicle is equipped with safety glazing material of a type approved by the Commissioner wherever glazing material is used in doors, windows and windshields. The foregoing provisions shall apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material shall apply to all glazing material used in doors, windows and windshields in the drivers' compartments of such vehicles.

(b) The term "safety glazing materials" means glazing materials so constructed, treated or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(c) Any person or firm who shall sell, or make replacements of glass therein, or sell glass cut to size to fit windshields, door glass, or window glass of a motor vehicle in ~~violation~~ breach of the provisions of this act shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than Two Hundred Fifty Dollars ($250.00).

SECTION 552. AMENDATORY 47 O.S. 1991, Section 12-411, is amended to read as follows:

Section 12-411. (a) It shall be unlawful for any person, firm, partnership or corporation to own or operate, upon the highways within this state, any motor vehicle in which there is installed a radio television set, the screen of which can be seen by any person sitting in the seat from which such motor vehicle is operated.

(b) Any person, firm, partnership or corporation ~~violating~~ breaching any provision of this section shall be ~~guilty of a misdemeanor and upon conviction thereof shall be fined~~ liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00) or imprisoned not more than sixty (60) days, or both such fine and imprisonment~~ One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate punishment as provided in Title 21 of the Oklahoma Statutes.

SECTION 553. AMENDATORY 47 O.S. 1991, Section 12-412, is amended to read as follows:

Section 12-412. Whoever assembles or rebuilds an electric storage battery for use on automobiles, in whole or in part, out of second-hand or used material such as containers, separators, plates,

groups or other battery parts and sells same or offers same for sale in the State of Oklahoma without the word "rebuilt" moulded into the side of the container in letters which are at least one (1) inch high and five eights (5/8) of an inch wide, shall be ~~guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine not exceeding Two Hundred Fifty Dollars ($250.00), or be imprisoned for a term not exceeding six (6) months, or both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 554. AMENDATORY 47 O.S. 1991, Section 12-415, is amended to read as follows:

Section 12-415. Any person ~~violating~~ breaching any of the provisions of this act for which there is not a specific fine provision shall~~, upon conviction thereof, be punished as provided in 47 O.S. 1961, Section 17-101, as amended by Chapter 312, Oklahoma Session Laws 1963, page 450~~ be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 555. AMENDATORY 47 O.S. 1991, Section 12-418, is amended to read as follows:

Section 12-418. Any person ~~convicted of violating~~ breaching Section ~~2~~ 12-417 of this ~~act~~ title shall be ~~punished by~~ liable for a civil infraction and subject to a fine of ~~Ten Dollars ($10.00)~~ not more than Fifty Dollars ($50.00) and shall pay court costs of Fifteen Dollars ($15.00). This section shall be in addition to any appropriate punishment as provided in Title 21 of the Oklahoma Statutes. Provided, the Department of Public Safety shall not assess points to the driving record of any licensed or unlicensed person convicted of a violation of this act.

SECTION 556. AMENDATORY 47 O.S. 1991, Section 12-422, is amended to read as follows:

Section 12-422. A. As used in this section:

1. "Glass coating material" or "sun screening devices" means materials or devices which are designed to be used in conjunction with approved vehicle glazing materials for the purpose of reducing the effects of sun;

2. "Light transmission" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material, to the amount of total light falling on the product or material;

3. "Luminous reflectance" means the ratio of the amount of total light, expressed in percentages, which is reflected outward by the product or material to the amount of total light falling on the product or material; and

4. "Manufacturer" means:

a. a person who engages in the manufacturing or assembling of sun screening devices, or

b. a person who fabricates, laminates, or tempers glazing materials, incorporating the capacity to reflect or to reduce the transmittance of light during the manufacturing process.

B. It is unlawful for a person to sell, install, or to operate a motor vehicle with any object or material placed, displayed, installed, affixed, or applied upon the windshield or side or rear windows, or with any object or material so placed, displayed, installed, affixed, or applied in or upon the motor vehicle so as to obstruct or reduce a driver's clear view through the windshield or side or rear windows, except as provided by this section.

C. It is unlawful for any person to place, install, affix, or apply any transparent material upon the windshield or side or rear windows of any motor vehicle if such material alters the color or reduces the light transmittance of such windshield or side or rear windows except as provided in this section.

D. This section shall not apply to:

1. A front side wing vent or window that has a sunscreening device that has a light transmission of not less than thirty-five percent (35%) and a luminous reflectance of not more than thirty-five percent (35%);

2. Front side wing vents and windows that have a substance or material not attached in conjunction with glazing material which is used by a vehicle operator on a moving vehicle during daylight hours;

3. Rearview mirrors;

4. Adjustable nontransparent sun visors which are mounted forward of the side windows and are not attached to the glass;

5. Signs, stickers, or other materials which are displayed in a forty-nine-square-inch area in the lower corner of the windshield farthest removed from the driver or signs, stickers, or other materials which are displayed in a forty-nine-square-inch area in the lower corner of the windshield nearest the driver;

6. Direction, designation, or termination signs on buses, if the signs do not interfere with the driver's clear view of approaching traffic;

7. Rear window wiper motors;

8. Rear window defrosters or defoggers;

9. Rear truck lid handle or hinges;

10. Side windows to the rear of the driver or back windows that have a sunscreening device that has a light transmission of not less than twenty percent (20%) and a luminous reflectance of not more than twenty percent (20%), if the motor vehicle is equipped with outside mirrors on both left and right hand sides of the vehicle that are so located as to reflect to the driver a view of the highway through each mirror for a distance of at least two hundred (200) feet to the rear of the motor vehicle;

11. Transparent material which is installed, affixed, or applied to the topmost portion of the windshield if:

a. it does not extend downward beyond the AS-1 line or more than five (5) inches from the top of the windshield, whichever is closer to the top of the windshield, and

b. the material is not red or amber in color; and

12. Vehicles not subject to registration in the State of Oklahoma.

E. This section shall not prohibit the use and placement of federal, state, or political subdivision certificates on any window as are required by applicable laws.

F. Louvered materials, when installed as designed, shall not reduce the area of the driver's visibility below fifty percent (50%) as measured on a horizontal plane. When such materials are used in conjunction with the rear window, the measurement shall be made based upon the driver's view from inside the rearview mirror.

G. Each manufacturer shall certify to the Commissioner of Public Safety that the product or material he manufactures or assembles is in compliance with the reflectivity and transmittance requirements of this section.

H. A person who sells or installs objects or materials regulated by this section shall set forth in a written statement, which shall be a part of the contract for sale or installation, that the installation of such object or material to the driver's or passenger's side window may be illegal in some states. Such notice shall be in bold-face type.

I. Each manufacturer shall provide a legible label which shall be installed permanently between the material and each glazing surface of materials or devices authorized by this section, that contains the following information:

1. That the material or device complies with Oklahoma state law; and

2. The manufacturer's name.

Each manufacturer shall include instructions with the product or material for proper installation including the affixing of the label. The labeling shall be placed in the lower right hand corner on the driver's side and the lower left corner of the passenger's side of each vehicle glass glazing surface required to be labeled when facing the vehicle from the outside.

J. The Commissioner of Public Safety, upon application from a person required for medical reasons to be shielded from the direct rays of the sun, supported by written attestation of such fact from a physician licensed pursuant to Section 495 of Title 59 of the Oklahoma Statutes, may issue an exemption from the provisions of this section for a motor vehicle belonging to such person or in which such person is a habitual passenger. Any person may operate a vehicle or alter the color or reduce the light transmitted through the side or rear windows of a vehicle in accordance with an exemption issued by the Commissioner.

K. Any person who ~~violates~~ breaches any provision of this section~~, upon conviction,~~ shall be ~~guilty of a misdemeanor and shall be punished as provided for in Section 17-101 of Title 47 of the Oklahoma Statutes~~ liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00).

L. The provisions of this section shall apply to all new or unused vehicles and all used vehicles, as defined by Section 1102 of Title 47 of the Oklahoma Statutes, on and after September 1, 1991. The provisions of this section shall not apply to vehicles on which glass coating material or sun screening devices were installed prior to September 1, 1991, until January 1, 1994. Furthermore, the provisions of this section shall not apply to implements of husbandry.

M. The provisions of this section shall not apply to automobile manufacturers that comply with Federal Motor Vehicle Safety Standard 205.

SECTION 557. AMENDATORY 47 O.S. 1991, Section 12-506, is amended to read as follows:

Section 12-506. Any person ~~convicted of violating~~ breaching any of the provisions of the Odometer Setting Act ~~with intent to misrepresent the true mileage driven of a motor vehicle~~ shall be ~~guilty of a misdemeanor and shall be punished by~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) ~~or imprisonment for not more than one (1) year, or by both fine and imprisonment~~. This section is in addition to any appropriate punishment in Title 21 of the Oklahoma Statutes.

SECTION 558. AMENDATORY 47 O.S. 1991, Section 13-103, is amended to read as follows:

Section 13-103. Whenever the driver of a vehicle is directed by a member of the Highway Patrol to stop and submit the mechanical condition of the vehicle or its equipment to an inspection or test under the conditions stated in this act, it shall be the duty of such driver to stop and submit to such inspection or test and the failure or refusal to do so is a ~~misdemeanor~~ civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00).

SECTION 559. AMENDATORY 47 O.S. 1991, Section 14-101, as amended by Section 1, Chapter 252, O.S.L. 1993 (47 O.S. Supp. 1994, Section 14-101), is amended to read as follows:

Section 14-101. A. It is a ~~misdemeanor~~ civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or vehicles of a size or weight exceeding the limitations stated in this chapter or otherwise in violation of this chapter, and the maximum size and weight of vehicles herein specified shall be lawful throughout this state and local authorities shall have no power or authority to alter said limitations except as express authority may be granted in this chapter.

B. The provisions of this chapter governing size, weight and load shall not apply to fire apparatus, Department of Transportation research testing equipment, vehicles used by retail implement dealers while hauling implements of husbandry or to implements of husbandry, including farm tractors, temporarily moved upon a highway, or to a vehicle operated under the terms of a special permit issued as herein provided.

C. All size, weight and load provisions covered by this chapter shall be subject to the limitations imposed by Title 23, United States Code, Section 127, and such other rules and regulations developed herein. Provided further, that any size and weight provision authorized by the United States Congress for use on the National System of Interstate and Defense Highways, including but not limited to height, axle weight, gross weight, combinations of vehicles or load thereon shall be authorized for immediate use on such segments of the National System of Interstate and Defense Highways and any other highways or portions thereof as designated by the Transportation Commission or their duly authorized representative.

SECTION 560. AMENDATORY 47 O.S. 1991, Section 14-116a, is amended to read as follows:

Section 14-116a. Any person, firm or corporation who moves or transports any manufactured home without a permit issued by the Department of Public Safety according to the provisions of Chapter 14 of Title 47 of the Oklahoma Statutes shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be punished as follows:~~

~~1. For the first such violation, by a fine of Five Hundred Dollars ($500.00);~~

~~2. For the second such violation, by a fine of One Thousand Dollars ($1,000.00); and~~

~~3. For the third and subsequent violations, by a fine of not less than One Thousand Dollars ($1,000.00) nor~~ liable for a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00).

The permit shall be carried by the mover or transporter and be available for inspection by any law enforcement officer. If said mover or transporter is found not to possess a permit, the manufactured home shall not continue to be moved or transported. Thereafter, said manufactured home shall not be moved or transported further except by a mover or transporter possessing a permit.

SECTION 561. AMENDATORY 47 O.S. 1991, Section 14-119, is amended to read as follows:

Section 14-119. Any common, contract, or private motor carrier or any shipper, firm, corporation, or other person who ~~willfully or knowingly~~ transports a load having a capacity greater than the axle or gross weights authorized by statute or by special permit pursuant to the provisions of Section 14-116 of Title 47 of the Oklahoma Statutes, or who loads or causes or requires a vehicle to be loaded to said capacity, ~~upon conviction, is guilty of a misdemeanor and shall be subject to the penalties and fines provided for in Section 172 of Title 47 of the Oklahoma Statutes or to a fine in the amount provided for in Section 1114.9 of Title 22 of the Oklahoma Statutes~~ shall be liable for a civil infraction and subject to a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00).

SECTION 562. AMENDATORY 47 O.S. 1991, Section 15-113, is amended to read as follows:

Section 15-113. Any person who ~~knowingly makes or procures the making of a false statement in an application or certificate submitted pursuant to this act or a person who knowingly~~ makes unauthorized use of an insignia issued pursuant to this act ~~is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Five Hundred Dollars ($500.00)~~ shall be

subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. This penalty shall be stated on all applications and certificates.

SECTION 563. AMENDATORY 47 O.S. 1991, Section 40-106, is amended to read as follows:

Section 40-106. Any ~~violation~~ breach of the provisions of the foregoing sections shall be liable for a ~~misdemeanor~~ civil infraction and subject to a fine of not more than Two Hundred Fifty Dollars ($250.00).

SECTION 564. AMENDATORY 47 O.S. 1991, Section 116.13, as amended by Section 4, Chapter 146, O.S.L. 1993 (47 O.S. Supp. 1994, Section 116.13), is amended to read as follows:

Section 116.13 (a) It shall be the duty of the Oklahoma Tax Commission to assign revenue enforcement officers to work with members of the Oklahoma Highway Patrol in the enforcement of Sections 14-101 et seq. of this title and other acts regulating the usage of the highways of the state and in the enforcement of the motor vehicle license and registration laws of the state.

(b) Each employee of the Tax Commission assigned as a revenue enforcement officer, as herein provided, shall at all times while on duty be required to be dressed in a distinctive uniform and display a badge of office, both of which shall be completely different and distinguishable from those of the Oklahoma Highway Patrol. All such badges shall be furnished by the Tax Commission and each badge shall display a distinctive serial number. The type and detail of said uniforms shall be designated by the Tax Commission and the Tax Commission shall furnish said uniforms and replace them when necessary. An expense allowance of One Hundred Dollars ($100.00) per month for maintenance and cleaning of uniforms shall be paid to each revenue enforcement officer of the Tax Commission.

~~(c) Any person who without authority wears the badge or uniform of an Oklahoma Tax Commission revenue enforcement officer, or who~~

~~without authority impersonates such an officer, with intent to deceive anyone, shall be guilty of a misdemeanor.~~

SECTION 565. AMENDATORY 47 O.S. 1991, Section 149.1, is amended to read as follows:

Section 149.1 (A) The triangular yellow-orange and red slow moving vehicle emblem shall be recognized as the official state slow moving vehicle emblem.

(B) All farm machinery and other machinery including all road construction and maintenance machinery designed to operate and operating at a maximum speed of twenty-five (25) MPH, or less, traveling on a public highway during day or night shall display a slow moving vehicle emblem on the rear of the vehicle except when such machinery is engaged in actual construction or maintenance work and there is either a flagman or clearly visible warning signs to warn of such machinery's presence on the roadway; and all vehicles classified as "antiques" under existing state statutes are exempt from the requirements of this section. The emblem shall be positioned as near as practicable to the center of the machinery, provided however, that in the case of a string of farm machinery or implements being towed only one clearly visible emblem must be displayed. The Commissioner of Public Safety shall adopt standards and specifications in conformance with those recommendations of the American Society of Agricultural Engineers for the size and design of said emblem.

(C) The use of such emblem shall be in addition to any lighting devices or other equipment required by law. Use on any other type of vehicle or as a clearance marker or on wide machinery or on stationary objects on the highways is prohibited.

(D) Any person who ~~violates~~ <u>breaches</u> the provisions of this act ~~is guilty of a misdemeanor and shall be~~ <u>shall be liable for a civil infraction and</u> subject to a fine of not more than ~~Ten Dollars ($10.00)~~ <u>One Hundred Dollars ($100.00)</u>.

SECTION 566. AMENDATORY 47 O.S. 1991, Section 155, is amended to read as follows:

Section 155. Any person ~~violating~~ breaching the provisions of this act shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00), nor~~ more than ~~Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not less than thirty (30) days, nor more than six (6) months, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate punishment as provided in Title 21 of the Oklahoma Statutes.

SECTION 567. AMENDATORY 47 O.S. 1991, Section 156, as amended by Section 6, Chapter 307, O.S.L. 1992 (47 O.S. Supp. 1994, Section 156), is amended to read as follows:

Section 156. Unless otherwise provided for by law, no state board, commission, department, institution, official, or employee, except the Department of Public Safety, the Department of Human Services, the Department of Wildlife Conservation, the Department of Corrections, the State Department of Education, the Oklahoma School of Science and Mathematics, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, the Transportation Commission, the Department of Agriculture, the State Department of Health, the Department of Mental Health and Substance Abuse Services, the Oklahoma Tourism and Recreation Department, the Oklahoma Conservation Commission and the Department of Mines shall purchase any passenger automobile or bus with public funds. The Oklahoma School for the Deaf at Sulphur, the Oklahoma School for the Blind at Muskogee, and any state institution of higher education may purchase, own, or keep if now owned, or acquire by lease or gift, and use and maintain such station wagons, automobiles, trucks, or buses as are reasonably necessary for the

implementation of the educational programs of said institutions. No bus operated, owned, or used by such educational institutions shall be permitted to carry any person other than students, faculty members, employees, or volunteers of such institutions. The provisions of this section shall not be construed to prohibit the operation of intracampus buses or buses routed directly between portions of the campus of any institution not adjacent to each other, nor to prohibit the collection of fares from such students, faculty members, or employees of such institutions, sufficient in amount to cover the reasonable cost of such transportation. The J.D. McCarty Center for Children with Developmental Disabilities, the Oklahoma Department of Libraries, the Oklahoma Department of Veterans Affairs, and the Oklahoma Veterans Centers may own and maintain such passenger vehicles as those institutions have acquired prior to May 1, 1981.

The use of station wagons, automobiles, and buses, other than as provided for in this section, shall be permitted only upon written request for such use by heads of departments of the institution, approved in writing by the president of said institution or by some administrative official of said institution authorized by the president to grant said approval. Such use shall be permitted only for official institutional business or activities connected therewith. Such use shall be subject to the provisions of Sections 156.1 and 159.7 of this title forbidding personal use of such vehicles, and to the penalties therein declared.

Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~guilty of a misdemeanor and shall be punished by fine or imprisonment, or both,~~ liable for a civil infraction as provided for in Section 156.1 of this title.

For the purpose of this section and Section 156.3 of this title, a station wagon is classified as a passenger automobile and may not be purchased solely for the use of transporting property. Such

vehicles shall include, but not be limited to, all vehicles which have no separate luggage compartment or trunk but which do not have open beds, whether the same are called station wagons, vans, suburbans, town and country, blazers, or any other names. All state boards, commissions, departments, and institutions may own and maintain station wagons purchased solely for the purpose of transporting property if acquired prior to July 1, 1985.

The provisions of this section and Section 156.1 of this title shall not apply to public officials who are statewide elected commissioners.

SECTION 568. AMENDATORY 47 O.S. 1991, Section 156.1, is amended to read as follows:

Section 156.1 A. It shall be unlawful for any state official, officer, or employee, except any essential employees approved by the Governor and those officers or employees authorized in subsection B of this section, to ride to or from his place of residence in a state-owned automobile, truck, or pickup, except in the performance of his official duty, or to use any such automobile, truck, ambulance, or pickup for other personal or private purposes. Any person ~~convicted of violating~~ breaching the provisions of this section shall be ~~guilty of a misdemeanor and shall be punished by~~ liable for a civil infraction and subject to a fine of not more than ~~One Hundred Dollars ($100.00) or by imprisonment in the county jail for a period to not exceed thirty (30) days, or by both said fine and imprisonment~~ One Thousand Dollars ($1,000.00), and in addition thereto, shall be discharged from state employment.

B. 1. Any state employee, other than the law enforcement officers provided for in paragraph 2 of this subsection, who receives emergency telephone calls regularly at his residence when he is not on duty and is regularly called upon to use a vehicle after normal work hours in response to such emergency calls, may be permitted to use a vehicle belonging to the State of Oklahoma to

provide transportation between his residence and his assigned place of employment, provided such distance does not exceed seventy-five (75) miles in any round trip or is within the county where his assigned place of employment is located. Provided further, an employee may be permitted to use a state-owned vehicle to provide temporary transportation between a specific work location other than his assigned place of employment and his residence, if such use shall result in a monetary saving to the agency, and such authorization shall not be subject to the distance or area restrictions provided for in this paragraph. Authorization for temporary use of a state-owned vehicle for a specific project shall be in writing stating the justification for this use and the saving expected to result. Such authorization shall be valid for not to exceed sixty (60) days. Any state entity other than law enforcement that avails itself of this provision shall keep a monthly record of all participating employees, the number of emergency calls received, and the number of times that a state vehicle was used in the performance of such emergency calls.

2. Any employee of the Department of Public Safety, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, Oklahoma State Bureau of Investigation, Alcoholic Beverage Laws Enforcement Commission, Oklahoma Horse Racing Commission, or Office of the State Fire Marshal, who is a law enforcement officer may be permitted to use a state-owned vehicle to provide transportation between his residence and his assigned place of employment and between his residence and any location other than his assigned place of employment to which he travels in the performance of his official duty.

C. The principal administrator of the state agency with which such employee is employed shall so designate the employee's status in writing or provide a copy of the temporary authorization to the Governor, the President Pro Tempore of the Senate, and the Speaker

of the House of Representatives. Such employee status report shall also be provided to the State Fleet Manager of the Division of Fleet Management if the motor vehicle for emergency use is provided by said Division.

SECTION 569. AMENDATORY 47 O.S. 1991, Section 163, is amended to read as follows:

Section 163. (A) No common carrier by motor vehicle, unless otherwise provided by this act, shall engage in the transportation of passengers or property unless the rates, fares, and charges upon which the same are transported by said carrier have been published, filed and are in effect in accordance with the provisions of this act.

(B) All charges made by any motor carrier for any intrastate service rendered or to be rendered by any motor carrier in the transportation of passengers or property, or in connection therewith, shall be just and reasonable and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared unlawful.

(C) In the exercise of its power to prescribe just and reasonable rates, fares, and charges for the transportation of passengers or property by common carriers by motor vehicle, and classifications, regulations and practices relating thereto, the Commission shall give due consideration, among other factors, to the need, in the public interest, of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable such carriers to provide such service at a reasonable return to the carrier.

(D) Every common carrier by motor vehicle shall file with the Commission, publish, and keep open to public inspection tariffs showing all the rates, fares, and charges for transportation, and all services in connection therewith, of passengers or property in

intrastate commerce between points on its own route and points on the route of any other such carrier when a through route and joint rate shall be established. The tariffs required by this section shall be published, filed and posted in such form and manner and shall contain such information as the Commission by regulations shall prescribe; and the Commission is authorized to reject any tariff filed with it the form of which is not consistent with this section and with such regulations. Any tariff so rejected by the Commission shall be void and its use shall be unlawful. The Commission is further authorized in its discretion to suspend, upon complaint of any interested person or upon its own motion, the effectiveness of any tariff or portion thereof filed with it, where it appears said tariff or portion thereof may not be consistent with this section or the regulations of the Commission, and shall set the motion for hearing; and after hearing the Commission shall, within ninety (90) days after hearing, amend or reject the tariff or portion thereof so filed, upon determination as to whether or not it is consistent with this section and with the regulations of the Commission.

(E) No common carrier by motor vehicle shall charge or demand or collect or receive a greater, or less, or different compensation for transportation or for any service in connection therewith between the points enumerated or distances set out in such tariff than the rates, fares, and charges specified in the tariffs in effect at the time; and no such carrier shall refund or remit in any manner or by any device, directly or indirectly, any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities for transportation in intrastate commerce except such as are specified in its tariffs. All actions at law for the recovery of undercharges or overcharges, or any part thereof, shall be begun within three (3) years from the time the cause of action accrues and not thereafter.

(F) No change shall be made in any rate, fare, charge, or classification, or any rule, regulation, or practice affecting such rate, fare, charge, or classification, or the value of the service thereunder, specified in any effective tariff or a common carrier by motor vehicle, except after thirty (30) days' notice of the proposed change filed and posted in accordance with this section. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. The Commission may, in its discretion and for good cause shown, allow such change upon notice less than that herein specified or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to specific or peculiar circumstances or conditions.

(G) It shall be the duty of every contract carrier by motor vehicle to establish and observe reasonable actual rates and charges, which shall not be lower than the published common carrier rates and charges, for any service rendered or to be rendered in the transportation of property or in connection therewith, and to establish and observe reasonable regulations and practices to be applied in connection with said reasonable actual rates and charges. It shall be the duty of every contract carrier by motor vehicle to file with the Commission, publish, and keep open for public inspection, in the form and manner prescribed by the Commission, schedules containing the actual rates or charges of such carrier actually maintained and charged for the transportation of property in intrastate commerce, and any rule, regulation, or practice affecting such rates or charges and the value of the service thereunder. No such contract carrier, unless otherwise provided by this act, shall engage in the transportation of property in intrastate commerce unless the actual charges for such transportation by said carrier have been published, filed and posted in accordance with the provisions of this act. No change shall be

made in any such charge either directly or by means of any change in any rule, regulation, or practice affecting such charge or the value of service thereunder, except after thirty (30) days' notice of the proposed change filed in the aforementioned form and manner; but the Commission may, in its discretion and for good cause shown, allow such change upon less notice, or modify the requirements of this paragraph with respect to posting and filing of such schedules, either in particular instances, or by general order applicable to special or peculiar circumstances, or conditions. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. No such carrier shall demand, charge, or collect a different compensation for such transportation than the charges filed in accordance with this paragraph, as affected by any rule, regulation, or practice so filed, or as may be prescribed by the Commission from time to time, and it shall be unlawful for any such carrier, by the furnishing of special services, facilities, or privileges, or by any other device whatsoever, to charge or accept other than the charges so published and filed.

(H) Whenever, after hearing, upon complaint or upon its own initiative, the Commission finds that any actual rate or charge of any contract carrier by motor vehicle, or any rule, regulation, or practice of any such carrier affecting such actual rate or charge, or the value of the service thereunder, for the transportation of property or in connection therewith is in violation of any provision of this act, the Commission may prescribe such just and reasonable actual rate or charge, or such rule, regulation or practice as in its judgment may be necessary or desirable in the public interest and will not be in violation of any provision of this act. Such actual rate or charge, or such rule, regulation, or practice so prescribed by the Commission, shall give no advantage or preference to any such carrier in competition with any common carrier by motor vehicle subject to this act. The Commission shall give due

consideration to the cost of the services rendered by such carrier and to the effect of such actual rate or charge, or such rule, regulation, or practice, upon the movement of traffic by such carriers. All complaints shall state fully the facts complained of and shall be made under oath.

(I) Every motor carrier, subject to this act, receiving property for transportation in intrastate commerce shall issue a receipt or bill of lading therefor, the form of which shall be prescribed by the Commission.

(J) No common carrier by motor vehicle shall deliver or relinquish possession at destination of any freight transported by it in intrastate commerce until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to govern the settlement of all such rates and charges.

(K) Any person, motor carrier, or shipper who shall ~~willfully violate~~ breach any provision of this section by any means shall be ~~deemed guilty of a misdemeanor and upon conviction thereof be fined as provided by law~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 570. AMENDATORY 47 O.S. 1991, Section 163.1, is amended to read as follows:

Section 163.1 The Commission is hereby authorized and empowered to appoint two tariff rate field agents whose duty and function, in the public interest, it shall be to investigate, gather evidence and report to the Commission in writing any violations of the provisions of Section 163 by any person, motor carrier, or shipper.

Said tariff rate field agents shall be graduates of an accredited college or university, or have had at least seven (7) years' practical experience in rates or related fields in the transportation industry.

Said tariff rate field agents shall be paid such salaries or compensation as is paid for similar service in this state in the same or other departments of the state, and shall be allowed actual necessary travel, telephone and telegraph expense incurred in the performance of their duties; said salaries and expenses to be paid out of funds appropriated by the general departmental appropriations act.

When the Commission, upon complaint, or upon written report of a tariff rate field agent, has reason to believe that any person, motor carrier, or shipper is or has ~~willfully violated~~ breached any provision of Section 163 the Commission shall, upon its own initiative, file a motion for a contempt proceeding and set a date for the same to be heard before said Commission, and upon conviction said Commission shall invoke such contempt penalties as are provided in Section 172 of this title.

SECTION 571. AMENDATORY 47 O.S. 1991, Section 170.2, is amended to read as follows:

Section 170.2 A. The Department of Public Safety, monthly, shall notify the Oklahoma Corporation Commission of any ticket issued for a violation of the provisions of Section 14-119 of this title, or any provisions of Chapter 14 of this title or the terms of any special permit authorized pursuant to the provisions of Chapter 14 of this title concerning overweight or overweight special permits.

B. Truck overweight violations by common or contract carrier shall be considered contempt of Commission motor carrier, rules, tariffs and regulations. The Commission shall establish a specific rule whereby such overweight violations by motor carriers shall be grounds for issuance of a show-cause order for consideration of temporary or permanent cancellation of operating authority. In establishing the rule, consideration shall be given to the frequency of violations, pattern of violations, fleet size, type of operation,

amount of overweight, and other such factors that may indicate intent. Any person, firm, or corporation that assists in the commission of such overweight violation or refuses to comply with any rule, regulation, or order of the Commission relating thereto shall be ~~guilty of contempt of the Commission and shall be subject to a fine to be imposed by said Commission in a sum not to exceed Five Hundred Dollars ($500.00) on each violation~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. In the specific instance of an overweight violation, the transportation of each load shall constitute a separate violation. The same fine assessed against the motor carrier shall apply to any other person, firm, or corporation that aids or abets such violations. Provided however, no motor carrier, shipper or person loading or causing a motor vehicle to be loaded shall be subject to a fine for contempt unless the gross weight of said motor vehicle is more than five thousand (5,000) pounds overweight.

C. The Commission, in its discretion and on its own motion, may make a contempt complaint in writing under oath setting forth the violation, enter the complaint on its docket, and proceed with the matter in accordance with the provisions of Sections 161 et seq. of this title.

SECTION 572. AMENDATORY 47 O.S. 1991, Section 172, is amended to read as follows:

Section 172. A. Every owner of any motor vehicle, his agents, his employees, and every other person who ~~violates~~ breaches or fails to comply with or procures, aids, or abets in the ~~violation~~ breach of Sections 161 through 180m of this title, or who fails to obey, observe, or comply with any order, decision, rule or regulation, direction, demand, or requirement of the Corporation Commission, or who procures, aids or abets any corporation or person in his, or its, refusal or ~~willful~~ failure to obey, observe or comply with any such order, decision, rule, direction, demand, or regulation shall

be ~~deemed guilty of a misdemeanor. Upon conviction in a criminal court of competent jurisdiction, such misdemeanor is punishable by~~ liable for an administrative violation and subject to a fine of not ~~exceeding~~ more than One Thousand Dollars ($1,000.00).

The Corporation Commission shall report to the Attorney General of this state and the district attorney of the proper county having jurisdiction of such offense, any violation of any of the provisions of Sections 161 through 180m of this title or any rule or regulation of the Corporation Commission promulgated pursuant to the provisions of Sections 161 through 180m of this title, by any motor vehicle owner, agent or employee of such owner, or any other person. Upon receipt of such report, the Attorney General or the district attorney of the proper county having jurisdiction of such offense shall institute ~~criminal or~~ civil proceedings against such offender in the proper court having jurisdiction of such offense. Any ~~willful~~ failure on the part of members of the Corporation Commission, the Attorney General or any district attorney, to comply with the provisions of this section, shall be deemed official misconduct. The Corporation Commission shall report such complaints so made to the Governor of this state who shall direct and cause the laws of this state to be enforced.

B. Any person failing, neglecting or refusing to comply with the provisions of Sections 161 through 180m of this title, or with any rule, regulation, or requirement of the Corporation Commission promulgated pursuant to the provisions of Sections 161 through 180m of this title, shall be guilty of contempt of the Corporation Commission, and shall be subject to ~~a fine to be imposed by said Corporation Commission in a sum not exceeding Five Hundred Dollars ($500.00). Each day on which such contempt occurs shall be deemed a separate and distinct offense. The maximum fine to be assessed on each day shall be Five Hundred Dollars ($500.00). All fines collected pursuant to the provisions of this section shall be~~

~~deposited in the State Treasury to the credit of the Corporation Commission Revolving Fund. This subsection shall not apply in the specific instance of load capacity violations or violations applicable to the transportation or discharge of deleterious substances provided for by specific statutory provisions~~ criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

C. The Corporation Commission shall appoint a director of motor carriers, an assistant director, an insurance supervisor, an insurance clerk, two stenographers, a secretary to the director, an identification plate supervisor and an assistant identification plate supervisor at such salaries as the Legislature may from time to time prescribe. Such employees shall be allowed actual and necessary travel expenses pursuant to the provisions of the State Travel Reimbursement Act. All of said expense claims shall be presented and paid monthly.

D. Enforcement officers, appointed by the Corporation Commission, are hereby declared to be peace officers of this state. Such officers shall be vested with all powers of peace officers in enforcing the provisions of Sections 161 through 180m of this title in all parts of this state.

The powers and duties conferred upon said enforcement officers shall be subordinate to and in no way limit the powers and duties of sheriffs or other peace officers of the state, or any political subdivision thereof, or of members of the Division of Highway Patrol, subject to the Department of Public Safety.

E. Such enforcement officers when on duty, upon reasonable belief that any motor vehicle is being operated in violation of any provisions of Sections 161 through 180m of this title, shall be authorized to require the driver of such vehicle to stop and submit to an inspection of the identification plate, or plates, on such vehicle, and to submit to such enforcement officer bills of lading, waybills, or other evidences of the character of the commerce being

transported in such vehicle, and to submit to an inspection of the contents of such vehicle for the purpose of comparing same with bills of lading, waybills, or other evidences of transportation carried by the driver of such vehicle. Such officers shall not have the right to plea bargain.

F. Such enforcement officers are authorized to serve all warrants, writs, and notices issued by the Corporation Commission relating to the enforcement of the provisions of Sections 161 through 180m of this title and the rules, regulations, and requirements prescribed by the Corporation Commission promulgated pursuant to Sections 161 through 180m of this title.

G. Such enforcement officers shall not have the power or right of search, nor shall they have the right of power of seizure, except as provided in Sections 161 through 180m of this title. The enforcement officers are authorized to hold and detain any motor vehicle operating upon the highways of this state, if, said enforcement officer has reason to believe that such vehicle is being operated contrary to the provisions of Sections 161 through 180m of this title, or the rules, regulations, and requirements of the Corporation Commission promulgated pursuant to Sections 161 through 180m of this title.

H. No state official, other than members of the Corporation Commission, shall have any power, right, or authority to command, order, or direct any enforcement officer to perform any duty or service authorized by Sections 161 through 180m of this title.

I. Each of said enforcement officers shall, before entering upon the discharge of their duties, take and subscribe to the usual oath of office and shall execute to the State of Oklahoma a bond in the sum of Twenty-five Thousand Dollars ($25,000.00) each, with sufficient surety for the faithful performance of their duty. Said bond shall be approved and filed as provided by law.

J. No enforcement officer or employee of the Oklahoma Corporation Commission shall have the right to plea bargain in motor carrier or motor transportation matters except the chief legal counsel of the Commission or an assign of his legal staff.

SECTION 573. AMENDATORY 47 O.S. 1991, Section 177.3, as amended by Section 254, Chapter 145, O.S.L. 1993 (47 O.S. Supp. 1994, Section 177.3), is amended to read as follows:

Section 177.3 A. It shall be unlawful for a motor carrier, whether private, common, or contract, to dump, disperse, or otherwise release substances described in Section 177.2 of this title upon a public highway or elsewhere except on property or in wells, reservoirs, or other receptacles owned, held, leased, or otherwise rightfully and legally available to the motor carrier for such use and purpose.

B. It shall be unlawful for any motor truck or tank vehicle used to transport substances described in Section 177.2 of this title to have a release device located or operated in any manner from within the cab of such a motor vehicle.

C. Any ~~violation~~ breach of the provisions of subsections A or B of this section shall ~~constitute a misdemeanor~~ be an administrative violation and subject to a fine of not more than Two Thousand Dollars ($2,000.00). ~~It shall be the duty of the prosecuting attorney of the county in which a violation of the provisions of this section occurs to file and prosecute the aforementioned misdemeanor charge and advise the Commission of such action and the results thereof.~~

D. ~~The Oklahoma Corporation Commission may initiate contempt proceedings for any violation concerning disposal by a carrier of a substance described in Section 177.2 of this title. The first violation proven by the Commission in any calendar year shall result in a carrier being warned by the Commission and, upon conviction, fined up to Two Thousand Five Hundred Dollars ($2,500.00). A second~~

~~violation proven by the Commission in any calendar year shall result in a carrier being placed on probation and fined up to Five Thousand Dollars ($5,000.00) by the Commission. A third violation proven by the Commission in any calendar year shall result in a fine of up to Twenty Thousand Dollars ($20,000.00), and, at the discretion of the Commission, cancellation of the carrier's operating authority for a period up to one (1) year. The driver of a truck, who is not the owner of the vehicle used in violation of this section or any of the rules and regulations of the Oklahoma Corporation Commission, shall be adjudicated a codefendant and subject to a fine equal to ten percent (10%) of the fine assessed to the owner of such vehicle, up to Five Hundred Dollars ($500.00)~~ Any violation concerning saltwater or deleterious substance disposal by a carrier shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

E. The disposal fee paid by the motor carrier to dispose of substances described in Section 177.2 of this title shall be provided for in the motor carrier's published tariff as a special item charge. The applicable disposal fee shall be shown as a separate charge on each freight bill and failure of the motor carrier to charge such disposal fee shall subject the carrier to a contempt proceeding as provided in Section 172 of this title. Failure of the shipper to pay the disposal fee as provided in the motor carrier's tariff as approved by the Corporation Commission shall subject the shipper to a contempt proceeding as provided in Section 172 of this title.

SECTION 574. AMENDATORY 47 O.S. 1991, Section 226.3, is amended to read as follows:

Section 226.3 Any person, firm or corporation operating or causing to be operated an auto bus, as herein defined, contrary to the provisions of Section ~~2 hereof,~~ 226.2 of this title shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be~~

~~punished by~~ liable for a civil infraction and subject to a fine ~~in an amount~~ of not ~~to exceed~~ more than One Thousand Dollars ($1,000.00) ~~or by imprisonment in the county jail for a period not to exceed one (1) year or by both such fine and imprisonment, and each~~. Each day any auto bus is operated in ~~violation~~ breach of this act shall be a separate offense.

SECTION 575. AMENDATORY 47 O.S. 1991, Section 256, is amended to read as follows:

Section 256. Upon the revocation or expiration of the amateur radio station operator's license of any person in Oklahoma who has been issued identification as herein provided, said person shall immediately notify the Oklahoma Tax Commission and the Department of Public Safety and shall, within five (5) days thereafter, deliver the identification to the Oklahoma Tax Commission and/or the Department of Public Safety.

Any person ~~violating~~ breaching the provisions of this section, or any person who ~~knowingly~~ permits another person to make use of the identification herein provided for to obtain entry into any restricted area in this state~~, or any person who by misrepresentation obtains any identification herein provided for,~~ shall be ~~guilty of a misdemeanor and shall, upon conviction thereof, be punished by~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) ~~or be sentenced to imprisonment in the county jail for not more than one (1) year, or both~~. Venue for ~~prosecutions~~ proceedings shall be in the district court of any county in which such ~~violation~~ breach is committed.

SECTION 576. AMENDATORY 47 O.S. 1991, Section 421, is amended to read as follows:

Section 421. (a) When used in this act:

(1) "Motor vehicle" means any automobile, automobile trucks, truck, or any other self-propelled vehicle not operated or driven upon fixed rails or track; provided, that in this act the term shall

always include as one vehicle a tractor-semitrailer or tractor-trailer combination.

(2) "Highway" shall mean any thoroughfare defined by any statute or ordinance as a public highway or street.

(3) "Person" shall mean a natural person, firm, partnership, association, corporation, trust, lessee, trustee, or receiver, as the context may require, regardless of the gender of the pronoun used in conjunction therewith.

(4) The words "sale," "sell," or any grammatical forms thereof, when used in this act, shall mean and include barter, trade, or exchange, in addition to the usual and ordinary meanings of said words; and this definition shall not be construed to diminish any meanings of said words but shall extend such meanings.

(5) "Commission" shall mean the Oklahoma Tax Commission.

(6) "Established place of business" shall mean any permanent warehouse, building, structure, or residence, at which a permanent business is carried on as such during usual business hours throughout the year or usual production season in good faith and not for the purpose of evading this Act, and at which stocks of the property being transported are produced, stored or kept in quantities reasonably adequate for, and usually carried for, the requirements of such business, and which is recognized, and licensed or taxed, as a permanent business at such place, and shall not mean premises or buildings appurtenant thereto, tents, temporary stands or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement.

(7) Except as otherwise herein provided, "itinerant merchant" shall mean any person who sells, or offers to sell, in this state, at wholesale or retail, any personal property, and transports the same on any highway in this state by use of a motor vehicle.

(b) The term "itinerant merchant" shall not mean or include the following:

(1) A person who does not at any time transport in a motor vehicle a net load exceeding three thousand (3,000) pounds, except a person transporting baby chicks.

(2) A person using a motor vehicle owned by him, whether operated by him or his agent, for the transportation of milk, diary products, grain, fruits, vegetables, livestock, poultry, or other agricultural products, produced or fed by him on a farm operated by him either within or without this state, or for the transportation of newspapers, magazines, or periodicals.

(3) A person transporting property owned by him or by his agent, in a motor vehicle owned by him or by his agent, whether operated by him or his agent, when such transportation is incident to a business conducted by him or by his agent at an established place of business operated by him or by his agent, either within or without this state, and when said property is being transported to or from said established place of business.

(4) A person transporting property for his own consumption or use, or to be processed by him and not for sale.

(5) A person authorized to act as a common or contract carrier of property by motor vehicle under Part 2 of the Interstate Commerce Act, or a person operating a motor vehicle for hire under the laws of this state.

(6) A person transporting any petroleum products owned by him, by motor vehicle operated by him, or his agent, when such products are transported to or from an established oil bulk plant operated by him, or his agent, either within or without the state.

(7) This act shall not apply to bona fide residents of the State of Oklahoma having a motor vehicle license in this state and used in the conduct of business as an itinerant merchant.

(c) No person shall be exempt from the requirements of this act by reason of the provisions of subsection (b) of this section unless he or the driver of the motor vehicle upon which his property is

being transported shall, upon request of any state, county, or township officer, sworn to preserve the peace, sign and swear to under oath before some person authorized by the laws of this state to administer oaths, or under authority of this act, and deliver to said officer such sworn statement in writing clearly showing that the person claiming the exemption is entitled to one or more of the exemptions provided in this section. Any highway patrolman, sheriff, or peace officer, for the purpose of the enforcement of this act, shall have authority to administer oaths and take acknowledgments thereof. If the person claiming the exemption is not a natural person, such statement shall be signed and sworn to by some natural person authorized to act for it, or by the driver of the motor vehicle carrying the property. Such statement shall not be sufficient unless it shall contain, in addition to any other necessary facts, the following of such facts as are material to the particular exemption claimed: Name of the person claiming the exemption and name of the person signing such statement, and the business and residence addresses of both; where and when the products described in paragraph (2) of subsection (b) of this section were produced or fed, and the place where they are to be delivered if known; acreage operated by him; the location of the established place of business, how long there established, and whether the premises where located are owned or leased by the person claiming the exemption; the kind of business there conducted. The officer receiving said statement shall promptly forward it to the Commission where it shall be filed and shall be a public record. Any person ~~knowingly~~ making any false~~,~~ material statement in said statement shall be ~~guilty of perjury and shall, upon conviction thereof, be punished as provided by law~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 577. AMENDATORY 47 O.S. 1991, Section 435, is amended to read as follows:

Section 435. Any person ~~violating~~ breaching any provision of this act shall be ~~guilty of a misdemeanor, and shall upon conviction thereof be punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Twenty-five Dollars ($25.00) nor~~ more than ~~Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not more than one (1) year; or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00).

SECTION 578. AMENDATORY 47 O.S. 1991, Section 470, is amended to read as follows:

Section 470. Any person or persons ~~violating~~ breaching the provisions of this act shall be ~~deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Three Hundred Dollars ($300.00) nor~~ more than ~~Five Hundred Dollars ($500.00), or imprisonment for ninety (90) days or both for each offense~~ One Thousand Dollars ($1,000.00). In addition thereto, the Corporation Commission is hereby authorized to ~~punish~~ fine any person or persons ~~violating~~ breaching the rules and regulations adopted by the Commission under this act as for civil contempt, and any person found ~~guilty of~~ ~~violating~~ in breach of the rules and regulations of the Corporation Commission adopted pursuant to this act, may be fined any amount not exceeding Five Hundred Dollars ($500.00) for each offense. This section is in addition to any appropriate punishment as provided in Title 21 of the Oklahoma Statutes.

SECTION 579. AMENDATORY 47 O.S. 1991, Section 583, as last amended by Section 10, Chapter 373, O.S.L. 1992 (47 O.S. Supp. 1994, Section 583), is amended to read as follows:

Section 583. A. 1. ~~It shall be unlawful and constitute a misdemeanor for any person, firm, association, corporation or trust to engage in business as, or serve in the capacity of, or act as a used motor vehicle dealer, used motor vehicle salesman, wholesale used motor vehicle dealer, or a manufactured home dealer in this~~

~~state without first obtaining a license therefor as provided in this section.~~

~~2.~~ Any person, firm, association, corporation or trust engaging, acting or serving in the capacity of a used motor vehicle dealer and/or a used motor vehicle salesman, or a manufactured home dealer, or having more than one place where the business of a used motor vehicle dealer or a manufactured home dealer is carried on or conducted shall be required to obtain and hold a current license for each thereof in which he, it or they shall engage. A used motor vehicle dealer's license shall authorize one person to sell without a salesman's license in the event such person shall be the owner of a proprietorship, or the person designated as principal in the dealer's franchise or the managing officer or one partner if no principal person is named in the franchise. A salesman's license may not be issued under a wholesale used motor vehicle dealer's license.

~~3.~~ 2. Any person, firm, association, corporation or trust violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. 1. Applications for licenses required to be obtained under provisions of this act, Section 581 et seq. of this title, which creates the Oklahoma Used Motor Vehicle and Parts Commission shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to the applicants, and shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for. The Commission shall require in the application, or otherwise, information relating to:

a. the applicant's financial standing,

b. the applicant's business integrity,

c. whether the applicant has an established place of business and is engaged in the pursuit, avocation or business for which a license, or licenses, is applied for,

d. whether the applicant is able to properly conduct the business for which a license, or licenses, is applied for, and

e. such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

2. All applications for license or licenses shall be accompanied by the appropriate fee or fees in accordance with the schedule hereinafter provided. In the event any application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant.

3. All bonds and licenses issued under the provisions of this act shall expire on December 31, following the date of issue and shall be nontransferable. All applications for renewal of dealers' licenses should be submitted by November 1 of each year, and licenses shall be issued by January 10. If applications have not been made for renewal of licenses, such licenses shall expire on December 31 and it shall be illegal for any person to represent himself and act as a dealer thereafter. Tag agents shall be notified not to accept dealers' titles until such time as licenses have been issued.

4. A used motor vehicle salesman's license shall permit the licensee to engage in the activities of a used motor vehicle salesman. Salesmen shall not be allowed to sell vehicles unless applications, bonds and fees are on file with the Commission and the motor vehicle salesman's or temporary salesman's license issued. A temporary salesman's license, salesman's renewal or reissue of salesman's license shall be deemed to have been issued when the

appropriate application, bond and fee have been properly addressed and mailed to the Commission.

Dealers' payrolls and other evidence will be checked to ascertain that all salesmen for such dealers are licensed.

C. The schedule of license fees to be charged and received by the Commission for the licenses issued hereunder shall be as follows:

1. For each used motor vehicle dealer's license and each wholesale used motor vehicle dealer's license, Two Hundred Dollars ($200.00). If a used motor vehicle dealer or a wholesale used motor vehicle dealer has once been licensed by the Commission in the classification for which he applies for a renewal of the license, the fee for each subsequent renewal shall be One Hundred Dollars ($100.00); provided, if an applicant holds a license to conduct business as an automotive dismantler and parts recycler issued pursuant to Section 591.1 et seq. of this title, the initial fee shall be One Hundred Dollars ($100.00) and the renewal fee shall be Seventy-five Dollars ($75.00). If an applicant is applying simultaneously for a license under this paragraph and a license under paragraph 1 of Section 591.5, the initial application fee shall be One Hundred Fifty Dollars ($150.00);

2. For a used motor vehicle dealer's license, for each place of business in addition to the principal place of business, Fifty Dollars ($50.00);

3. For each used motor vehicle salesman's license, Ten Dollars ($10.00);

4. For each holder who possesses a valid new motor vehicle dealer's license from the Oklahoma Motor Vehicle Commission, One Hundred Dollars ($100.00) shall be the initial fee for a used motor vehicle license and the fee for each subsequent renewal shall be One Hundred Dollars ($100.00);

5. For each manufactured home dealer's license, and for each place of business in addition to the principal place of business, Two Hundred Dollars ($200.00);

6. For each renewal of a manufactured home dealer's license, and renewal for each place of business in addition to the principal place of business, One Hundred Dollars ($100.00).

D. 1. The license issued to each used motor vehicle dealer, each wholesale used motor vehicle dealer, and each manufactured home dealer shall specify the location of the place of business. If the business location is changed, the Commission shall be notified immediately of the change and the Commission may endorse the change of location on the license without charge. The license of each dealer shall be posted in a conspicuous place in the dealer's place or places of business.

2. Every used motor vehicle salesman shall have his license upon his person when engaged in his business, and shall display same upon request. The name of the employer of the salesman shall be stated on the license and if there is a change of employer, the license holder shall immediately mail his license to the Commission for its endorsement of the change thereon. There shall be no charge for endorsement of change of employer on the license or penalty for not having a license upon his person.

E. 1. Each applicant for a used motor vehicle dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Ten Thousand Dollars ($10,000.00). Each applicant for a wholesale used motor vehicle dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Twenty-five Thousand Dollars ($25,000.00). Each applicant for a manufactured home dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars ($30,000.00). The bond shall be approved as to form by the Attorney General and conditioned that the applicant

shall not practice fraud, make any fraudulent representation, or violate any of the provisions of this act in the conduct of the business for which he is licensed. One of the purposes of the bond is to provide reimbursement for any loss or damage suffered by any person by reason of issuance of a certificate of title by a used motor vehicle dealer, a wholesale used motor vehicle dealer, or a manufactured home dealer.

2. If a motor vehicle dealer has a valid license issued by the Oklahoma Motor Vehicle Commission, then the bond as required by this subsection shall be waived.

3. Each applicant for a used motor vehicle salesman's license shall procure and file with the Commission a good and sufficient bond in the amount of One Thousand Dollars ($1,000.00). The bond shall be approved as to form by the Attorney General and conditioned that the applicant shall perform his duties as a used motor vehicle salesman without fraud or fraudulent representation and without violating any provisions of this act.

4. The bonds as required by this section shall be maintained throughout the period of licensure. Should the bond be canceled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

F. Any used motor vehicle dealer or wholesale used motor vehicle dealer is required to furnish and keep in force a minimum of Twenty-five Thousand Dollars ($25,000.00) of single liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state.

G. Any manufactured home dealer is required to furnish and keep in force a minimum of One Hundred Thousand Dollars ($100,000.00) of garage liability and completed operations insurance coverage.

SECTION 580. AMENDATORY 47 O.S. 1991, Section 591.13, is amended to read as follows:

Section 591.13 Any person ~~violating~~ breaching any provision of this act shall be ~~guilty of a misdemeanor and, upon conviction thereof, may be punished by~~ liable for a civil infraction and subject to a fine of not less than One Thousand Dollars ($1,000.00) ~~a fine of not less than Three Hundred Dollars ($300.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment~~. This section shall be in addition to any appropriate criminal punishment as provided in Title 21 of the Oklahoma Statutes.

SECTION 581. AMENDATORY 47 O.S. 1991, Section 611, is amended to read as follows:

Section 611. Any person or persons ~~violating~~ breaching the provisions of this act shall be ~~deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than Three Hundred Dollars ($300.00) nor more than Five Hundred Dollars ($500.00), or imprisoned for ninety (90) days, or by both such fine and imprisonment, for each offense~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00). In addition, a violator may be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. If a violator refuses to comply with the rules and regulations of the Commission, he or she shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. In addition thereto, the Corporation Commission is hereby authorized to punish for contempt any person or persons violating the rules and regulations adopted by the Commission under this act. Any person found guilty of violating the rules and regulations of the Corporation Commission adopted pursuant to this act may be fined an amount not exceeding Five Hundred Dollars ($500.00) for each offense.

SECTION 582. AMENDATORY 47 O.S. 1991, Section 761, as last amended by Section 9, Chapter 387, O.S.L. 1994 (47 O.S. Supp. 1994, Section 761), is amended to read as follows:

Section 761. ~~A. Any person who operates a motor vehicle while his ability to operate such motor vehicle is impaired by the consumption of alcohol, or any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions shall be subject to a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.~~

~~B.~~ Upon the receipt of any person's record of conviction of driving while impaired, when such conviction has become final, the Department of Public Safety shall suspend the driving privilege of such person, as follows:

1. The first suspension shall be for thirty (30) days;

2. The second suspension shall be for a period of six (6) months. Such suspension shall not be subject to modification; and

3. The third or subsequent suspension shall be for twelve (12) months. Such suspension shall not be subject to modification.

Provided, however, the Department shall not suspend such privilege pursuant to this subsection if said person's driving privilege has been revoked based upon a test result or test refusal pursuant to Section 753 or Section 754 of this title arising from the same circumstances which resulted in the conviction.

~~C. The violations as set out in this section shall not be bondable under Section 1115.3 of Title 22 of the Oklahoma Statutes.~~

SECTION 583. AMENDATORY 47 O.S. 1991, Section 808, is amended to read as follows:

Section 808. ~~Violation~~ Breach of any provision of this act or any regulation promulgated pursuant hereto~~,~~ shall ~~constitute a misdemeanor, and any person, firm, or corporation, upon conviction therefor, shall be punished by a fine of not more than One Hundred Dollars ($100.00) or imprisonment for not more than thirty (30) days in the county jail, or by both such fine and imprisonment~~ be a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00), and in addition a violator may be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 584. AMENDATORY 47 O.S. 1991, Section 860, is amended to read as follows:

Section 860. A. Any person who ~~violates~~ breaches the provisions of Sections 851 through 856 and 858 through 859 of this title shall ~~upon conviction thereof be subject to imprisonment in the county jail for not more than thirty (30) days or~~ be liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00), or both such imprisonment and fine~~ One Thousand Dollars ($1,000.00).

B. Any person who ~~violates~~ breaches the provisions of Sections 856.1 through 856.5 of this title shall ~~upon conviction thereof~~ be liable for a civil infraction and subject to a fine of ~~Twenty-five Dollars ($25.00)~~ One Hundred Dollars ($100.00). Provided, any person producing proof in court that the provisions of said sections of law have been complied with shall be entitled to dismissal of such charge upon payment of court costs.

SECTION 585. AMENDATORY 47 O.S. 1991, Section 958, is amended to read as follows:

Section 958. ~~Violation~~ Breach of any provision of Section 951 et seq. of this title or any regulation promulgated pursuant hereto shall ~~constitute a misdemeanor~~ be a civil infraction and ~~any person, upon conviction therefor,~~ shall be ~~punished by~~ subject to a fine of

not ~~less~~ more than O~~ne Hundred Dollars ($100.00) or imprisonment for not more than thirty (30) days in the county jail, or both such fine and imprisonment~~ One Thousand Dollars ($1,000.00). In addition, a person violating Section 953 of this title shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 586. AMENDATORY 47 O.S. 1991, Section 961, is amended to read as follows:

Section 961. It shall be ~~unlawful and constitute a misdemeanor offense~~ a civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person, firm, corporation or association to charge, directly or indirectly, any wrecker service operator any fee or other compensation for referral of service calls to such operator.

SECTION 587. AMENDATORY 47 O.S. 1991, Section 964, is amended to read as follows:

Section 964. Whenever a vehicle that is subject to registration in this state has been stored, parked or left in a garage, trailer park, or any type of storage or parking lot for a period of more than thirty (30) days, the owner of the garage, trailer park or lot shall report the make, motor and serial number of the vehicle to the Department of Public Safety. Provided, these provisions shall not apply where arrangements have been made for continuous storage or parking by the owner of the motor vehicle so parked or stored, and where the owner of said motor vehicle so parked or stored is personally known to the owner or operator of the garage, trailer park, storage or parking lot. Any person who fails to submit the report required under this act at the end of thirty (30) days shall forfeit all claims for storage of the vehicle, and shall be liable for a civil infraction and subject to a fine of not ~~to exceed Twenty-five Dollars ($25.00),~~ more than One Thousand Dollars

($1,000.00) and each day's failure to make a report as required by this section shall constitute a separate offense.

SECTION 588. AMENDATORY 47 O.S. 1991, Section 1105, as last amended by Section 1, Chapter 301, O.S.L. 1994 (47 O.S. Supp. 1994, Section 1105), is amended to read as follows:

Section 1105. A. As used in the Oklahoma Vehicle License and Registration Act, Section 1101 et seq. of this title:

1. "Salvage vehicle" means any vehicle which is within the last ten (10) model years and which has been damaged by collision or other occurrence to the extent that the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of its fair market value, as defined by Section 1111 of this title, immediately prior to the damage. For purposes of this section, actual repair costs shall only include labor and parts for actual damage to the suspension, motor, transmission, frame or unibody and designated structural components;

2. "Rebuilt vehicle" means any salvage vehicle which has been rebuilt and inspected for the purpose of registration and title;

3. "Flood-damaged vehicle" means a salvage or rebuilt vehicle which was damaged by flooding or a vehicle which was submerged at a level to or above the dashboard of the vehicle and on which an amount of loss was paid by the insurer;

4. "Recovered-theft vehicle" means a salvage or rebuilt vehicle which was recovered from a theft; and

5. "Junked vehicle" means any vehicle which is incapable of operation or use on the highway, has no resale value except as a source of parts or scrap and has an eighty percent (80%) loss in fair market value.

B. The owner of every vehicle in this state shall possess a certificate of title as proof of ownership of such vehicle, except those vehicles registered pursuant to Section 1120 of this title and trailers registered pursuant to Section 1133 of this title,

previously titled in another state and engaged in interstate commerce, and except as provided in subsection M of this section. There shall be five (5) types of certificates of title:

1. Original title for any motor vehicle which is not a salvage, rebuilt or junked vehicle;

2. Salvage title for any motor vehicle which is a salvage vehicle or is specified as a salvage vehicle or the equivalent thereof on a certificate of title from another state;

3. Rebuilt title for any motor vehicle which is a rebuilt vehicle;

4. Junked title for any motor vehicle which is a junked vehicle or is specified as a junked vehicle or the equivalent thereof on a certificate of title from another state; and

5. Classic title for any motor vehicle, except a junked vehicle, which is twenty-five (25) model years or older.

Application for a certificate of title, whether the initial certificate of title or a duplicate, may be made to the Oklahoma Tax Commission or any motor license agent. When application is made with a motor license agent, the application information shall be transmitted either electronically or by mail to the Commission by the motor license agent. If the application information is transmitted electronically, the motor license agent shall forward the required application along with evidence of ownership, where required, by mail. Where the transmission of application information cannot be performed electronically, the Commission is authorized to provide postage paid envelopes to motor license agents for the purpose of mailing the application along with evidence of ownership, where required. The Commission shall upon receipt of proper application information issue an Oklahoma certificate of title. Such certificates may be mailed to the applicant. Upon issuance of a certificate of title, the Commission shall provide the appropriate motor license agent with confirmation of such issuance.

C. 1. The application for certificate of title shall be upon a blank form furnished by the Commission, containing:

a. a full description of the vehicle,

b. the manufacturer's serial or other identification number,

c. the manufacturer's factory delivered price and total delivered price,

d. the motor number and the date on which first sold by the manufacturer or dealer to the owner,

e. any distinguishing marks,

f. a statement of the applicant's source of title,

g. any security interest upon said vehicle, and

h. such other information as the Commission may require.

2. The application for a certificate of title for a vehicle which is within the last seven (7) model years shall require a declaration as to whether the vehicle has been damaged by collision or other occurrence and whether the vehicle has been recovered from theft and the extent of the damage to the vehicle. The declaration shall be made by the owner of a vehicle if:

a. the vehicle has been damaged or stolen and the owner did not receive any payment for the loss from an insurer, or

b. the vehicle is titled or registered in a state that does not classify the vehicle or brand the title because of damage to or loss of the vehicle similar to the classifications or brands utilized by this state.

The declaration shall be based upon the best information and knowledge of the owner and shall be in addition to the requirements specified in paragraph 1 of this subsection. The Oklahoma Tax Commission shall not issue a certificate of title for a vehicle which is subject to the provisions of this paragraph without the required declaration, completed and signed by the owner of the

vehicle. Upon receipt of an application without the properly completed declaration, the Oklahoma Tax Commission shall return the application to the applicant with notice that the title may not be issued without the required declaration. Nothing in this paragraph shall prohibit the Oklahoma Tax Commission from recognizing the type of or brand on a title or other ownership document issued by another state or the inspection conducted in another state and issuing the appropriate certificate of title for the vehicle.

3. The certificate of title shall have the following security features:

a. intaglio printing or security thread, with or without watermark,

b. latent images,

c. fluorescent inks,

d. micro print,

e. void background, and

f. color coding.

4. Each title issued pursuant to the provisions of the Oklahoma Vehicle License and Registration Act shall be color coded as determined by the Oklahoma Tax Commission.

5. The certificate of title shall be of such size and design and color as the Commission may direct pursuant to the provisions of this section. The title shall be on colored paper or other material as designated by the Commission and be of such intensity or hue as will allow easy identification as to whether the title is an original title, a salvage title, a rebuilt title or a junked title. The type of title shall be identified on the front of the certificate of title. The original title, rebuilt title or classic title shall be identified by the word "Original", "Rebuilt" or "Classic" printed in the upper right quadrant of the certificate of title, in the space which is currently captioned "type of title".

D. 1. To obtain an original certificate of title for a vehicle that is being registered for the first time in this state which has not been previously registered in any other state, the applicant shall be required to deliver, as evidence of ownership, a manufacturer's certificate of origin properly assigned by the manufacturer, distributor, or dealer licensed in this or any other state shown thereon to be the last transferee to the applicant upon a form to be prescribed and approved by the Commission. A manufacturer's certificate of origin shall contain:

a. the manufacturer's serial or other identification number,

b. date on which first sold by the manufacturer to the dealer,

c. any distinguishing marks including model and the year same was made,

d. a statement of any security interests upon said vehicle, and

e. such other information as the Commission may require.

2. The manufacturer's certificate of origin shall have the following security features:

a. intaglio printing or security thread, with or without watermark,

b. latent images,

c. fluorescent inks,

d. micro print, and

e. void background.

E. In the absence of a dealer's or manufacturer's number, the Commission may assign such identifying number to the vehicle, which shall be permanently stamped, burned or pressed or attached into such vehicle, and a certificate of title shall be delivered to the applicant upon payment of all fees and taxes, and the remaining copies shall be permanently filed and indexed by the Commission.

The Commission shall assign an identifying number to any rebuilt vehicle if the vehicle identification number displayed on the rebuilt vehicle does not accurately describe the vehicle as rebuilt. The Department of Public Safety, at the time of inspection of the rebuilt vehicle pursuant to Section 1111 of this title, shall identify the make, model, and year for the body, frame, chassis, motor, transmission, and other major components to accurately describe the rebuilt vehicle. At the time of the inspection, an appropriate identifying number shall be permanently stamped, burned, pressed, or attached on the rebuilt vehicle. The assigned identifying number shall be recorded on the certificate of title for the rebuilt vehicle. The dealer's or manufacturer's vehicle identification number on the rebuilt vehicle shall be preserved in the computer files of the Oklahoma Tax Commission for at least five (5) years.

F. When registering for the first time in this state a vehicle which was not originally manufactured for sale in the United States, to obtain a certificate of title, the Commission shall require the applicant to deliver:

1. As evidence of ownership, if the vehicle has not previously been titled in the United States, the documents constituting valid proof of ownership in the country in which the vehicle was originally purchased, together with a notarized translation of any such documents; and

2. As evidence of compliance with federal law, copies of the bond release letters for the vehicle issued by the United States Environmental Protection Agency and the United States Department of Transportation, together with a receipt issued by the Internal Revenue Service indicating that the applicable federal gas guzzler tax has been paid.

The Oklahoma Tax Commission shall not issue a certificate of title for a vehicle which is subject to the provisions of this

paragraph without the required documentation from agencies of the United States and evidence of ownership. Upon receipt of an application without the required documentation, the Oklahoma Tax Commission shall return the application to the applicant with notice that the certificate of title may not be issued without the required documentation. Nothing in this paragraph shall prohibit the Oklahoma Tax Commission from issuing certificates of title for antique or classic vehicles not driven upon the public streets, roads, or highways.

G. When registering in this state a vehicle which was titled in another state and which title contains the name of a secured party on the face of the other state certificate of title, or such state certificate is being held by the secured party in that state or any other state, the Commission or the motor license agent shall complete a lien entry form as prescribed by the Commission. The owner of such vehicle shall file an affidavit with the Commission or the motor license agent stating that title to the vehicle is being held by a secured party has not been issued pursuant to the laws of the state where titled, and that there is an existing lien or encumbrance on the vehicle. The current name and address of the secured party or lienholder shall also be stated in the affidavit. The form of the affidavit shall be prescribed by the Oklahoma Tax Commission and contain any other information deemed necessary by the Commission. A statement of the lien or encumbrance shall be included on the Oklahoma certificate of title and the lien or encumbrance shall be deemed continuously perfected as though it had been perfected pursuant to Section 1110 of this title. For completing the lien entry form and recording the security interest on the certificate of title, the Commission or the motor license agent shall collect a fee of Three Dollars ($3.00) which shall be in addition to other fees provided by the Oklahoma Vehicle License and Registration Act. The fee, if collected by the motor license agent

pursuant to this subsection, shall be retained by the motor license agent.

H. The charge for each certificate of title issued, except for junked titles as defined in paragraph 4 of subsection B of this section, shall be Eleven Dollars ($11.00), which charge shall be in addition to any other fees or taxes imposed by law for such vehicle. One Dollar ($1.00) of each such charge shall be deposited in the Oklahoma Tax Commission Reimbursement Fund. Provided however, that said charge shall not apply to any vehicle which is to be registered in this state pursuant to the provisions of Section 1120 or 1133 of this title and which was registered in another state at least sixty (60) days prior to the time it is required to be registered in this state.

I. The vehicle identification number of a junked vehicle shall be preserved in the computer files of the Oklahoma Tax Commission for a period of not less than five (5) years. The charge of junked titles as defined in paragraph 4 of subsection B of this section shall be Four Dollars ($4.00). The fee remitted to the Oklahoma Tax Commission shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

J. If a vehicle is sold to a resident of another state, destroyed, dismantled, or ceases to be used as a vehicle, the owner shall immediately notify the Commission. Absent evidence to the contrary, failure to notify the Commission shall be prima facie evidence that the vehicle has been in continuous operation in this state.

K. If a vehicle is stolen, the owner shall immediately notify the appropriate law enforcement agency. Immediately after receiving such notification, the law enforcement agency shall notify the Oklahoma Tax Commission.

L. No title for an out-of-state vehicle, except any commercial truck or truck-tractor registered pursuant to Section 1120 of this

title which is engaged in interstate commerce or any trailer or semitrailer registered pursuant to Section 1133 of this title which is engaged in interstate commerce, shall be issued without an inspection of such vehicle and payment of a fee of Four Dollars ($4.00) for such inspection; provided, the Oklahoma Tax Commission may enter into reciprocal agreements with other states for such inspections to be performed at locations outside the boundaries of this state for vehicles which:

1. Are offered for sale at auction;

2. Have been solely used as vehicles for rent under the ownership of a licensed motor vehicle dealer or a person engaged in the business of renting motor vehicles; or

3. Have not been registered in this or any other state for more than one (1) year.

The inspection shall include a comparison of the vehicle identification number on the vehicle with the number recorded on the ownership records and the recording of the actual odometer reading on the vehicle. The Four Dollar ($4.00) fee shall be collected by the motor license agent or Commission when the title is issued. The motor license agent shall retain Two Dollars ($2.00) for his fee. The remaining Two Dollars ($2.00) shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

M. No title for any out-of-state vehicle offered for sale at salvage pools, salvage disposal sales, or an auction, or by a dealer or a licensed automotive dismantler and parts recycler, shall be issued without an inspection to compare the vehicle identification number on the vehicle with the number recorded on the ownership record and to record the actual odometer reading on the vehicle. Upon request of the seller, person or entity conducting an auction, dealer or licensed dismantler, the inspection shall be conducted at the location or place of business of the sale, auction, dealer, or the dismantler. The inspection shall be conducted by any motor

license agent or a duly authorized employee thereof; provided, the Oklahoma Tax Commission may enter into reciprocal agreements with other states for such inspections to be performed at locations outside the boundaries of this state for vehicles which:

1. Are offered for sale at auction;

2. Have been solely used as vehicles for rent under the ownership of a licensed motor vehicle dealer or a person engaged in the business of renting motor vehicles; or

3. Have not been registered in this or any other state for more than one (1) year.

The inspection shall be certified upon forms prescribed by the Oklahoma Tax Commission. The name and other identification of the authorized person conducting the inspection shall be legibly printed or typed on the form. Prior to any inspection by any employee of a motor license agent, the motor license agent shall notify the Oklahoma Tax Commission of the name and any other identification information requested by the Oklahoma Tax Commission of the authorized person. A signature specimen of the authorized person shall be submitted to the Oklahoma Tax Commission by the employing motor license agent. If the authorization to inspect vehicles is withdrawn or the employer-employee relationship is terminated, the motor license agent, immediately, shall notify the Commission and return any remaining inspection forms to the Oklahoma Tax Commission. The fee for the inspection shall be Four Dollars ($4.00). The motor license agent shall retain Three Dollars ($3.00) of the fee. Fees received by a motor license agent or an authorized employee thereof shall be handled and accounted for in the manner as prescribed by law for any other fees paid to or received by a motor license agent. Out-of-state vehicles brought into this state by a person licensed in another state to sell new or used vehicles to be sold within this state at a motor vehicle auction which is limited to dealer to dealer transactions shall not be required to be

inspected, unless said vehicle is purchased by an Oklahoma dealer. Any person licensed in another state to sell new or used motor vehicles, who offers a motor vehicle for sale within this state at a motor vehicle auction which is limited to dealer to dealer transactions, shall not be within the definition of "owner" in Section 1102 of this title, for purposes of Section 1101 et seq. of this title.

N. An out-of-state vehicle which has been rebuilt shall be inspected pursuant to the provisions of Section 1111 of this title. The Department of Public Safety shall train motor license agents in interpreting vehicle identification numbers to assure that it accurately describes the vehicle and to detect rollback or alteration of the odometer. Failure of a motor license agent to inspect the vehicle and make the required notations shall be ~~a misdemeanor punishable by~~ a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) for the first offense and Five Thousand Dollars ($5,000.00) for the second offense or subsequent offense~~, or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment~~.

O. The ownership of any vehicle which has been declared a total loss because of theft shall be transferred to the insurer by a salvage title. Upon recovery of the vehicle from theft, the ownership shall be transferred by an original title, salvage title, or junked title, as may be appropriate based upon an estimate of the amount of loss submitted by the insurer.

P. The owner of any vehicle which is incapable of operation or use on the public roads and has no resale value, except as parts, scrap or junk, may deliver the certificate of title to the vehicle to the Oklahoma Tax Commission for cancellation. Upon verification that any perfected lien against the vehicle has been released, the certificate of title shall be canceled without any fee, charge, or cost required from the owner. The vehicle identification numbers on

the certificates of title shall be preserved in the computer files of the Oklahoma Tax Commission for at least five (5) years from the date of cancellation of the certificate of title. The Oklahoma Tax Commission shall prescribe and provide an affidavit form to be completed by the owner of any vehicle for which the certificate of title is canceled. No title or registration shall subsequently be issued for a vehicle for which the certificate of title has been surrendered pursuant to this subsection. The Oklahoma Tax Commission shall prescribe a form for the transfer of ownership of a vehicle for which the certificate of title has been canceled.

Q. The owner of a vehicle which is not within the last ten (10) model years, not roadworthy and not capable of repair for operation or use on the roads and highways shall transfer the vehicle only upon a certificate of ownership prescribed by the Oklahoma Tax Commission, if the certificate of title to the vehicle is lost, has been canceled, or otherwise not available. The prescribed ownership form shall include the names and addresses of the buyer and seller, the driver's license number or social security number of the seller, the make and model of the vehicle, and the public vehicle identification number. If there is no public vehicle identification number, the vehicle shall be inspected by a law enforcement officer to verify the absence of the number on the vehicle and the prescribed ownership form shall include a signed statement, by such officer, verifying the absence of the number.

The certificate of ownership shall be completed in triplicate. The buyer and seller shall each retain a copy. Within thirty (30) days of the transaction, the seller shall submit one copy to the Oklahoma Tax Commission or a motor license agent accompanied with a fee of Four Dollars ($4.00). One Dollar ($1.00) shall be retained by the motor license agent and Three Dollars ($3.00) shall be deposited in the Tax Commission Reimbursement Fund in the State Treasury.

Upon receipt of the certificate, the Oklahoma Tax Commission shall verify that any perfected lien upon the vehicle has been released. If the lien is not released, the Commission shall mail notice of the transfer to the lienholder at the lienholder's last-known address. If a certificate of title has been issued, it shall be canceled and the vehicle identification number shall be preserved in the computer of the Oklahoma Tax Commission for at least five (5) years. The buyer of the vehicle may not be sued and shall not be liable for monetary damages to the lienholder, however, the vehicle shall be subject to a valid repossession by a lienholder.

R. The Oklahoma Tax Commission shall notify the chief administrative officer of the agency or department responsible for issuing motor vehicle certificates of title in each state in the United States of the types of motor vehicle certificate of title effective in Oklahoma on and after January 1, 1989.

SECTION 589. AMENDATORY 47 O.S. 1991, Section 1107, as amended by Section 4, Chapter 153, O.S.L. 1993 (47 O.S. Supp. 1994, Section 1107), is amended to read as follows:

Section 1107. In the event of the sale or transfer of the ownership of a vehicle for which a certificate of title has been issued as provided by Section 1105 of this title, the holder of such certificate shall endorse on the back of same a complete assignment thereof with warranty of title in form printed thereon with a statement of all liens or encumbrances on said vehicle, sworn to before a notary public or some other person authorized by law to take acknowledgments, and deliver same to the purchaser or transferee at the time of delivery to him of such vehicle. The purchaser or transferee, unless such person is a bona fide used motor vehicle dealer licensed by the State of Oklahoma, shall, within thirty (30) days from the time of delivery to him of such vehicle, present the assigned certificate of title and the insurance

security verification to such vehicle to the Oklahoma Tax Commission, or one of its motor license agents, accompanied by a fee of Eleven Dollars ($11.00), together with any motor vehicle excise tax or license fee that may be due, whereupon a new certificate of title, shall be issued to the assignee. One Dollar ($1.00) of each such fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund. A licensed dealer shall, on selling or otherwise disposing of a vehicle, execute and deliver to the purchaser thereof the certificate of title properly and completely reassigned. Thereupon, the purchaser of said vehicle shall present such reassigned certificate to the Commission, or a motor license agent, accompanied by a fee of Eleven Dollars ($11.00), and any motor vehicle excise tax or license fee that may be due, whereupon a new certificate of title will be issued to such purchaser. One Dollar ($1.00) of each such fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund. Said certificate, when so assigned and returned to the Commission, together with any subsequent assignment or reissue thereof, shall be appropriately filed and indexed so that at all times it will be possible to trace title to the vehicle designated therein. Provided, when the ownership of any motor vehicle shall pass by operation of law, the person owning such vehicle may, upon furnishing satisfactory proof to the Commission of such ownership, procure a title to said motor vehicle, regardless of whether a certificate of title has ever been issued. The dealer shall execute and deliver to the purchaser bills of sale on forms prescribed by the Commission for all new vehicles sold by him. On presentation of a bill of sale executed on forms prescribed by the Commission, by a manufacturer or dealer for a new vehicle sold in this state, accompanied by remittance in the sum of Eleven Dollars ($11.00), together with any motor vehicle excise tax or license fee that may be due, a certificate of title shall be issued in accordance with the provisions of Section 1101 et seq. of

this title. One Dollar ($1.00) of each such fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

Any person ~~violating~~ breaching the provisions of this section shall be ~~guilty of a misdemeanor and upon the first conviction thereof shall be punished by a fine not to exceed Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00), with impoundment of the vehicle until all taxes and fees are paid. ~~A second or subsequent conviction shall be punished by a fine not to exceed One Thousand Dollars ($1,000.00), with impoundment of the vehicle until all taxes and fees are paid.~~ If a vehicle is impounded pursuant to the provisions of this section, the vehicle shall not be released to the owner until the owner provides proof of security or an affidavit that the vehicle will not be used on public highways or public streets, as required pursuant to Section 7-600 et seq. of this title. Each vehicle involved in a violation of this section shall be considered a separate offense.

SECTION 590. AMENDATORY 47 O.S. 1991, 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~~ breaching the provisions of this subsection~~, upon conviction, shall be punishable by~~ shall be liable for a civil infraction and subject to a fine of not ~~to exceed~~ more than 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 591. AMENDATORY 47 O.S. 1991, Section 1111, as amended by Section 2, Chapter 301, O.S.L. 1994 (47 O.S. Supp. 1994, Section 1111), is amended to read as follows:

Section 1111. A. As used in this section:

1. "Loss" means the cost, in dollars, to repair or replace a vehicle which has been damaged by collision or other occurrence. The amount paid by an insurer to a holder of the certificate of title for repair of a damaged vehicle shall be prima facie evidence of the amount of the loss. The amount paid by an insurer to a holder of the certificate of title for replacement of a damaged vehicle less the resale value of the damaged vehicle shall be prima facie evidence of the amount of the loss;

2. "Fair market value" means the value of a vehicle as listed in the current National Auto Dealers Association guidebook or other similar guidebook or the actual cash value, whichever is greater;

3. "Resale value" means the amount, in dollars, paid to the holder of a certificate of title by a willing buyer for a vehicle damaged by collision or other occurrence or recovered from theft;

4. "Total loss" means a loss which is equal to the fair market value of the vehicle immediately prior to the damage to or theft of the vehicle; and

5. "Vehicle" means a vehicle, as defined in paragraph 29 of Section 1102 of this title, which is within the last seven (7) model years.

B. Any insurance company that pays a total loss on a claim for any vehicle including, but not limited to, a flood-damaged vehicle or recovered-theft vehicle, any junk dealer who receives a motor vehicle which is to be used for junk or for parts, or any other person permanently dismantling or junking a vehicle shall receive the certificate of title from the current holder of the certificate of title, shall detach the license plate from such vehicle, and shall return the license plate and the certificate of title to the Commission or a motor license agent within thirty (30) days from receipt of said certificate. The Commission shall cancel the certificate of title to the vehicle used for junk or parts and shall preserve the vehicle identification numbers on the certificate of title in the computer files for at least five (5) years. The Commission shall transfer ownership of a stolen vehicle, not recovered from theft at the time of transfer, by salvage title to the insurer. The Commission shall transfer ownership of a vehicle damaged by flooding or other occurrence to the insurer by an original title, salvage title, or junked title, as may be appropriate, based upon an estimate of the amount of loss submitted, by the insurer. All license plates surrendered to the Commission shall be destroyed.

C. If an insurance company pays a claim for a loss which is less than a total loss but the cost of repairing the vehicle for

safe operation on the highway exceeds sixty percent (60%) of the fair market value of the vehicle, or if any vehicle not insured is damaged to the extent that the cost of repair for safe operation on the highway exceeds sixty percent (60%) of the fair market value of the vehicle, any holder of the certificate of title for said vehicle shall return the certificate of title to the Oklahoma Tax Commission or a motor license agent within thirty (30) days from receipt of payment for said loss.

Upon receipt of the certificate, the Commission or motor license agent shall issue a salvage title for the vehicle. The title for any vehicle damaged by flooding shall be stamped with the words "Flood Damaged", and for any such vehicle which was recovered from a theft, the salvage title or rebuilt title shall be stamped with the words "Recovered Theft". A licensed dealer subject to the provisions of the Automotive Dismantlers and Parts Recycler Act, Section 591.1 et seq. of this title, shall not be required to pay registration fees, excise taxes, back taxes or penalties on a vehicle as a prerequisite to obtaining a salvage title.

D. If a motor vehicle with a salvage title is placed in operative condition, application shall be made to the Commission or a motor license agent for a rebuilt title. A visual inspection of the vehicle and examination of the vehicle identification numbers shall be conducted prior to the issuance of a rebuilt title. At the time of such issuance, the salvage title shall be returned to the Commission by the owner, or by the motor license agent if he issues the rebuilt title. A visual inspection shall also be made of any out-of-state vehicle to be registered and titled in this state, if the vehicle is within the class of vehicles for which a rebuilt title is required and a similar inspection has not been conducted by another state. The certificate of title for the rebuilt vehicle shall be stamped with the words, "This Rebuilt Vehicle Has Been Inspected By The Appropriate State Official".

E. The visual inspections and examination of vehicle identification numbers shall include, but not be limited to:

1. Comparison of the vehicle identification numbers with the number recorded on the ownership records;

2. Inspection of the vehicle identification numbers and the VIN plate to detect possible alteration or other fraud;

3. Interpretation of the vehicle identification number recorded on the ownership documents to assure that it accurately describes the motor vehicle in question;

4. Inspection of the odometer of the vehicle to detect rollback or alteration; and

5. Inspection of the motor vehicle for mechanical safety by the Department of Public Safety.

Such inspection shall include the inspection required by Section 851 et seq. of this title. Such inspection shall not be required for any motor vehicle registered pursuant to the provisions of Section 1120 of this title or any trailer or semitrailer registered pursuant to the provisions of Section 1133 of this title.

F. The visual inspection and vehicle identification numbers examination shall be performed by the Department of Public Safety at the location designated by the Department. If the location of the inspection is not the place of business of the rebuilder, the Department of Public Safety shall issue a permit authorizing the applicant to operate the vehicle upon the public streets, roads, and highways in route to and from the designated location for the inspection. The inspection and examination shall be performed within ten (10) working days after the owner of the vehicle requests the inspection and examination. Requests shall be made by completing the request form prescribed and provided by the Department of Public Safety.

G. Inspection and examination of a rebuilt vehicle shall be performed by persons employed by the Department of Public Safety or

an authorized law enforcement agency of this state which has contracted with the Department to perform the inspections and examinations. Each law enforcement personnel authorized to perform the inspections and examinations shall be trained by the Department of Public Safety.

H. The fee for the inspection and examination by the Department of Public Safety shall be Twenty-five Dollars ($25.00), which shall be paid at the time of issuance of the certificate of title for the rebuilt vehicle. The Oklahoma Tax Commission shall transmit the fee to the State Treasurer for deposit in the Department of Public Safety Revolving Fund. The Department of Public Safety, its officers, employees and agents, and any law enforcement agency, which has contracted with the Department or its officers, employees and agents may not be sued for and shall not be liable for any damages allegedly arising out of the inspection of a vehicle or any acts or omissions in the performance of the inspection. The Department of Public Safety may be held liable for any damages to the vehicle caused by the negligent acts or omissions in the performance of the inspection. Any person may be liable for any damages to a vehicle caused by the intentional acts or omissions in the performance of the inspection.

I. The rebuilt title and any subsequent transfers of such title shall also reflect that the vehicle was a salvage vehicle, flood-damaged vehicle or recovered-theft vehicle, if applicable, and also shall include the salvage date.

J. Any title for a motor vehicle issued pursuant to the laws of any other state which reflects that such vehicle is a salvage vehicle, a rebuilt vehicle or a junked vehicle or has any other brand or classification notation by that state shall be retained on the new title issued by the Oklahoma Tax Commission.

K. When the insurance company pays a loss, as defined in this section, on a vehicle which is registered at the time of mishap,

accident, burning or flooding, the appropriate certificate of title shall be issued without the payment of additional registration fees or excise taxes, upon the submission of a police report or insurance adjuster's report and a declaration by the insurer that the vehicle is held for sale to a dealer. If the owner or insured of the vehicle retains ownership of the damaged vehicle, the Oklahoma Tax Commission shall notify the owner or insured of the requirements of this section.

L. Any insurance company that pays a claim for a loss where the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of the market value of the vehicle or pays a claim for a flood-damaged vehicle as defined in Section 1105 of this title shall notify, in writing, the holder of the certificate of title of the requirements of this section and shall notify the Oklahoma Tax Commission of the payment of such claim. The insurance company shall also send a copy of the notification to the holder of the title. The owner of a flood-damaged vehicle shall surrender the title along with the fee to the Commission or one of its motor license agents within thirty (30) days from the receipt of notice for the issuance of the appropriate title based on the amount of loss. The Commission shall reissue the appropriate title with the words "Flood Damaged". Provided, no insurance company shall pay a claim for less than the amount to which the holder of the certificate of title is rightfully entitled in order to avoid compliance with this section.

M. Except as provided for in subsection N of this section, any person, firm, or corporation ~~convicted of~~ violating any provision of this section shall be ~~guilty of a misdemeanor and shall be punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Three Hundred Dollars ($300.00) or by incarceration in the county jail for not more than six (6) months, or by both the fine or incarceration~~ more than One Thousand Dollars ($1,000.00).

N. Any owner of a titled vehicle who has knowledge that the title is not the proper type for the vehicle, and with intent to misrepresent the vehicle, fails to make the appropriate title changes shall be ~~guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Any person who has knowledge that the title is not the proper type for the vehicle, and with intent to misrepresent the vehicle, buys or receives any vehicle for which the appropriate title changes have not been made as required by this act shall be ~~guilty of a misdemeanor. Any person found guilty in accordance with the provisions of this subsection shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) for the first offense or Five Thousand Dollars ($5,000.00) for the second or subsequent offense, or by imprisonment in the county jail for a term not exceeding six (6) months, or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

O. Upon the effective date of this act, the Oklahoma Tax Commission shall notify any insurance companies, and the Oklahoma Used Motor Vehicle and Parts Commission shall notify any salvage pools, salvage dealers and others, who may be holders of titles of salvage vehicles as defined in Section 1105 of this title of the requirements of this act. Any owner of a vehicle with an Oklahoma certificate of title which is no longer an appropriate certificate of title, before October 2, 1989, may submit the certificate of title to the Oklahoma Tax Commission for issuance of the appropriate type of title without any cost or fee. Any owner of a salvage or junked vehicle shall submit the certificate of title to the Oklahoma Tax Commission or motor license agent for issuance of an appropriate title. Any holder of a certificate of title issued by this state, to a vehicle which no longer exists, shall surrender the certificate of title to the Oklahoma Tax Commission for cancellation. The

vehicle identification number on the canceled certificate of title shall be preserved in the computer of the Oklahoma Tax Commission for at least five (5) years.

Any person who fails to make the title changes or to surrender the title as required herein on or before June 1, 1990, shall be assessed a penalty by the Oklahoma Tax Commission in an amount not to exceed Fifty Dollars ($50.00), which shall be apportioned in the same manner as the fees and taxes levied by the Oklahoma Vehicle License and Registration Act. Nothing in this section shall be construed to prevent the transfer of ownership of a vehicle by assignment of the title to a used car dealer, wholesale used car dealer, or a licensed automotive dismantler or parts recycler.

SECTION 592. AMENDATORY 47 O.S. 1991, Section 1151, as amended by Section 4, Chapter 278, O.S.L. 1994 (47 O.S. Supp. 1994, Section 1151), is amended to read as follows:

Section 1151. A. It shall be unlawful for any person to commit any of the following acts:

1. To lend or to sell to, or ~~knowingly~~ permit the use of by, one not entitled thereto any certificate of title, license plate or decal issued to or in the custody of the person so lending or permitting the use thereof;

2. To alter or in any manner change a certificate of title, registration certificate, license plate or decal issued under the laws of this or any other state;

3. To procure from another state or country, or display upon any vehicle owned by him within this state, except as otherwise provided in this act, any license plate issued by any state or country other than this state, unless there shall be displayed upon such vehicle at all times the current license plate or decal assigned to it by the Commission;

4. To drive, operate or move, or for the owner to cause or permit to be driven or moved, upon the roads, streets or highways of

this state, any vehicle loaded in excess of its registered laden weight, or which is licensed for a capacity less than the manufacturer's rated capacity as provided for in this act;

5. To operate a vehicle without proper license plate or decal or on which all taxes due the state have not been paid;

6. To buy, sell or dispose of, or have in his possession for sale, use or storage, any secondhand or used vehicle on which the registration or license fee has not been paid, as required by law, and on which vehicle said person neglects, fails or refuses to display at all times the license plate or decal assigned to it;

7. To give a fictitious name or fictitious address or make any misstatement of facts in application for certificate of title and registration of a vehicle;

8. To purchase a license plate on an assigned certificate of title. This particular paragraph shall be applicable to all persons except bona fide registered dealers in used cars who are holders of current and valid used car dealers' licenses;

9. To operate a vehicle upon the highways of this state after the registration deadline for that vehicle without a proper license plate, as prescribed by this act, for the current year;

10. For any owner of a vehicle registered on the basis of laden weight to fail or refuse to weigh or reweigh it when requested to do so by any enforcement officer charged with the duty of enforcing this law;

11. To operate or have in his possession any vehicle which bears a motor number or serial number other than the original number placed thereon by the factory except a number duly assigned and authorized by the state;

12. For any motor license agent to release a license plate, a manufactured home registration receipt, decal or excise tax receipt to any unauthorized person or source, including any dealer in new or used motor vehicles. Violation of this paragraph shall constitute

sufficient grounds for discharge of a motor license agent by the Commission; or

13. To operate any vehicle registered as a commercial vehicle without the lettering requirements of Section 1102 of this title.

Any person ~~convicted of~~ violating the provisions of this subsection shall be ~~deemed guilty of a misdemeanor and upon conviction shall be punished by~~ liable for a civil infraction and subject to a fine ~~not to exceed One Hundred Dollars ($100.00)~~ of not more than Five Hundred Dollars ($500.00). In addition, a person violating this subsection shall be subject to criminal prosecution for applicable crimes pursuant to Title 21 of the Oklahoma Statutes.

B. ~~Except as otherwise authorized by law, it shall be unlawful to:~~

~~1. Lend or sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title issued for a manufactured home, manufactured home registration receipt, manufactured home registration decal or excise tax receipt;~~

~~2. Alter or in any manner change a certificate of title issued for a manufactured home under the laws of this state or any other state;~~

~~3. Remove or alter a manufactured home registration receipt, manufactured home registration decal or excise tax receipt attached to a certificate of title or attach such receipts to a certificate of title with the intent to misrepresent the payment of the required excise tax and registration fees;~~

~~4. Buy, sell, or dispose of, or have in his possession for sale, use or storage any used manufactured home on which the registration fees or excise taxes have not been paid as required by law; or~~

~~5. Purchase identification, manufactured home registration receipt, manufactured home registration decal or excise tax receipt on an assigned certificate of title.~~

~~Anyone violating the provisions of this subsection, upon conviction, shall be guilty of a felony.~~

~~C.~~ In the event a new vehicle is not registered within thirty (30) days from date of purchase, the penalty for the failure of the owner of the vehicle to register said vehicle within thirty (30) days shall be Twenty-five Dollars ($25.00), provided that in no event shall the penalty exceed an amount equal to the license fee. Provided however, that the penalty for new commercial vehicles shall be equal to the license fee for such vehicles.

If a used vehicle is brought into Oklahoma by a resident of this state and is not registered within thirty (30) days, a penalty of twenty-five cents ($0.25) per day shall be charged from the date of entry to the date of registration, such penalty to accrue for thirty (30) days, upon failure to register, at the end of which time the penalty shall be Twenty-five Dollars ($25.00), provided that in no event shall the penalty exceed an amount equal to the license fee. Provided however, that the penalty for used commercial vehicles shall be equal to the license fee for such vehicles.

~~D.~~ C. Any owner who knowingly makes or causes to be made any false statement of a fact required in this section to be shown in an application for the registration of one or more vehicles shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars ($1,000.00), or shall be imprisoned in the county jail for not more than one (1) year, or both such fine and imprisonment.

~~E.~~ D. Self-propelled or motor-driven cycles, known and commonly referred to as "minibikes" and other similar trade names, shall not be registered under the provisions of this act or be permitted to be operated on the streets or highways of this state. Provided that minibikes may be operated on the streets when used in a parade. Notwithstanding other provisions of this subsection, minibikes may be registered and operated in this state by food vendor services

upon streets having a speed limit of thirty (30) miles per hour or less.

All minibikes offered for sale in this state shall bear the following notice to the customer:

> "This machine is not manufactured or sold for operation on the public streets or highways. Since it is not provided with equipment required by law for street or highway use, all persons are cautioned that any operation of this vehicle upon a public street or highway will be in violation of the motor vehicle laws of this state and will subject the violator to arrest."

Transfers and sales of such vehicles shall be subject to sales tax and not motor vehicle excise taxes.

The provisions of this subsection shall also apply to those motor-driven or operated vehicles known as "golf carts", "go-carts" and other motor vehicles which are manufactured principally for use off the streets and highways.

~~F.~~ E. Any person violating paragraph 3 or 6 of subsection A of this section, in addition to the ~~penal provisions~~ penalty provided herein, shall pay as additional penalty a sum equal to the amount of license fees due on such vehicle or registration fees due on a manufactured home known to be in violation and said amount is hereby declared to be a lien upon said vehicle as provided in this act.

~~G.~~ F. Each violation of any provision of this act for each and every day such violation has occurred shall constitute a separate offense.

~~H. Anyone violating any of the provisions heretofore enumerated in this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars ($10.00) and not to exceed One Hundred Dollars ($100.00).~~

~~I.~~ G. Any violation of any portion of this act where a specific ~~penalty~~ fine has not been imposed shall ~~constitute a misdemeanor and~~

~~upon conviction thereof the person having violated it shall be fined not less than Ten Dollars ($10.00) and not to exceed One Hundred Dollars ($100.00)~~ be a civil infraction and subject to a fine of not more than Two Hundred Fifty Dollars ($250.00).

~~J.~~ H. Any provision of Section 1101 et seq. of this title providing for proportional registration under reciprocal agreements and the International Registration Plan that relates to the promulgation of rules and regulations shall not be subject to the provisions of this section.

SECTION 593. AMENDATORY 47 O.S. 1991, Section 1171, is amended to read as follows:

Section 1171. A. As used in this section, "tour bus" means an intercity bus or buses owned, leased or operated to transport passengers by charter or special service as defined by the Interstate Commerce Commission who are assembled into a travel group through a sale to each individual passenger of a ticket covering a comprehensive trip from any point within the State of Oklahoma with visits to places of established interest and a return in conjunction with packages offered by travel agencies or professional tour operators. The term "tour bus" shall not include regular route passenger service.

B. It shall be unlawful for the Oklahoma Tourism and Recreation Department or any other agency of the state to discriminate in any way against a company, corporation, partnership or sole proprietorship operating tour buses on an intrastate or interstate basis in this state.

C. Upon application, the Marketing Services Division of the Department of Tourism and Recreation shall issue a permit to any applicant for a tour bus permit in the State of Oklahoma. The fee for such permit shall be Twenty Dollars ($20.00) per year for each tour bus company. The fee shall be paid to the Marketing Services

Division and said fees shall be deposited by the State Treasurer in the Oklahoma Tourism and Recreation Department Revolving Fund.

D. Prior to the issuance of any such permit, all tour bus operators must file with the Marketing Services Division of the Department of Tourism and Recreation proof of compliance with all insurance requirements and safety standards required by the State of Oklahoma.

E. The public policy of this state, as declared by the Legislature, is to encourage tour bus operations within the state and to simplify permit application procedures for providers of tour bus services. Rules and regulations adopted by the Oklahoma Tourism and Recreation Commission shall implement the stated public policy and also protect the public's interest by mandating that tour bus operators shall conduct their operations in accordance with all applicable laws of the state, and all applicable rules established by the Oklahoma Tourism and Recreation Commission.

F. No person shall operate a tour bus as a carrier of persons or property unless such person holds a valid commercial chauffeur's license.

G. No tour bus shall be operated on the public highways of the state that does not comply with safety criteria established by state law or by the Department of Public Safety. No tour bus shall be operated by any person who is intoxicated or under the influence of alcohol or under the influence of amphetamines, stimulants, controlled dangerous substances, or other drugs. Any tour bus which fails to meet safety criteria, or which is operated by a person under the influence of alcohol, amphetamines, stimulants, controlled dangerous substances, or other drugs shall be denied continued use of the public highways of the state.

H. No tour bus operator shall conduct any operations in this state until after such tour bus operator shall have filed with the Marketing Services Division of the Oklahoma Tourism and Recreation

Department a liability insurance policy or bond covering public liability and property damage, issued by an insurance or bonding company or insurance carrier authorized to do business in this state and shall be in such sum and amount as fixed by rules as approved by the Oklahoma Tourism and Recreation Commission; and such liability and property damage insurance policy or bond shall bind the obligor thereunder to make compensation for injuries to, or death of, persons, and loss or damage to property, resulting from the operation of any such tour bus for which such carrier is legally liable.

Providing further that such tour bus operator shall maintain all insurance required by state law and the rules of the Oklahoma Tourism and Recreation Commission during the operation of such tour bus and that the failure for any cause to maintain such coverage in full force and effect shall immediately, without any notice from the Oklahoma Tourism and Recreation Commission, suspend the rights of the tour bus operator to operate such tour bus until proper insurance is provided.

Any tour bus operator engaged in interstate operations shall comply with all provisions of this section; however, valid Interstate Commerce Commission certification shall be recognized in lieu of a liability insurance policy or bond and safety inspection by an Oklahoma Department of Public Safety authorized inspection.

I. Every owner of any tour bus operated within this state, such agents, employees and every other person who ~~violates~~ breaches or fails to comply with or procures, aids or abets in the ~~violation~~ breach of any provision of this section shall be ~~deemed guilty of a misdemeanor. Upon conviction in a criminal court of competent jurisdiction, such misdemeanor is punishable by a fine not exceeding One Thousand Dollars ($1,000.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

J. The Department of Public Safety shall be responsible for enforcement of this section, and monthly, shall notify the Marketing Services Division of the Oklahoma Tourism and Recreation Department of any citations issued for violations of this section.

K. The Marketing Services Division of the Oklahoma Tourism and Recreation Department may enter into an agreement with any person or corporation located within or without the state for transmission of tour bus permits by way of a facsimile machine or other device if the Department determines that such agreement is in the best interests of the state.

L. The Oklahoma Tourism and Recreation Commission may adopt such rules and regulations as it deems necessary to administer the provisions of this section. The Department may prescribe an application form for the permit and such other forms as it deems appropriate.

SECTION 594. AMENDATORY 49 O.S. 1991, Section 5, is amended to read as follows:

Section 5. Every notary shall provide a notarial seal containing his name and county of residence. This seal may be either a metal seal which leaves an embossed impression or a rubber stamp used in conjunction with a stamp pad and ink. Each notary shall authenticate all his official acts, attestations and instruments with this seal; and he shall add to his official signature the date of expiration of his commission as such notary public. If a rubber stamp is used, this date may be a part of the stamp. If any notary public shall neglect or refuse to attach to his official signature the date of expiration of his commission he shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding Fifty Dollars ($50.00)~~ liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00).

SECTION 595. AMENDATORY 51 O.S. 1991, Section 22, is amended to read as follows:

Section 22. Any officer ~~violating~~ breaching any of the provisions of this chapter, except as herein otherwise provided, ~~is guilty of a misdemeanor~~ shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 596. AMENDATORY 51 O.S. 1991, Section 36.5, is amended to read as follows:

Section 36.5 Every public officer or employee who, in taking and subscribing to the oath or affirmation required by this act, states as true any material matter which he knows to be false, shall be ~~guilty of perjury, and upon conviction be punished by imprisonment in the state prison for not less than one (1) year nor more than fourteen (14) years~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes; and in addition thereto, shall forfeit any public office or employment held thereby.

SECTION 597. AMENDATORY 51 O.S. 1991, Section 100, is amended to read as follows:

Section 100. The Attorney General of the state shall have the power, and he is hereby authorized and directed whenever complaint has been made and the names of witnesses furnished him, or whenever he deems necessary to issue subpoenas for such witnesses so furnished him, and for such other persons as he shall have reason to believe to have any knowledge of the truth of the complaint made, to cause said witnesses to appear before the Attorney General, or any magistrate or notary public, at the time and place in the county of the accused officer's residence, to be designated in the subpoena then and there to testify concerning the subject matter of such investigation.

Each witness shall be sworn to make true answers to all questions propounded to him touching the matter under investigation, and the testimony of each witness shall be reduced to writing and be signed by the witnesses.

The Attorney General is hereby authorized and empowered to administer the necessary oaths and affirmations to such witnesses.

All witnesses subpoenaed or used by the Attorney General in such special investigation, or upon the hearing of the complaint or petition in the district court, or the Supreme Court, shall be entitled to receive the same per diem and mileage as is allowed witnesses in the district court of the state, said fees to be paid by the Attorney General out of any funds of his office available for such purpose.

~~Any disobedience to such subpoena, or refusal to answer any proper question propounded by the Attorney General at such inquiry shall be a misdemeanor, and shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail not more than six (6) months, or by both such fine and imprisonment~~ Any person disobeying such subpoena or refusing to answer any proper question propounded by the Attorney General at such inquiry shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 598. AMENDATORY 52 O.S. 1991, Section 31, is amended to read as follows:

Section 31. Any person, copartnership, or corporation, its agent or employees, ~~violating~~ breaching any of the provisions of this act, ~~or any order of a court of competent jurisdiction of this state,~~ or any order of the Corporation Commission, pursuant to the jurisdiction conferred by this act, shall~~, upon conviction thereof, be fined a sum of not less than One Thousand Dollars ($1,000.00), nor more than Five Thousand Dollars ($5,000.00), or imprisonment not less than six (6) months, nor more than one (1) year, or by both~~

~~such fine and imprisonment~~ be liable for an administrative violation and subject to a fine of not more than Twenty Thousand Dollars ($20,000.00) for each and every ~~violation~~ breach of this act; but in case the monthly runs or takings or transportation of gas shall average so as to be without discrimination, as herein provided, a transaction or transactions of any particular day or week or portion of a month shall be disregarded; and the court of competent jurisdiction of the county in which the omission or commission, which is in violation of this act, has occurred, shall have jurisdiction of an action under the penal code for the punishment thereof; and that said penalties shall not be exclusive of civil liability.

SECTION 599. AMENDATORY 52 O.S. 1991, Section 45, is amended to read as follows:

Section 45. Any person, firm, corporation or other business organization who shall ~~violate~~ breach any of the provisions of this act shall be ~~guilty of a misdemeanor and, upon conviction, shall be fined not less than Five Dollars ($5.00) nor more than Twenty-five Dollars ($25.00)~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00), and each day of such ~~violation~~ breach shall be deemed a separate offense.

SECTION 600. AMENDATORY 52 O.S. 1991, Section 47.6, as amended by Section 1, Chapter 271, O.S.L. 1992 (52 O.S. Supp. 1994, Section 47.6), is amended to read as follows:

Section 47.6 A. Any person who has been determined by the Commission to have violated any provisions of the Hazardous Liquid Transportation System Safety Act or any rule, regulation, or order issued pursuant to the provisions of the Hazardous Liquid Transportation System Safety Act shall be liable for ~~a civil penalty~~ an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) for each day that said violation

continues. The maximum ~~civil penalty~~ fine shall not exceed Five Hundred Thousand Dollars ($500,000.00) for any related series of violations.

B. The amount of the ~~penalty~~ fine shall be assessed by the Commission pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the ~~penalty~~ fine, the Commission shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Hazardous Liquid Transportation System Safety Act.

All penalties collected pursuant to the provisions of this subsection shall be deposited in the Pipeline Enforcement Fund.

C. Any person who ~~willfully and knowingly~~ injures or destroys~~, or attempts to injure or destroy,~~ any hazardous liquid transportation system~~, upon conviction,~~ shall be subject for each offense to ~~a fine of not more than Twenty-five Thousand Dollars ($25,000.00) or imprisonment for a term not to exceed fifteen (15) years or both such fine and imprisonment~~ criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 601. AMENDATORY 52 O.S. 1991, Section 63, is amended to read as follows:

Section 63. Any person, copartnership, or corporation, its agent or employee, ~~violating~~ breaching any of the provisions of this article, or any order of ~~the competent courts of this state, or~~ the Corporation Commission, pursuant to the jurisdiction conferred by this article, shall ~~upon conviction thereof, be fined a sum of not less than One Thousand Dollars ($1,000.00), nor more than Five Thousand Dollars ($5,000.00), or imprisonment for not less than six (6) months, nor more than one year, or by both such fine and~~

~~imprisonment~~ be liable for an administrative violation and subject to a fine of not more than Twenty Thousand Dollars ($20,000.00) for each and every ~~violation~~ breach of this article; but in case the monthly runs or takings or transportations of oil shall average so as to be without discrimination, as herein provided, the transaction or transactions of any particular day, week, or portion of a month shall be disregarded; and the competent court of the county in which the omission or commission which is a violation of this article, has occurred, shall have jurisdiction of an action under the penal code for the punishment thereof; and said ~~penalties~~ fines shall not be exclusive of civil liability. Any violator who refuses to comply with any order of the Commission shall also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 602. AMENDATORY 52 O.S. 1991, Section 102, is amended to read as follows:

Section 102. ~~Punishment for contempt by the Commission of any person, guilty of any disrespectful or disorderly conduct in the presence of the Commission while in session, or for disobedience of its subpoena, summons or other process, may be by fine not exceeding One Thousand Dollars ($1,000.00) or by confinement in the county jail of Oklahoma County not exceeding one (1) year, or by both.~~ Any person who shall disobey or violate any of the provisions of ~~Section 86.1 et seq. of this title~~ this act or any of the orders, rules, regulations or judgments of the Commission issued, promulgated or rendered by it, shall be ~~punished as for contempt. Punishment by the Commission in proceedings as for contempt for disobedience or violation of any provision of Section 86.1 et seq. of this title or any of its orders, rules, regulations or judgments, issued, promulgated or rendered under the provisions of Section 86.1 et seq. of this title shall be by fine not exceeding in amount Five Thousand Dollars ($5,000.00), and each day such disobedience or violation shall continue shall constitute a separate and additional contempt,~~

~~and shall be punished by separate and additional fines each in amount not in excess of aforesaid amount. Any fine or penalty assessed under the provisions of Section 86.1 et seq. of this title may be enforced in the same manner as a foreign judgment pursuant to the Uniform Enforcement of Foreign Judgments Act, Section 719 et seq. of Title 12 of the Oklahoma Statutes provided that such procedure shall be followed regardless of whether the offender is a resident or nonresident of Oklahoma. Such fine or penalty shall constitute and be a lien upon all the property of the offender within the state, except the homestead of such offender, provided that a copy of the order imposing the fine or penalty, certified by the Secretary of the Commission, is filed in accordance with Section 706 of Title 12 of the Oklahoma Statutes. All monies collected as fines or penalties under the provisions of Section 86.1 et seq. of this title shall, when paid into or received by the Commission, be by it paid to the State Treasurer of the state for the credit of the Corporation Commission Revolving Fund~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 603. AMENDATORY 52 O.S. 1991, Section 108, is amended to read as follows:

Section 108. Every person who, having taken an oath that he will testify, declare or depose before the Commission, in any proceeding, or at any hearing before said Commission, authorized and provided for under the provisions of this act, ~~shall willfully and~~ contrary to such oath state any material matter which he knows to be false, ~~is guilty of perjury, and upon conviction shall be punished by imprisonment in the State Penitentiary not more than five (5) years~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 604. AMENDATORY 52 O.S. 1991, Section 109, is amended to read as follows:

Section 109. Any person who shall verify under oath any report, map or drawing or other statement or document authorized or required by the provisions of this act, or by any order, rule or regulation of the Commission made under the provisions of this act to be filed with the Commission or with the Secretary of the Commission, or with any other officer, and who files or causes the same to be filed with the Secretary of the Commission or other officer, which states or contains any material matter which he knows to be false ~~is guilty of perjury and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for not less than two (2) years, nor more than ten (10) years~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 605. AMENDATORY 52 O.S. 1991, Section 143, is amended to read as follows:

Section 143. Any person, firm or corporation ~~violating~~ breaching any rule, regulation or order of the Commission authorized by this act shall be ~~deemed guilty of a misdemeanor and upon conviction may be punished by a fine not less than One Hundred Dollars ($100.00) or exceeding Two Hundred Fifty Dollars ($250.00)~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Each day such a ~~violation~~ breach continues shall constitute a separate offense.

SECTION 606. AMENDATORY 52 O.S. 1991, Section 234, is amended to read as follows:

Section 234. Any person, firm or corporation, taking more than his or its proportionate share of such gas, in ~~violation~~ breach of the provisions of this act, shall be liable to any adjoining well owner for all damages sustained thereby and ~~subject to a penalty~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each ~~violation~~ breach ~~not to exceed Five Hundred Dollars ($500.00)~~, and each day such ~~violation~~ breach is continued shall be a separate offense.

SECTION 607. AMENDATORY 52 O.S. 1991, Section 241, is amended to read as follows:

Section 241. Any person, firm or corporation, or the Attorney General, on behalf of the state may institute proceedings before the Corporation Commission, or apply for a hearing before said Commission, upon any question relating to the enforcement of this act; and jurisdiction is hereby conferred upon said Commission to hear and determine the same, said Commission shall set a time and place when such hearing shall be had and give reasonable notice thereof to all persons or classes interested therein by publication in some newspaper or newspapers having general circulation in the state, and shall in addition thereto cause notice to be served in writing upon any person, firm or corporation, complained against in the manner now provided by law for serving summons in civil actions. In the exercise and enforcement of such jurisdiction said Commission is authorized to summon witnesses, make ancillary orders, and use such mesne and final process including inspection ~~and punishment as for contempt, analogous to proceedings under its control over public service corporations as now provided by law~~. Anyone failing to comply with an order or request of the Commission shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 608. AMENDATORY 52 O.S. 1991, Section 247, is amended to read as follows:

Section 247. ~~In addition to any penalty that may be imposed by the Corporation Commission for contempt, any~~ Any person, employee thereof, directly or indirectly ~~violating~~ breaching the provisions of this act, shall be ~~guilty of a misdemeanor, and upon conviction thereof, in a court of competent jurisdiction, shall be punished by a fine in any sum not to exceed Five Thousand Dollars ($5,000.00) or by imprisonment in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment~~ liable for an administrative

violation and subject to a fine of not more than Twenty Thousand Dollars ($20,000.00).

SECTION 609. AMENDATORY 52 O.S. 1991, Section 276, is amended to read as follows:

Section 276. Any person, firm, or corporation, or the Attorney General on behalf of the state, may institute proceedings before the Corporation Commission, or apply for a hearing before said Commission, upon any question relating to the enforcement of this act, and jurisdiction is hereby conferred upon said Commission to hear and determine the same. Said Commission shall set a time and place, when and where such hearing shall be had and give reasonable notice thereof to all persons or classes interested therein, by publication in some newspaper or newspapers, having general circulation in the state, and in addition thereto, shall cause reasonable notice in writing to be served personally on any person, firm, or corporation complained against. In the exercise and enforcement of such jurisdiction, said Commission is authorized to determine any question or fact, arising hereunder, and to summon witnesses, make ancillary orders, and use mesne and final process, including inspection ~~and punishment as for contempt, analogous to proceedings under its control over public service corporations, as now provided by law~~. Anyone failing to comply with an order or request of the Commission shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 610. AMENDATORY 52 O.S. 1991, Section 278, is amended to read as follows:

Section 278. ~~In addition to any penalty that may be imposed by the Corporation Commission for contempt, any~~ Any person, firm, or corporation, or any officer, agent or employee thereof, directly or indirectly ~~violating~~ breaching the provisions of this act, shall be ~~guilty of a misdemeanor, and upon conviction thereof, in a court of competent jurisdiction, shall be punished by a fine in any sum not~~

~~to exceed Five Thousand Dollars ($5,000.00), or by imprisonment in the county jail not to exceed thirty (30) days, or by both fine and imprisonment~~ liable for an administrative violation and subject to a fine of not more than Twenty Thousand Dollars ($20,000.00).

SECTION 611. AMENDATORY 52 O.S. 1991, Section 303, is amended to read as follows:

Section 303. Any person, copartnership or corporation ~~violating~~ breaching any of the provisions of this article~~,~~ shall~~, upon conviction thereof, be fined in any sum not less than Twenty-five Dollars ($25.00), nor more than Five Hundred Dollars ($500.00), in any court having competent jurisdiction in the county in which the act shall have been committed or omitted, or by being imprisoned for not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment. The amount of said penalty, when collected, shall be paid, one-half (1/2) into the public road fund, of the county in which said suit shall have been brought, and one-half (1/2) to the informer in said action~~ be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 612. AMENDATORY 52 O.S. 1991, Section 327, is amended to read as follows:

Section 327. It shall be unlawful for any person to sell, or offer for sale, any of the following liquids without first having had the same inspected as herein provided, namely: Kerosene or any burning oil; naptha; gasoline; motor fuel of any character as now or hereafter defined by law; any liquid intended to be mixed with any of the foregoing liquids to form a mixture designed to be used as in internal combustion engines for propelling automotive vehicles.

It shall be unlawful for any person to sell, or offer for sale, any mixtures or combinations of any two or more of the foregoing liquids without first having had such mixture or combination inspected as herein provided, and it shall not be an excuse or

defense to a prosecution therefor that the component liquids had previously been inspected.

If any person shall sell, or offer for sale, any of the above mentioned liquids or mixtures or combinations, without having had the same inspected as herein provided, he shall be ~~guilty of a misdemeanor and be subject to a fine of Five Hundred Dollars ($500.00) and imprisonment for ninety (90) days, or both, for each offense~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 613. AMENDATORY 52 O.S. 1991, Section 329, is amended to read as follows:

Section 329. If any person in this state shall sell or offer to sell, or in any manner dispose of, to be consumed or used in this state for illuminating purposes, any of the oils or fluids specified in the first section of this article except such oils or fluids as are expressly excepted by Section 4353, that will flash at a temperature less than one hundred fifteen degrees Fahrenheit (115o F), or shall sell or offer for sale, or in any way dispose of to be consumed or used in this state, for illuminating purposes, any of the oils and fluids aforesaid, which have been condemned by an authorized inspector of this state and the barrels, casks, or packages containing the same have been branded or marked by him as unsafe or rejected oils, the person so offending shall be ~~guilty of a misdemeanor, and upon conviction be punished by a fine not exceeding One Thousand Dollars ($1,000.00)~~ liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00).

SECTION 614. AMENDATORY 52 O.S. 1991, Section 335, is amended to read as follows:

Section 335. If any person shall refill, buy, or receive, or shall sell or deliver any empty coal oil barrel, or other receptacle used for handling such oils, without first erasing all marks or

brands now required by law to be marked or branded on a barrel by an inspector, he shall be ~~guilty of a misdemeanor~~ liable for an administrative violation; and for each barrel or other receptacle so filled with oil, sold and delivered, or bought and received shall be ~~fined not to exceed Five Hundred Dollars ($500.00)~~ subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 615. AMENDATORY 52 O.S. 1991, Section 339, is amended to read as follows:

Section 339. No person who shall bring into this State any petroleum oil or product thereof, as provided by the first section of this article, shall empty the same out of the original packages in which it is brought into this state until the same has been inspected. Any person ~~violating~~ breaching the provisions of this section shall be ~~deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not exceeding Five Hundred Dollars ($500.00)~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00), and any such person who shall bring into this state any petroleum oil or any product thereof, as provided by the first section of this article, who shall sell or otherwise dispose of the same after the same have been inspected and found to be below test as provided herein, shall be ~~deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined in any sum not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00)~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00).

SECTION 616. AMENDATORY 52 O.S. 1991, Section 341, is amended to read as follows:

Section 341. It shall be unlawful for any person to adulterate, mix or blend with any substance or substances whatsoever any of the petroleum products named in Section 11592, Compiled Oklahoma Statutes of 1931, as herein amended, without having the resultant

product inspected before it is sold or offered for sale to any person or persons.

Any person or persons ~~violating~~ breaching the provisions of this section shall be ~~deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than Three Hundred Dollars ($300.00) or more than Five Hundred Dollars ($500.00) or imprisonment for ninety (90) days, or both, for each offense~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00).

SECTION 617. AMENDATORY 52 O.S. 1991, Section 346, is amended to read as follows:

Section 346. Any person, firm, or corporation who sells, offers for sale, uses, or consumes any gasoline, kerosene, naphtha, motor fuel, and/or burning oil within the State of Oklahoma which does not comply with the rules, regulations, and/or specifications of the Corporation Commission and the laws of the State of Oklahoma, and any person who tampers with or molests any sign, lock, or seal mentioned in Section ~~6~~ 332 of this ~~act~~ title shall be ~~guilty of a misdemeanor and upon conviction be punished by a fine of not more than Five Hundred Dollars ($500.00) and imprisonment of not more than ninety (90) days, or both such fine and imprisonment; and in addition thereto he shall be guilty of contempt of the orders, rules, and regulations of the Corporation Commission, and shall be subject to a fine by said Commission in a sum not exceeding Five Hundred Dollars ($500.00)~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00) and each day on which any person, firm, or corporation ~~violates~~ breaches any of such orders, rules, and regulations shall be deemed a separate and distinct offense. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 618. AMENDATORY 52 O.S. 1991, Section 397, is amended to read as follows:

Section 397. Any person, firm or corporation, who violates any of the provisions of this act shall be ~~deemed guilty of a misdemeanor and upon conviction shall be punishable by a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00) for the first offense or by imprisonment of not more than thirty (30) days, or both, and for a second or subsequent offense, by a fine of not less than Two Hundred Dollars ($200.00), nor more than Five Hundred Dollars ($500.00), or by imprisonment of not more than one (1) year, or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 619. AMENDATORY 52 O.S. 1991, Section 420.8, as amended by Section 5, Chapter 330, O.S.L. 1994 (52 O.S. Supp. 1994, Section 420.8), is amended to read as follows:

Section 420.8 Any person, firm or corporation violating any of the provisions of this act, or any rule promulgated thereunder, or installing in this state any liquefied petroleum gas system or appliance which does not comply with such safety rules shall be ~~guilty of a misdemeanor, and upon conviction thereof~~ liable for an administrative violation and such person or the responsible members of such firm, or the responsible officers of such corporation, shall be ~~punished by~~ subject to a fine of not ~~less than Five Hundred Dollars ($500.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment~~ more than One Thousand Dollars ($1,000.00).

SECTION 620. AMENDATORY 52 O.S. 1991, Section 475, is amended to read as follows:

Section 475. Any person, association of persons, or corporation who, as purchaser thereof, shall ~~knowingly~~ fail or refuse to so measure, calculate or account for any such gas so purchased, shall be ~~subject to a penalty of not less than Ten Dollars ($10.00) nor more than Five Hundred Dollars ($500.00)~~ liable for an

administrative violation and subject to a fine of not more than Two Thousand Dollars ($2,000.00) for each offense ~~recoverable in the name of the state in any district court in Oklahoma County, wherein service may be had by the Corporation Commission~~, and each day of such ~~violation~~ breach shall constitute a separate offense. But it shall be a defense to any claim for such ~~penalty~~ fine that the Corporation Commission has not made and published the findings provided for in Section 3a, as to the particular field in question.

Nothing herein shall prevent an aggrieved party from maintaining a civil suit for damages in the county or counties in which the gas is produced.

SECTION 621. AMENDATORY 52 O.S. 1991, Section 610, is amended to read as follows:

Section 610. Any person who shall ~~disobey or~~ violate any of the provisions of this act ~~or~~ shall be liable for an administrative violation and subject to a fine of not more than Fifty Thousand Dollars ($50,000.00). Any person who shall disobey any of the orders, rules, or regulations ~~or adjudications~~ of the Commission made pursuant to this act shall be ~~punished for contempt. Punishment by the Commission in proceedings for contempt shall be imprisonment in the county jail of Oklahoma County for not more than one (1) year and/or a fine not to exceed Fifty Thousand Dollars ($50,000.00). Each day the disobedience or violation continues shall constitute a separate and additional contempt and shall be punished by separate and additional fines each in an amount not to exceed Fifty Thousand Dollars ($50,000.00). Any fine or penalty assessed under the provisions of this act shall constitute a lien upon all the property of the offender within the state, except the homestead of the offender. Before any fine or penalty shall become a lien upon any property of the offender as against third persons, a copy of the order or adjudication of the Commission assessing the fine or penalty, certified by the Secretary of the Commission, shall~~

~~be filed in the offices of the court clerk and the county clerk of the county where the property of the offender is located and entered on the judgment docket of the court of said county. If the fine is not paid to the Commission within thirty (30) days after the final order or judgment of the Commission imposing the same, the Commission shall issue an execution directed to the Director of the Commission's Oil and Gas Conservation Division to levy upon any property of the offender found within the state, and to sell and dispose of the same in the manner now provided by law and required of sheriffs in this state in the levy upon and sale of property under an execution upon a judgment of a district court of the state. All costs incurred in the issuance, execution and sale under such levy shall be taxed against the offender and collected in the same manner provided herein for the collection of such fine. All monies collected as fines or penalties under the provisions of this act shall, when paid into or received by the Commission, be paid to the State Treasurer to be deposited to the credit of the Corporation Commission Revolving Fund~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 622. AMENDATORY 53 O.S. 1991, Section 361, is amended to read as follows:

Section 361. A. Any person, or persons, making any investigations, explorations, or excavations of any prehistoric ruins, ancient burial grounds, pictographs, petroglyphs, prehistoric specimens, utensils, and trinkets, and all other archaeological features discoveries in the state on state lands, shall donate to the state all articles, implements and material found or discovered by such investigations, explorations, or excavations, which shall be deposited with a museum or other recognized repository in the state, within ninety (90) days after the permit termination date, as provided in subsection F of this section.

B. 1. The State Archaeologist, in consultation with the State Historic Preservation Officer, shall study and evaluate the museums and institutions in this state and designate appropriate curatorial facilities. The characteristics of museums and institutions to be considered in making this determination shall include:

a. the quality of the physical plant,

b. previous experience in curation, and

c. the availability of a professional staff trained in curation or archaeology.

2. All original field records, notes, photographs and other information collected, except for personal journals or diaries, or reasonable facsimilies of those records, notes, photographs and other information shall be housed in the same repository as the collections of artifacts and archaeological materials unless otherwise specified in the permit or by the State Archaeologist in consultation with the State Historic Preservation Officer.

3. All those collections of artifacts, archaeological materials, field records, maps, notes, photographs and other information collected pursuant to the provisions of this act shall be made available to the people of Oklahoma for study, examination and appreciation, provided that such availability can be arranged without contributing to the destruction or degradation of said artifacts, archaeological materials, field records, maps, notes, photographs and other information and objects and that such release of information is in the educational interest of the citizens of Oklahoma.

4. Any repository for materials as designated in accordance with paragraph 1 of this subsection may, as it deems necessary, charge a reasonable, one-time fee of a permit holder to help defray the costs of providing long-term storage of the materials.

C. Before any exploration or excavation is made in or on any prehistoric ruins or archaeological site in Oklahoma, on the

Oklahoma State Register, or on property owned by or under the control of the State of Oklahoma or any of its political subdivisions, a permit shall first be obtained from the State Archaeologist, Oklahoma Archaeological Survey.

Such permit shall be issued upon:

1. Receipt of an application from any state agency, institution, company or individual who can show cause for having such a permit for the taking, salvage, excavation, restoration or conducting of scientific or educational studies at, in or on properties defined in this subsection;

2. Payment of a fee of Fifty Dollars ($50.00);

3. Determination by the State Archaeologist of the appropriateness of the permit request. This determination shall include:

a. application on a form approved by the State Archaeologist,

b. specifications on the need for the indicated research activity and shall include a research design providing for the recovery of scientific, archaeological or historical information,

c. designation and qualifications of personnel involved in the project,

d. specifications on the location, nature of the activity and time period required for the work, and

e. a signed statement from the landowner or, for state lands, from the appropriate state agency, granting permission for access and removal of archaeological or historical specimens;

4. Signing an agreement to donate specimens or materials in compliance with subsection A of this section; and

5. A signed agreement establishing a mutually acceptable formula for determining a one-time fee, as authorized by subsection

B of this section, or that no fee will be charged by the repository for the long-term curation of deposited materials relating to the licensed project.

D. Each permit shall accurately specify the locations, nature of the activity and the time period covered by the permit, and shall authorize or permit explorations or excavations only at the described location.

E. Copies of issued permits shall be on file with the State Archaeologist and the State Historic Preservation Officer.

F. Each permit shall expire at midnight one (1) year after the date of its issuance, provided, that any permit may be revoked by the State Archaeologist, upon consultation with the State Historic Preservation Officer, at any time upon being convinced that archaeological activities authorized by the permit are being conducted unlawfully or improperly. It shall be the duty of the State Archaeologist to monitor all projects granted permits. The following shall be considered proper actions for the conducting of archaeological work under a permit:

1. One copy of the permit shall be at the site of the project, either in the possession of the Principal Investigator of the project or a designated supervisory archaeologist at the project site;

2. The permit may be examined by the State Archaeologist or his designated representative on demand at any time during the period of the permit; and

3. Investigation or excavation of archaeological sites or ruins listed on the permit must be conducted in accordance with the National Historic Preservation Act, the Archaeological Resources Protection Act of 1979, and the permit provisions of this statute, as stipulated.

The permit may be renewed if cause is shown for the need of renewal. The fee for renewal shall be at the rate for a new application.

G. A final report shall be submitted to the State Archaeologist and the State Historic Preservation Officer each within a reasonable period of time after the termination of the permitted project. Applications for new permits from delinquent permit holders shall not be granted until the delinquent final reports are delivered. This final report shall be in accordance with federal standards and the "minimal standard for reports" which have been adopted by the State Historic Preservation Officer and the Oklahoma Archaeological Survey.

H. The fees, if any, collected under the provisions of this section shall be deposited in the Revolving Fund of the University of Oklahoma, and shall be used for the payment of the expenses in making investigations and for administration costs by the State Archaeologist as set out in this section; provided, that the State Archaeologist shall not issue any permit to any person until a thorough review has been made as to the purpose, place, and condition of the proposed explorations or excavations.

I. It shall be unlawful for any person to offer for sale or to purchase any archaeological specimen knowing the same to have been acquired in violation of this act.

J. Any person in possession of articles or materials acquired in violation of this act shall forfeit them to the state, pending return to their rightful owner.

K. ~~It shall be unlawful for any person to intentionally and knowingly deface American Indian or aboriginal paintings, pictographs, petroglyphs or other marks or carvings on rock or elsewhere that are of archaeological interest and pertain to early American Indian or aboriginal habitation of the country. It shall be unlawful to willingly injure, disfigure, remove or destroy any~~

~~archaeological resources, including but not limited to, a prehistoric or historic structure, site, monument, marker, medallion, burial, burial marker or artifact without lawful authority as provided in this or related statutes. It shall be unlawful to enter onto the enclosed lands of another with the intent to intentionally injure, disfigure, remove, excavate, damage, take, dig into or destroy any archaeological remains or any prehistoric or historic site, American Indian or aboriginal campsite, artifact, burial, ruin or other materials wherever situated within the state without the consent of the owner.~~

~~L.~~ Any person ~~violating~~ breaching any of the provisions of this section shall be ~~guilty of a misdemeanor and, upon conviction,~~ liable for a civil infraction and shall forfeit to the state for final disposition all articles and materials and related records wrongfully acquired through his action or efforts, and shall also ~~be fined not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00), or imprisoned in the county jail, not exceeding thirty (30) days, or both~~ be subject to a fine of not more than One Thousand Dollars ($1,000.00).

~~M.~~ L. In order to protect and preserve historical, archaeological and scientific information, matters and objects and other archaeological remains, which may from time to time be found on privately owned lands within Oklahoma, the Legislature declares as a statement of purpose that archaeological excavations on privately owned lands should be discouraged except in accordance with and pursuant to the spirit and authority of this statute. Persons having knowledge of the location of archaeological sites in the State of Oklahoma are encouraged to communicate such information to a reputable museum, institution of higher learning, a recognized scientific or historical institution or society or the Oklahoma Archaeological Survey. Those institutions, societies or museums contacted with such information should in turn inform the State

Archaeologist, Oklahoma Archaeological Survey, so that the information may be recorded in the inventory of sites maintained for the state.

SECTION 623. AMENDATORY 56 O.S. 1991, Section 183, as amended by Section 1, Chapter 16, O.S.L. 1994 (56 O.S. Supp. 1994, Section 183), is amended to read as follows:

Section 183. A. All applications, information and records concerning any applicant or recipient obtained pursuant to law or as authorized by law by the Department of Human Services or any other public or private entity shall be confidential and shall be open to inspection only:

1. To persons duly authorized by the Department of Human Services pursuant to rule promulgated in compliance with Article I of the Administrative Procedures Act or by the United States in connection with the performance of their official duties; or

2. As otherwise authorized by law.

B. It shall be unlawful and ~~a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes for any public officer or employee, to furnish or permit to be taken off of the records any information therein contained for commercial or political purposes.

C. It shall also be unlawful and ~~a felony, punishable by imprisonment in the State Penitentiary for not to exceed two (2) years,~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes for any person, firm or corporation to publish, or to use for commercial or political purposes, any list or names obtained through access to such information or records.

SECTION 624. AMENDATORY 56 O.S. 1991, Section 233, is amended to read as follows:

Section 233. A. The Department of ~~Public Welfare~~ Human Services shall have authority to have investigations made to

ascertain the reasons why parents of children for whom the Department is making payments in its program for Aid to Families with Dependent Children are not providing for the maintenance and support of their children; and if it appears that any such parent may be violating the law in not providing for such maintenance and support, the proper district attorney shall be notified and shall be furnished with the names of pertinent witnesses and information gained from the investigation. Complaints necessary to institute prosecutions against such parents may be made by the Department's investigators; and the Department shall provide attorneys to assist district attorneys in such prosecutions.

B. A parent of a child or children for whom the Department is making payments in its program for Aid to Families with Dependent Children who fails and refuses to accept employment when employment is available shall be charged as provided in subsection A of this section.

C. A parent may not be referred for prosecution under the preceding subsection if he is registered with the Employment Registration and Certification Program of the Oklahoma Employment Security Commission and said Commission has certified that the parent is actively seeking employment or accepting training under the rules and regulations of the Employment Registration and Certification Program and that he has not refused to report for or take employment or training offered to him. A parent may not be prosecuted under the provisions of this act who is unable to work because of physical disability, mental disability or who is unable to make support payments because of a duly authorized and recognized strike at his place of employment, which prevents him from work.

D. A parent omitting to provide for the maintenance and support of a child shall be afforded an opportunity to report to the Department for training or assistance in finding employment without

referral for prosecution on the condition that he provide for such maintenance and support.

E. ~~If a parent is convicted in a prosecution under subsection A of this section it shall be mandatory that the punishment of the parent upon conviction shall include imprisonment in the county jail for not more than ninety (90) days; provided, that he may be released on probation, subject to supervision of the Department, on condition that he register with the Employment Registration and Certification Program of the Oklahoma Employment Security Commission and obtain or accept employment or training that will enable him to provide for the support and maintenance of his child or children.~~

~~F.~~ These provisions shall not apply to an only parent, caring for the child or children in the home, when day-care services are not available or when it is unreasonable to place the child or children in day-care services.

SECTION 625. AMENDATORY 56 O.S. 1991, Section 243, as amended by Section 1, Chapter 156, O.S.L. 1993 (56 O.S. Supp. 1994, Section 243), is amended to read as follows:

Section 243. ~~A. No~~ Any person who shall obtain or attempt to obtain, or aid, abet or assist any person to obtain, by means of a false statement or representation, or by false impersonation, or by a fictitious transfer, conveyance or encumbrance of property or income, or by a knowing and willful failure to report to the Department income, personal property, real property, household members, or other material eligibility factors at the time of application or during receipt of assistance, or other fraudulent device, food stamps or coupons or any card or other device authorizing participation in the food stamp program to which an applicant for food stamps or coupons or other device is not entitled or a greater amount of food stamps or coupons than that which an applicant for food stamps or coupons or other device is justly entitled or acquire, possess, use or transfer food stamps or coupons

or any card or other device authorizing participation in the food stamp program except as authorized by this act and the rules and regulations of the Oklahoma Public Welfare Commission, nor shall any person acquire or transfer food stamps or coupons or any card or other device authorizing participation in the food stamp program except in exchange for food or food products for human consumption, which shall not be construed as including alcoholic beverages, tobacco, beer containing not more than three and two-tenths percent (3.2%) of alcohol by weight or imported foods~~. Any person, firm or corporation who violates any of the provisions of this section shall be guilty of a misdemeanor, if the aggregate amount of food stamps, coupons or other device obtained or transferred is Five Hundred Dollars ($500.00) or less, and upon conviction thereof shall be fined not more than Five Hundred Dollars ($500.00) or be imprisoned for not more than three (3) months or both fined and imprisoned in the discretion of the court; or shall be guilty of a felony, if the aggregate amount of food stamps, coupons or other device obtained or transferred is in excess of Five Hundred Dollars ($500.00), and upon conviction thereof shall be fined not more than Five Thousand Dollars ($5,000.00) or be imprisoned in the penitentiary for a term not more than two (2) years or by both such fine and imprisonment in the discretion of the court~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Any store which allows purchases of prohibited items shall not be allowed to participate in the program.

~~B. Any person, firm or corporation who knowingly traffics in food stamps or coupons of an aggregate value of One Hundred Dollars ($100.00) or less shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars ($500.00), by imprisonment in the county jail for a term of not more than three (3) months, or by both such fine and imprisonment. Any person, firm or corporation who knowingly traffics in food stamps or~~

~~coupons of an aggregate value exceeding One Hundred Dollars ($100.00), or any card or other device authorizing participation in the food stamp program, shall, upon conviction, be guilty of a felony, punishable by a fine of not more than Five Thousand Dollars ($5,000.00), by imprisonment in the State Penitentiary for a term of not more than two (2) years, or by both such fine and imprisonment.~~

~~C. As used in this section, "traffic in food stamps" means to illegally transport, transfer, sell, barter or otherwise dispose of food stamps or coupons, or any card or other device authorizing participation in the food stamp program, to another, as consideration for anything of value or to make or obtain control of food stamps or coupons, or any card or other device authorizing participation in the food stamp program with intent to illegally transport, transfer, sell, barter or dispose of such food stamp, coupon, card or other device.~~

SECTION 626. AMENDATORY Section 13, Chapter 159, O.S.L. 1993 (56 O.S. Supp. 1994, Section 530.8), is amended to read as follows:

Section 530.8 A. Any certificate holder aggrieved by the decision of the Department of Human Services pursuant to the provisions of the Oklahoma Adult Companion Home Certification Act, within ten (10) days after the revocation or refusal to issue or renew the certification, may take an appeal de novo to the district court of the county in which the home is maintained and operated by filing with the clerk of the court a verified petition. Notice of such appeal shall be served on the Director of the Department within five (5) days of the date of its filing.

B. The Department, within ten (10) days of the service of such notice, shall file with the clerk of said court a transcript of the proceedings had before it. The district court shall thereupon be vested with jurisdiction to hear and determine the questions of law and fact involved, as in an appeal de novo. If the Department

prevails, the judgment of the district court shall be that the decision of the Department be affirmed. If the owner or operator of a home prevails, the judgment of the court shall be that the revocation be set aside or the certification issued or renewed, as the case may be. Pending the hearing of the appeal, the action of the Department revoking or refusing renewal of the certification or the granting thereof shall be stayed.

C. Any person or owner or operator of a home may be enjoined from maintaining and operating such home for violations of any provisions of the Oklahoma Adult Companion Home Certification Act by suit brought in the name of the state by the Attorney General of the State of Oklahoma or by a district attorney.

D. Any person or agent, representative, or officer of any home who violates any of the provisions of the Oklahoma Adult Companion Home Certification Act~~, upon conviction,~~ shall be ~~deemed guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Whenever any agent, representative, or officer of any home is ~~convicted~~ found liable under authority of the Oklahoma Adult Companion Home Certification Act, such ~~conviction~~ finding shall be sufficient grounds for the revocation of the certificate to operate a home. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 627. AMENDATORY 57 O.S. 1991, Section 55, is amended to read as follows:

Section 55. If the sheriff or jailer in charge of any county jail shall neglect or refuse to comply with any of the rules and regulations established by the district judge, or pursuant to Section 192 of Title 74 of the Oklahoma Statutes or to any other duties required of him by Sections 41 through 64 of this title, he shall~~, on conviction thereof, by indictment for each case of such failure or neglect of duty as aforesaid, pay into the county~~

~~treasury of the proper county, for the use of such county, a fine not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00) to be assessed by the district court of the proper district~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 628. AMENDATORY 57 O.S. 1991, Section 222, as amended by Section 1, Chapter 160, O.S.L. 1992 (57 O.S. Supp. 1994, Section 222), is amended to read as follows:

Section 222. A. It shall be unlawful to use prisoners assigned to said public works project on any property other than public property, except that inmate labor may be used on private property for a public purpose.

B. As used in this section "public purpose" means a purpose affecting the inhabitants of the state or political subdivision utilizing the inmate labor, as a group, and not merely as individuals. The work performed shall be essentially public and for the general good of the inhabitants of the state or political subdivision, and may include eradication of graffiti on private buildings. For purposes of this section:

1. "Graffiti" shall include but not be limited to any inscription, slogan or drawing, crudely scratched, drawn, printed, painted or scribbled on a wall or other surface visible to the public and which is likely to endanger the health or safety of the public. Provided, however, that this definition shall never be construed to include any sign or advertising device lawfully erected or installed by the owner of property or his lessee or authorized agent;

2. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.

C. The purpose of the work performed shall be to aid the federal government, a state agency or a political subdivision, utilizing the inmate labor in the exercise of a governmental

function. Any person ~~willfully~~ violating the provisions of this section shall be ~~guilty of a felony~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 629. AMENDATORY 57 O.S. 1991, Section 586, is amended to read as follows:

Section 586. No person subject to the provisions of the Sex Offenders Registration Act shall furnish any false or misleading information in the registration required by said act. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 630. AMENDATORY 57 O.S. 1991, Section 587, is amended to read as follows:

Section 587. Any person required to register pursuant to the provisions of the Sex Offenders Registration Act who ~~is convicted of violating a provision of said act shall be guilty of a misdemeanor and shall be subject to incarceration in the county jail for not more than one (1) year, to a fine of not more than One Thousand Dollars ($1,000.00), or both such fine and imprisonment~~ violates the registration or notification provisions of this act shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 631. AMENDATORY 59 O.S. 1991, Section 15.25, as amended by Section 25, Chapter 272, O.S.L. 1992 (59 O.S. Supp. 1994, Section 15.25), is amended to read as follows:

Section 15.25 A. Any individual or entity who does any of the following shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes:

1. Represents himself or itself as having received a certificate, license, or permit or otherwise holds himself or itself out to the public as being so qualified without having received such certificate, license, or permit; or

2. Continues to use such title or designation after such certificate, license, or permit has been recalled, revoked, canceled, or suspended or refuses to surrender such certificate, license, or permit; or

3. Falsely represents himself or itself as being certified or licensed as an accountant, or firm of certified or licensed accountants, or who incorrectly designates the character of the certificate, license or permit which he or it holds~~; or~~.

~~4. Otherwise~~ B. Any individual or entity who otherwise violates any of the provisions of the Oklahoma Accountancy Act~~, upon conviction shall be deemed guilty of a misdemeanor~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 632. AMENDATORY 59 O.S. 1991, Section 15.26, as amended by Section 26, Chapter 272, O.S.L. 1992 (59 O.S. Supp. 1994, Section 15.26), is amended to read as follows:

Section 15.26 Any individual holding a certificate or license who knowingly falsifies any report or statement bearing on any examination, investigation, or audit made by him or subject to his direction shall be ~~guilty of a felony, and upon conviction shall be punishable by imprisonment for a period of not more than one (1) year, or by a fine of not more than Twenty-five Thousand Dollars ($25,000.00), or both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 633. AMENDATORY 59 O.S. 1991, Section 46.17, is amended to read as follows:

Section 46.17 Any person or entity ~~convicted of violating~~ breaching any provision of The State Architectural Act, for which another penalty is not provided, shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). The continued ~~violation~~ breach of any provision of The State Architectural Act during each day shall

be deemed to be a separate offense. ~~Upon conviction thereof the person or entity shall be punished by imprisonment in the county jail not to exceed one (1) year, or by a fine of not more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment for each offense. The Board may request the appropriate district attorney to prosecute such violation and seek an injunction against such practice.~~

SECTION 634. AMENDATORY 59 O.S. 1991, Section 61.6, as amended by Section 3, Chapter 87, O.S.L. 1992 (59 O.S. Supp. 1994, Section 61.6), is amended to read as follows:

Section 61.6 Any person practicing the trade of barber, barber instructor, or apprentice barber, without having at the time a valid, unrevoked certificate, as provided in this act, or any person who as owner, lessee, manager, or in any other supervisory capacity, employs a person practicing the trade of barber, barber instructor, or apprentice barber without such person having a valid, unrevoked certificate as a barber, barber instructor, or apprentice barber, shall be ~~deemed guilty of a misdemeanor, and shall, upon conviction, be fined not to exceed One Hundred Dollars ($100.00), and each day of such practice, or each day such unlicensed person is so employed, shall constitute a separate offense. All fines under the provisions of this section shall be paid into the common school fund of the county wherein the conviction is had~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 635. AMENDATORY 59 O.S. 1991, Section 143, as amended by Section 7, Chapter 150, O.S.L. 1993 (59 O.S. Supp. 1994, Section 143), is amended to read as follows:

Section 143. A. It shall be unlawful for:

1. Any person to practice or attempt to practice podiatric medicine in this state as defined by the applicable laws or as otherwise defined, or to hold himself out to the public in this state as a podiatric physician, doctor of podiatric medicine,

podiatrist, foot doctor or foot specialist without having first obtained a license to practice podiatric medicine from the Board of Podiatric Medical Examiners, or after his license to practice podiatric medicine has been revoked, or while such license is under suspension. Any violation of the above provisions shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Provided, however, an applicant for a license by examination who has successfully passed the examination administered by the Board may practice podiatric medicine to the extent necessary to enable him to observe and assist a podiatric physician, as an intern, preceptee or resident, if while so doing he complies with all of the rules of the Board;

2. A podiatric physician to practice as such at any time when his license is not conspicuously displayed in his place of regular practice;

3. Any person to ~~knowingly~~ represent in any manner in this state, either publicly or privately, that another person is a licensed podiatric physician, doctor of podiatric medicine, podiatrist, foot doctor or foot specialist, or is capable of examining, diagnosing, recommending for, prescribing for, caring for, or treating in this state ailments, diseased conditions, deformities, or injuries of the human foot, unless such other person at the time of such representation is a licensed podiatric physician; and

4. Any podiatric physician to violate any provision of the Podiatric Medicine Practice Act or the rules of the Board.

B. Any person who does any one or more of the things made unlawful by paragraph 2, 3, or 4 of subsection A of this section shall be ~~deemed guilty of a misdemeanor and upon conviction shall be punishable by~~ liable for an administrative violation and subject to a fine of not more than Five Hundred Dollars ($500.00) ~~or by imprisonment in the county jail for not more than six (6) months, or~~

~~by both such fine and imprisonment~~. Each day of such violation shall constitute a separate and distinct offense.

SECTION 636. AMENDATORY 59 O.S. 1991, Section 155, is amended to read as follows:

Section 155. Said Board is hereby authorized to hold and conduct investigations and hearings and determine any charge or charges for revocation or suspension of any license issued by said Board, and for such purposes said Board, or any member thereof, is hereby empowered to issue subpoenas, compel the attendance of witnesses, and administer oaths. Subpoenas authorized by this act may be signed and issued by any member of said Board, and shall be served, and return of service thereof made, in the same manner as a subpoena is served out of a court of record in this state and as return in such case is made. If a person fails and refuses to attend in obedience to such subpoena, or refuses to be sworn or examined or answer any question propounded by any member of said Board or any attorney or licensee upon permission from said Board, such person shall be ~~guilty of a misdemeanor and punishable as such, upon conviction~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Board shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt. All resolutions, findings, decisions and orders of said Board, and minutes of all its meetings, shall be reduced to writing and recorded in a record to be kept by the secretary-treasurer of said Board for that purpose. Said secretary-treasurer shall keep complete records of all monies received by him as secretary-treasurer.

SECTION 637. AMENDATORY 59 O.S. 1991, Section 159.5, is amended to read as follows:

Section 159.5 Any violation of this act ~~shall constitute a misdemeanor, and shall be punishable upon conviction, by~~ for which

another penalty is not provided shall subject the violator to liability for a civil infraction and a fine of not more than ~~Five Hundred Dollars ($500.00) or imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00); and each separate day upon which any person unlawfully does a thing made unlawful by this act shall be and constitute a separate and distinct offense.

SECTION 638. AMENDATORY 59 O.S. 1991, Section 161.14, as amended by Section 7, Chapter 390, O.S.L. 1994 (59 O.S. Supp. 1994, Section 161.14), is amended to read as follows:

Section 161.14 Any person who shall practice or attempt to practice chiropractic in this state, or who shall hold himself out to the public as a practitioner of chiropractic in this state, without having first obtained an original license to practice chiropractic from the Board of Chiropractic Examiners, or after his original license to practice chiropractic has been revoked, or while such original license is under suspension, shall be ~~deemed guilty of a misdemeanor and upon conviction shall be punishable by a fine of not less than Five Hundred Dollars ($500.00) nor more than Two Thousand Dollars ($2,000.00), or by imprisonment in the county jail for not less than five (5) days nor more than thirty (30) days, or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Each day of such violation shall constitute a separate and distinct offense.

SECTION 639. AMENDATORY 59 O.S. 1991, Section 199.6, is amended to read as follows:

Section 199.6 ~~From and after the effective date of this act, it~~ A. It shall be unlawful and ~~constitute a misdemeanor, punishable upon conviction by a fine of not less than Fifty Dollars ($50.00), nor more than One Hundred Fifty Dollars ($150.00), or by imprisonment in the county jail for not more than thirty (30) days, or both such fine and imprisonment,~~ subject a person to criminal

prosecution as provided in Title 21 of the Oklahoma Statutes, for any person, firm, or corporation in this state to:

~~(a)~~ 1. Operate or attempt to operate a beauty school or beauty shop without having obtained a license therefor from the State Board of Cosmetology, as required by law.

~~(b)~~ 2. Serve as an instructor or attempt to give instruction without having obtained an instructor's license from the State Board of Cosmetology, as required by law.

~~(c)~~ 3. Practice or offer to practice cosmetology or manicuring without having obtained a license therefor from the State Board of Cosmetology, as required by law.

~~(d)~~ 4. Operate a cosmetic studio without having obtained a license therefor from the State Board of Cosmetology, as required by law.

~~(e)~~ 5. Demonstrate a cosmetic preparation without having obtained a demonstrator's license from the State Board of Cosmetology, as required by law.

~~(f)~~ 6. Permit any person in one's employ, supervision or control to practice cosmetology unless that person has obtained an appropriate license from the State Board of Cosmetology.

~~(g) Willfully violate~~ B. Any person who breaches any rule or rules adopted by the State Board of Cosmetology and approved by the Commissioner of the State Department of Health, for the sanitary management and operation of a beauty school or beauty shop~~.~~

~~(h) Violate~~ or who breaches any of the provisions of this act shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

C. The provisions of this act shall not apply to funeral directors, or to persons in the Armed Services, or to persons authorized to practice the healing arts, or nursing, while said persons are engaged in the proper discharge of their professional duties; nor shall anything in this act be construed to apply to

regularly employed sales people working in retail establishments engaged in the business of selling cosmetics in sealed packages.

SECTION 640. AMENDATORY 59 O.S. 1991, Section 328.49, is amended to read as follows:

Section 328.49 Any person, firm or corporation who shall practice or attempt to practice dentistry or dental hygiene within the State of Oklahoma, after his license or certificate of ability, respectively, shall have been revoked, or while under suspension, as herein provided, or without having complied with the provisions of this act shall be ~~guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not less than One Hundred Dollars ($100.00), and not exceeding Five Hundred Dollars ($500.00), or by imprisonment in the county jail not less than thirty (30) days nor exceeding one (1) year or by both such fine and imprisonment. Each day of such violation shall be a separate offense~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The writ of injunction, without bond, is also made available to the Board of Governors for the enforcement of this act. Any person who shall practice dentistry or dental hygiene or conduct the business of a dental laboratory in this state within the meaning of this act without having first obtained a license, certificate of ability, or permit, respectively, from the Board of Governors~~, or who violates any of the provisions of this act, the penalty for which is not herein specifically provided, shall be deemed guilty of a misdemeanor. Anyone convicted of such misdemeanor under this act shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not less than thirty (30) days nor more than twelve (12) months, or both such fine and imprisonment, in the discretion of the court~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Each day of such ~~violation~~ breach

shall be a separate offense. The writ of injunction, without bond, is also made available to the Board of Governors for the enforcement of this act. Any person, firm, or corporation ~~found guilty of~~ committing a second and subsequent ~~offense~~ administrative violation under the provisions of this act shall be ~~deemed guilty of a misdemeanor and upon conviction therefor shall be punished by imprisonment in the county jail for a period of not less than sixty (60) days, and a fine of not less than Five Hundred Dollars ($500.00), and not exceeding One Thousand Five Hundred Dollars ($1,500.00)~~ liable for an administrative violation and subject to a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00), and shall have his license, certificate of ability, or permit, respectively, revoked for a period of five (5) years by the Board of Governors of the Registered Dentists of Oklahoma. Each day of violation shall be a separate offense. In addition to any other fines or penalties provided herein, any person ~~found guilty of~~ determined by the Board to be in contempt ~~of court~~ by reason of the violation of any order or judgment of injunction prohibiting the unlicensed practice of dentistry now in effect or hereafter entered pursuant to any provision of this act, shall be ~~punished by imprisonment in the county jail for a minimum time of not less than thirty (30) days or a maximum of not more than one (1) year and by a fine of not less than Five Hundred Dollars ($500.00); and in addition, the court may require defendant to furnish a good and sufficient bond in a penal sum to be set by the court, not less than One Thousand Dollars ($1,000.00), which shall be conditioned upon future compliance in all particulars with the order or injunction entered, and in the event of failure of defendant to furnish such bond when so ordered, he shall be confined in the county jail pending his compliance therewith. Such bond shall be mandatory as to any person hereafter found guilty of a second contempt of court for violation of any such order or judgment of injunction entered~~

~~pursuant to this act, or any prior dental act~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Board shall first give an oral or written warning to such person that if he fails to comply with the order or request, the matter shall be referred for prosecution as contempt.

SECTION 641. AMENDATORY 59 O.S. 1991, Section 353.17, as amended by Section 13, Chapter 199, O.S.L. 1993 (59 O.S. Supp. 1994, Section 353.17), is amended to read as follows:

Section 353.17 A. No person shall take, use or exhibit the title of pharmacist, registered pharmacist or assistant pharmacist, either expressly or by implication, except as otherwise authorized by the Oklahoma Pharmacy Act.

B. No person, firm or corporation other than one licensed under this act shall take, use or exhibit the title "Druggist", "Doctor of Pharmacy", "R.Ph.", "D.Ph.", "Pharmacy", "Drug Store", "Drug Department", "Drugs", "Drug Sundries", "Prescriptions", or any other term, sign or device or any word in similitude thereof. Any person violating this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 642. AMENDATORY 59 O.S. 1991, Section 353.25, as amended by Section 17, Chapter 199, O.S.L. 1993 (59 O.S. Supp. 1994, Section 353.25), is amended to read as follows:

Section 353.25 A. The violation of any provision of the Oklahoma Pharmacy Act for which no penalty is specifically provided shall ~~be punishable as a misdemeanor~~ subject the violator to an administrative violation and a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00).

B. Any person who shall ~~willfully~~ make any false representations in procuring or attempting to procure for himself, or for another, registration under this act shall be ~~guilty of perjury~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 643. AMENDATORY 59 O.S. 1991, Section 353.26, as amended by Section 19, Chapter 199, O.S.L. 1993 (59 O.S. Supp. 1994, Section 353.26), is amended to read as follows:

Section 353.26 A. The Board of Pharmacy is specifically granted the power to:

1. Revoke or suspend any certificate, license or permit issued pursuant to the Oklahoma Pharmacy Act or reprimand or place on probation any holder of a certificate, license, or permit who:

a. violates any provision of the Oklahoma Pharmacy Act,

b. violates any of the provisions of Sections 2-101 et seq. of Title 63 of the Oklahoma Statutes or the Uniform Controlled Dangerous Substances Act,

c. has been convicted of a felony,

d. engages in the practice of pharmacy while incapacitated or abuses intoxicating liquors or other chemical substances,

e. conducts himself in a manner likely to lower public esteem for the profession of pharmacy,

f. has had his license placed on probation, suspended, or revoked or has been reprimanded by another State Board of Pharmacy,

g. has been legally adjudged to be not mentally competent, or

h. exercises conduct and habits inconsistent with the rules of professional conduct established by the Board; and

2. Levy administrative fines ~~not to exceed Five Hundred Dollars ($500.00) for each count of which any holder of a certificate, license, or permit has been convicted in Board hearings~~.

B. The Board, upon a sworn complaint filed with its Director, and after giving at least ten (10) days' written notice by registered or certified mail of the filing of such complaint to the

person accused therein of the date and place of a hearing thereon, to which notice shall be attached a statement of the charges contained in the complaint, is hereby authorized and empowered, if it finds that the allegations of the complaint are supported by the evidence rendered at the hearing to, by written order, revoke permanently or suspend for a designated period, the certificate, license or permit of the person charged in the complaint or reprimand or place on probation said person. The Board may, upon written application therefor and in the exercise of its official discretion, cancel said order. A person whose certificate, license or permit has been revoked or suspended or who has been reprimanded or placed on probation or fined may appeal such Board order pursuant to the Administrative Procedures Act.

SECTION 644. AMENDATORY 59 O.S. 1991, Section 354, as amended by Section 21, Chapter 199, O.S.L. 1993 (59 O.S. Supp. 1994, Section 354), is amended to read as follows:

Section 354. A. A prescription is the property of the patient for whom it is prescribed.

B. No pharmacist or assistant pharmacist shall refuse, upon request by that customer in person or through an authorized pharmacist or assistant pharmacist, to supply a reference copy in writing or by telephone.

C. No legally competent practitioner of the healing arts shall refuse to honor the request of his patient to have his prescription transferred to the registered pharmacist or pharmacy of the patient's choice.

<u>D. A breach of the provisions of this section shall be a civil infraction and subject the violator to a fine of not more than One Thousand Dollars ($1,000.00).</u>

SECTION 645. AMENDATORY 59 O.S. 1991, Section 396.12a, is amended to read as follows:

Section 396.12a A. No person shall place any chemical substance, fluid or gas on or in dead human remains who is not a licensed embalmer. This prohibition shall not apply to a registered apprentice, working under the supervision of a licensed embalmer and shall not apply to medical students or their teachers in state-maintained medical schools in this state.

B. ~~No~~ Any person who shall act or hold himself out as a funeral director, embalmer, apprentice, provide funeral services or merchandise or operate a funeral establishment or a limited service establishment without a current license or registration issued pursuant to the Funeral Services Licensing Act shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 646. AMENDATORY 59 O.S. 1991, Section 396.12d, is amended to read as follows:

Section 396.12d Any person who ~~violates~~ breaches any of the provisions of the Funeral Services Licensing Act or rule or regulation promulgated or order issued pursuant thereto, after notice and hearing pursuant to Article II of the Administrative Procedures Act, shall be subject to any of the following ~~penalties and~~ liabilities authorized by the Funeral Services Licensing Act:

1. License or certificate of apprenticeship revocation, denial, suspension or nonrenewal;

2. Administrative ~~fines~~ violations with fines of not more than One Thousand Dollars ($1,000.00);

3. Injunctive proceedings; and

4. Other disciplinary action.

~~Further, such person shall be subject to criminal penalties pursuant to the provisions of Section 396.24 of Title 59 of the Oklahoma Statutes.~~

SECTION 647. AMENDATORY 59 O.S. 1991, Section 396.12e, is amended to read as follows:

Section 396.12e A. Any person or entity who has been determined by the Oklahoma State Board of Embalmers and Funeral Directors to have violated any provision of the Funeral Services Licensing Act or any rule, regulation, or order issued pursuant thereto ~~may~~ shall be liable for an administrative ~~penalty~~ violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). The maximum administrative penalty shall not exceed Ten Thousand Dollars ($10,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Board pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Board shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act. All monies collected from such administrative penalties shall be deposited with the State Treasurer and by him placed in the "Fund of the State Board of Funeral Directors and Embalmers", created pursuant to Section 396.14 of Title 59 of the Oklahoma Statutes.

C. Any license or certificate of apprenticeship holder may elect to surrender his license or certificate of apprenticeship in lieu of said penalty but shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.

SECTION 648. AMENDATORY 59 O.S. 1991, Section 475.20, as amended by Section 17, Chapter 165, O.S.L. 1992 (59 O.S. Supp. 1994, Section 475.20), is amended to read as follows:

Section 475.20 A. Any person or entity who shall practice, or offer to practice, engineering or land surveying in this state

without being registered in accordance with the provisions of this act, or any person, firm, partnership, organization, association, corporation or other entity using or employing the words "engineer" or "engineering" or "land surveyor" or "land surveying" or any modification or derivative thereof in its name or form of business or activity except as authorized in Section 475.1 et seq. of this title, or any person presenting or attempting to use the certificate of registration or the seal of another, ~~or any person who shall give false or forged evidence of any kind to the Board or to any member thereof in obtaining or attempting to obtain a certificate of registration,~~ or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired, suspended or revoked or nonexistent certificate of registration, or who shall practice or offer to practice when not qualified, or any person who falsely claims that he is registered under Section 475.1 et seq. of this title, or any person who shall violate any of the provisions of Section 475.1 et seq. of this title, shall be ~~guilty of a misdemeanor, for the first offense and a felony for the second offense~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Each violation of any provision of Section 475.1 et seq. of this title shall constitute a separate offense. ~~Upon conviction, the person or entity shall be sentenced to pay a fine of not less than Two Hundred Fifty Dollars ($250.00), nor more than Two Thousand Dollars ($2,000.00), or be imprisoned for a period not exceeding one (1) year, or both, for each offense.~~

B. Administrative penalties:

1. Any person or entity who has been determined by the Board to have violated any provision of Section 475.1 et seq. of this title, or any rule, regulation or order issued pursuant to such provisions, may be liable for an administrative ~~penalty~~ violation and subject to a fine of not more than Two Hundred Fifty Dollars ($250.00) for each

day that the violation continues. The maximum ~~administrative penalty~~ fine shall not exceed Ten Thousand Dollars ($10,000.00) for any related series of violations.

2. The amount of the penalty shall be assessed by the Board pursuant to the provisions of subsection 1 of this section, after notice and hearing. In determining the amount of the penalty, the Board shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation, and with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of Section 475.1 et seq. of this title. All monies collected from such administrative penalties shall be deposited with the State Treasurer and placed in the "Professional Engineers and Land Surveyors Fund".

3. Any certificate of registration or certificate of authorization holder may elect to surrender the certificate of registration or certificate of authorization in lieu of said fine, but shall be permanently barred from obtaining a reissuance of the certificate of registration or certificate of authorization.

C. Legal Counsel:

The Attorney General of this state or his assistant shall act as legal advisor to the Board and render such legal assistance as may be necessary in carrying out the provisions of Section 475.1 et seq. of this title. The Board may employ counsel and necessary assistance to aid in the enforcement of such provisions, and the compensation and expenses therefor shall be paid from funds of the Board.

SECTION 649. AMENDATORY 59 O.S. 1991, Section 491, as amended by Section 10, Chapter 323, O.S.L. 1994 (59 O.S. Supp. 1994, Section 491), is amended to read as follows:

Section 491. Every person before practicing medicine and surgery or any of the branches or departments of such, within the meaning of this act, within the State of Oklahoma, must be in legal possession of the unrevoked license or certificate herein provided for, and any person so practicing in such manner within this state, who is not in such legal possession thereof, shall be ~~guilty of a misdemeanor, and shall, upon conviction thereof, in any court having jurisdiction, be fined for the first offense in any sum not less than One Thousand Dollars ($1,000.00), and not more than Five Thousand Dollars ($5,000.00), and shall, for any succeeding offense, be subject to fine in like amount, and in addition thereto, shall be imprisoned in a county jail for a period of time not less than thirty (30) days, nor more than one hundred eighty (180) days; and in~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. In all instances, each day's practice shall constitute a separate and distinct offense. It is further provided, that any person who shall render such professional services without first complying with the provisions of this act, shall, in addition to the other penalties herein provided, receive no compensation for such services.

SECTION 650. AMENDATORY 59 O.S. 1991, Section 495b, as amended by Section 21, Chapter 323, O.S.L. 1994 (59 O.S. Supp. 1994, Section 495b), is amended to read as follows:

Section 495b. Any person practicing medicine and surgery in Oklahoma as defined by law without having the legal possession of a current renewal license shall be ~~guilty of a misdemeanor and upon conviction be punished by a fine of not less than One Thousand Dollars ($1,000.00), and such~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Such practice shall constitute grounds for the revocation or suspension of his or her license to practice medicine and surgery in this state.

SECTION 651. AMENDATORY 59 O.S. 1991, Section 510, is amended to read as follows:

Section 510. It shall be the duty of all firms, associations, or corporations engaged in the practice of medicine within the meaning of this act, within the State of Oklahoma, under whatsoever name or designation, before entering the practice thereof, to report in writing to the county clerk of the county in which such business is to be conducted, the names and addresses of all physicians connected therewith who propose to practice medicine and surgery under such name or designation, or in connection therewith, within said county and state; and from time to time thereafter such additional names and addresses as may be added thereto for the purpose of engaging in such practice under such firm name and designation, shall be so reported; Provided, that nothing in this section shall operate or be construed to waive the requirements that each and every member of such firm, association or corporation so practicing medicine and surgery thereunder, shall be duly licensed to practice medicine and surgery in the State of Oklahoma. Any firm, association or corporation, or any member or agent thereof, ~~violating~~ breaching any of the provisions of this section, shall be ~~guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not to exceed One Hundred Dollars ($100.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00), and each day's practice shall be deemed a separate offense.

SECTION 652. AMENDATORY 59 O.S. 1991, Section 519.10, as amended by Section 11, Chapter 289, O.S.L. 1993 (59 O.S. Supp. 1994, Section 519.10), is amended to read as follows:

Section 519.10 Any person who holds himself out as a physician assistant or uses the title "Physician Assistant" unless certified ~~or who otherwise~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Any person who

violates ~~the~~ any other provisions of this act shall be ~~guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than Fifty Dollars ($50.00), nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not less than five (5) days nor more than thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes. Each day a violation of this act is continuing shall be punishable as a separate offense. Conviction shall also be grounds for the suspension or revocation of the physician assistant certificate.

SECTION 653. AMENDATORY 59 O.S. 1991, Section 527, is amended to read as follows:

Section 527. No person shall hold himself or herself out as an athletic trainer without first being licensed under the provisions of this act. Any person violating this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 654. AMENDATORY 59 O.S. 1991, Section 533, is amended to read as follows:

Section 533. ~~Violation of~~ Any person violating any provision of this act shall ~~be a misdemeanor and conviction shall be punishable by a fine of not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00)~~, in addition to any penalty provided in Title 21 of the Oklahoma Statutes, be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 655. AMENDATORY 59 O.S. 1991, Section 536.6, is amended to read as follows:

Section 536.6 A. No person shall practice electrolysis or hold himself out as an electrologist, or use the title "Electrologist",

or "Registered Electrologist", or the initials "R.E." or "L.E.", in this state, unless he is licensed in accordance with the provisions of the Registered Electrologist Act. No other person shall in any way, orally or in writing, in print, or by sign or transmission of sound or sight, directly or by implication, represent himself as an electrologist. Such misrepresentation~~, upon conviction, shall constitute a misdemeanor and shall be punishable as provided in the Registered Electrologist Act~~ shall subject the person to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. Nothing in the Registered Electrologist Act shall prohibit any person in the healing arts in this state under any other act from engaging in the practice for which he is duly licensed.

SECTION 656. AMENDATORY 59 O.S. 1991, Section 567.5, is amended to read as follows:

Section 567.5 A. An applicant for license to practice as a registered nurse shall submit to the Board certified written evidence that said applicant:

1. Has completed the basic professional curricula of a school of nursing approved by the Board, and holds or is entitled to hold a diploma or degree therefrom; and

2. Has met such other qualifications as the Board may prescribe in its rules and regulations.

An applicant for a license shall be required to pass a written examination in such subjects as the Board may determine. Upon successfully passing such an examination, the Board shall issue to the applicant a license to practice as a registered nurse. An applicant who fails such examination shall be subject to reexamination according to the rules and regulations of the Board. The passing criteria shall be established by the Board in its rules.

B. The Board may issue a license to practice nursing as a registered nurse without examination to an applicant who has been duly licensed as a registered nurse under the laws of another state,

territory, the District of Columbia or a foreign country, if such applicant meets the qualifications required for licensing as a registered nurse in the State of Oklahoma.

C. Any person who holds a license to practice as a registered nurse in this state shall have the right to the title "Registered Nurse" and to the abbreviation "R.N." No other person shall assume such title or use such abbreviation, or any other words, letters, signs or figures to indicate that the person using the same is a registered nurse. Any individual doing so shall be ~~guilty of a misdemeanor, which shall be punishable, upon conviction, by imprisonment in the county jail for not more than one (1) year or by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or by both such imprisonment and fine for each offense~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 657. AMENDATORY 59 O.S. 1991, Section 567.6, is amended to read as follows:

Section 567.6 A. An applicant for a license to practice as a licensed practical nurse shall submit to the Board certified evidence that the applicant:

1. Has received a high school diploma or a graduate equivalency degree;

2. Has successfully completed the prescribed curricula in a state-approved program of practical nursing and holds or is entitled to hold a diploma or certificate therefrom, or equivalent courses in a state-approved program of nursing; and

3. Such other reasonable preliminary qualification requirements as the Board may prescribe.

The applicant for a license to practice as a licensed practical nurse shall be required to pass a written examination in such subjects as the Board may require. Upon successfully passing such examination the Board shall issue to the applicant a license to

practice as a licensed practical nurse. An applicant who fails such examination shall be subject to reexamination according to the rules and regulations of the Board. The passing criteria shall be established by the Board in its rules.

B. The Board may issue a license to practice as a licensed practical nurse without examination to any applicant who has been duly licensed or registered as a licensed practical nurse, or is entitled to perform similar services under a different title, according to the laws of another state, territory, the District of Columbia or a foreign country if such applicant meets the requirements for licensed practical nurses in the State of Oklahoma.

C. Any person holding a license to practice as a licensed attendant issued by the Board, which is valid on July 1, 1953, shall be deemed to be a licensed practical nurse under the provisions of this act.

D. Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "Licensed Practical Nurse" and to the abbreviation "L.P.N." No other person shall assume such title or use such abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse.

Any individual doing so shall be ~~guilty of a misdemeanor, which shall be punishable, upon conviction, by imprisonment in the county jail for not more than one (1) year or by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or by both such imprisonment and fine for each offense~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 658. AMENDATORY 59 O.S. 1991, Section 567.9, is amended to read as follows:

Section 567.9 Except for subsection C of Section 567.5 of this title and subsection D of Section 567.6 of this title, any person

~~violating~~ breaching any of the provisions of this act shall be ~~guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars ($100.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

The writ of injunction without bond, is also made available to the Board for the enforcement of this act.

SECTION 659. AMENDATORY 59 O.S. 1991, Section 588, is amended to read as follows:

Section 588. A. No person shall practice optometry in this state or make any tests or measurements of the human eye for diagnostic purposes unless said person has been issued a certificate pursuant to the provisions of Section 584 of this title or is a physician or surgeon authorized to practice medicine in this state. No person shall impersonate a registered optometrist. No person shall buy, sell or obtain in any manner a certificate of registration or exemption issued to another. ~~Practicing or offering to practice optometry, or the public representation of being qualified to practice optometry, by any person not authorized to practice optometry shall be sufficient evidence of the violation of the provisions of Sections 581 through 604 of this title.~~ A violation of this provision shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. No optometrist shall aid or abet any person not authorized to practice optometry in this state to practice optometry. Any person who ~~violates~~ breaches any of the provisions of Sections 581 through 604 of this title shall be ~~deemed guilty of a misdemeanor, and upon conviction for each offense, shall be punished by a fine of not less than Fifty Dollars ($50.00), nor more than Five Hundred Dollars ($500.00), or imprisonment in the county jail not less than thirty (30) days, nor more than ninety (90) days, or by both said fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This provision

shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

B. Nothing in the provisions of Sections 581 through 604 of this title shall prohibit the performance of routine visual screening by a person not licensed to practice optometry in this state. Nothing in this section shall prohibit an optometry student officially enrolled in a college of optometry which is approved by the State Regents for Higher Education from performing educational functions within the institution or prohibit an instructor in such optometry college from practicing optometry so long as such practitioner is licensed in any state and his practice is limited to instruction of optometry students in an accredited Oklahoma college of optometry or state or federal hospital which is utilized as a teaching institution for students of optometry, provided such instructor has been issued a temporary license by the Oklahoma Board of Examiners in Optometry.

SECTION 660. AMENDATORY 59 O.S. 1991, Section 597, is amended to read as follows:

Section 597. ~~Violation of the provisions of this act shall be a misdemeanor. If violation hereof is by~~ A breach of any of the provisions of this act by a licensed optometrist ~~the same~~ shall constitute grounds for revocation of such license whether or not he may be also ~~charged with a misdemeanor~~ liable for a civil infraction or punished as provided in Title 21 of the Oklahoma Statutes. The Board of Examiners in Optometry shall determine the existence of a ~~violation~~ breach of this act by an optometrist and shall proceed with revocation under powers granted to said Board and in accordance with procedure prescribed in Section 585 of Title 59 of the Oklahoma Statutes. Said Board may make rules necessary for the enforcement of this act so long as such rules are not inconsistent with the provisions of this or any other law of this state.

SECTION 661. AMENDATORY 59 O.S. 1991, Section 698.14a, is amended to read as follows:

Section 698.14a A. A range of disciplinary actions is hereby made available to the State Board of Veterinary Medical Examiners which includes, but is not limited to:

1. Revocation of licensure or certification;

2. Suspension of licensure or certification;

3. Probation of licensure or certification;

4. Reprimand, censure, agreement to voluntary stipulation of facts and imposition of terms of disciplinary action; and

5. Administrative citation.

B. The Board shall be authorized, at its discretion, to take such action as the nature of the violation requires. The Board shall have the authority to impose on the licensee or certificate holder, as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting said cause, to include but not be limited to staff time, salary and travel expenses, witness fees and attorney fees and same shall be considered part of the order of the Board. The Board shall make report of action to any association, organization or entity deemed appropriate for transmittal of the public record but shall in no cause be held liable for the content of the reported action or be made a party to action taken as a result of the discipline imposed by the State Board of Veterinary Medical Examiners.

C. The president or secretary-treasurer of the Board may, at the discretion of the Board, issue a confidential letter of concern to a licensee or certificate holder when, though evidence does not warrant formal proceedings, there has been noted indications of possible misconduct by the licensee or certificate holder that could lead to serious consequences and formal action.

D. The Board may require an applicant for licensure or certification or a licensee or certificate holder to be examined on

his or her medical knowledge and skills should the Board find, after due process, that there is probable cause to believe the licensee or certificate holder or applicant may be deficient in such knowledge and skills.

E. The Board may take disciplinary action for unprofessional or dishonorable conduct, which shall include, but not be limited to:

1. Fraud or misrepresentation in applying for or procuring a license or certificate to practice veterinary medicine in any federal, state or local jurisdiction;

2. Cheating on or attempting to cheat on or subvert in any manner whatsoever the licensing examination or any portion thereof;

3. The conviction of a felony, whether or not related to the practice of veterinary medicine;

4. Conduct likely to deceive, defraud, or harm the public;

5. The making of a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, treatment or remedy prescribed by him or her or at his or her direction in the treatment of any disease or other condition of the animal;

6. Representing to a client that a manifestly incurable condition, sickness, disease or injury can be cured or healed;

7. Negligence in the practice of veterinary medicine as determined by the Board;

8. Practice or other behavior that demonstrates a manifest incapacity or incompetence to practice veterinary medicine;

9. The use of any false, fraudulent or deceptive statement in any document connected with the practice of veterinary medicine;

10. Failure to notify the Board of current address of practice;

11. Aiding or abetting the practice of veterinary medicine by an unlicensed, incompetent or impaired person;

12. Habitual use or abuse of alcohol or of a habit-forming drug or chemical which impairs the ability of the licensee or certificate holder to practice veterinary medicine;

13. Violation of any laws relating to the administration, prescribing or dispensing of controlled dangerous substances or violation of any laws of the federal government or any state of the United States relative to controlled dangerous substances;

14. Obtaining a fee by fraud or misrepresentation;

15. Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered, not to preclude the legal function of a lawful professional partnership, corporation or association;

16. Failure to report to the Board any adverse action taken by another jurisdictional body, by any peer review body, health-related licensing or disciplinary jurisdiction, law enforcement agency or court for acts or conduct related to the practice of veterinary medicine;

17. Failure to report to the Board surrender of a license or other certificate of authorization to perform functions based on the holding of a license or certificate to practice veterinary medicine or surrender of membership in any organization or association related to veterinary medicine while under investigation by that association or organization for conduct similar to or the same as acts which would constitute grounds for action as defined in the Oklahoma Veterinary Practice Act;

18. Failure to furnish the Board, its staff or agents information legally requested or failure to cooperate with a lawful investigation conducted by or on behalf of the Board;

19. Failure to pay appropriately assessed fees or failure to make any personal appearance required by the Board or any of its officers; or

20. Violation of any provisions of the Oklahoma Veterinary Practice Act or the rules and policies of the Board or of an action, stipulation or agreement of the Board.

F. The Board may commence legal action to enforce the provision of the Oklahoma Veterinary Practice Act and may exercise full discretion and authority with respect to disciplinary actions; provided it does so in accordance with Article II of the Administrative Procedures Act, Section 309 et seq. of Title 75 of the Oklahoma Statutes, and other applicable laws of this state. The Board shall take appropriate disciplinary action when required, assuring fairness and due process to the defendant. The Board or its designee may hold informal conferences at its discretion to negotiate a settlement of a dispute; provided that the conference is agreed to in writing by all parties and said conference does not preclude a hearing on the same matters. The Board may not consider the agreement binding should a hearing be held subsequent to the agreement.

G. The Board may summarily suspend a license or certificate prior to a formal hearing when it has found that such action is required to protect the public or when a person under the jurisdiction of the Board is convicted of a felony, whether or not related to the practice of veterinary medicine; provided such action is taken simultaneously with proceedings for setting a formal hearing to be held within thirty (30) days after the summary suspension. The Board may take said summary suspension action without public notice or public meeting, but may by conference telephone call or other conversant transmission of the proceedings for summary suspension, take appropriate action.

H. The Board may issue an order to any licensee or certificate holder, or obtain an injunction against any person or any corporation or association, its officers, or directors, to restrain said persons from violating the provisions of the Oklahoma Veterinary Practice Act. Violations of such injunction shall be punishable as contempt of court. No proof of actual damage to any animal shall be required for issuance of an order or an injunction,

nor shall an injunction relieve those enjoined from administrative, civil or criminal prosecution for violation of the Oklahoma Veterinary Practice Act.

I. The State Board of Veterinary Medical Examiners may suspend or revoke the license or certificate of any veterinarian holding license or certificate to practice in this state for unprofessional conduct, but no such suspension or revocation shall be made, unless otherwise provided for herein, until such be cited to appear for hearing. No such citation shall be issued except upon a sworn complaint filed with the president or secretary-treasurer of said Board charging the licensee or certificate holder with having been guilty of unprofessional conduct and setting forth the particular act or acts alleged to constitute such unprofessional conduct. In the event it comes to the attention of the Board that a violation of the rules of professional conduct may have occurred, even though a formal complaint or charge may not have been filed, the Board may conduct an investigation of such possible violation, and may, upon its own motion, institute a formal complaint. In the course of such investigation, persons appearing before the Board may be required to testify under oath.

J. Upon the filing of a complaint, either by an individual or the Board, the citation shall be issued by the president or secretary-treasurer of the Board over his or her signature and seal of the Board, setting forth the particulars of the complaint, and giving due notice of the time and place of the hearing by the Board. The citation shall be made returnable at the next meeting of the Board at which hearing is set and shall be no less than thirty (30) days after issuance of the citation. The accused shall file his or her written answer under oath with notice of intent to appear or be represented within twenty (20) days after the service upon him or her of the citation. Failure to respond to the citation within the prescribed time shall constitute default and his or her license or

certificate shall be suspended or revoked if the charges be deemed sufficient by the Board; provided, that the president or secretary-treasurer of the Board may extend the time of answer upon satisfactory showing that the defendant is for reasonable cause, unable to answer within the prescribed twenty (20) days, but in no case shall the time be extended beyond the date of the next scheduled meeting for hearing the complaint, unless continuance thereof be granted by the Board. All citations and subpoenas under the contemplation of this act shall be served in general accordance with the statutes of this state applying to the service of such documents, and all provisions of the statutes of this state relating to citations and subpoenas are hereby made applicable to the citations and subpoenas herein provided for. All the provisions of the statutes of this state governing the taking of testimony by depositions are made applicable to the taking of depositions under this act.

K. The attendance of witnesses may be compelled in such hearings by subpoenas issued by the president or secretary-treasurer of the Board over the seal thereof, and the president or secretary-treasurer shall in no case refuse to issue such subpoenas upon praecipe filed therefor accompanied by the fee set by the Board by rule for the issuance of such subpoenas. If any person refuses to obey such subpoena properly served upon him or her in such manner, the fact of such refusal shall be certified by the secretary-treasurer of the Board over the seal thereof to the district attorney of the county in which such service was had, and the court shall proceed to hear said matter in accordance with the statutes of this state then in force governing contempt as for disobedience of its own process.

L. It is hereby provided that the State of Oklahoma is a proper and necessary party in the prosecution of all such actions and hearings before the State Board of Veterinary Medical Examiners in

all matters pertaining to unprofessional conduct and disciplinary action and the Attorney General of the state, in person or by deputy, is authorized to appear in behalf thereof, and the defendant in such action shall have the right to be represented by counsel. The Board is empowered to enter into agreement with or employ one or more attorneys to conduct the business of the Board in the absence of representation by the Attorney General or his designee or in conjunction with representation by the Attorney General or his designee. The Board shall sit as a trial body and the rulings of the Board shall be by majority vote. Appeal to the rulings thereof shall be by petition to the district court of the district in which the hearing was held. The secretary-treasurer of the Board shall cause a record of all proceedings to be made and a transcript of the proceedings or any part thereof may be obtained by payment of actual cost of taking and preparation of transcript of such proceedings or part thereof.

M. All final disciplinary actions, license denials, related findings of fact and conclusions of law are matters of public record. Voluntary surrender of and voluntary limitations on the veterinarian's practice or license shall be public record.

N. Certificate holders or faculty of veterinary medical schools should report to the Board in writing any information he has that gives reason to believe a veterinarian is incompetent, guilty of unprofessional conduct or is unable to engage safely in the practice of veterinary medicine. Cause for reporting shall be for, but not limited to, the following instances:

1. Voluntary resignation from a professional partnership, corporation or practice for reason of inability to practice;

2. Malpractice claims, judgments, settlements or awards;

3. Civil or criminal convictions; or

4. Other actions that indicate inability to practice with reasonable skill and safety.

O. The Board shall consider violation of any of the Rules of Professional Conduct a violation of the Oklahoma Veterinary Practice Act section on unprofessional conduct and shall proceed with disciplinary action as set out in this act.

P. 1. In addition to other penalties prescribed by this act, any person who has been determined by the Board to have violated any provisions of this act or any rule, regulation, or order issued pursuant thereto shall be liable for an administrative ~~penalty~~ violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each day that said violation continues. The maximum administrative penalty shall not exceed Two Thousand Dollars ($2,000.00) for any related series of violations.

2. The amount of the penalty shall be assessed by the Board pursuant to the provisions of paragraph 1 of this subsection, after notice and hearing. In determining the amount of the penalty, the Board shall include, but not be limited to, consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of this act.

3. All penalties collected pursuant to the provisions of this subsection shall be deposited in the Veterinary Medical Examiners Fund.

SECTION 662. AMENDATORY 59 O.S. 1991, Section 698.26, as amended by Section 6, Chapter 56, O.S.L. 1992 (59 O.S. Supp. 1994, Section 689.26), is amended to read as follows:

Section 698.26 A. Any person certified as a veterinary technician, who practices veterinary medicine contrary to this act, shall be ~~guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes and also subject to revocation of certification by the Board.

B. The penalties provided in subsection A of this section shall not apply to a student enrolled in an accredited school of veterinary technology while the student is under the supervision of an instructor and is performing activities required as a part of the student's training.

C. Any veterinarian permitting or directing a veterinary technician, aide or animal attendant to perform a task or procedure in ~~violation~~ breach of this act shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) and subject to revocation or suspension of his license by the Board.

SECTION 663. AMENDATORY 59 O.S. 1991, Section 725.3, is amended to read as follows:

Section 725.3 Any person who shall violate the provisions of this act shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not less than five (5) days nor more than thirty (30) days, or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Each day this act is violated shall constitute a separate offense and shall be punishable as such.

SECTION 664. AMENDATORY 59 O.S. 1991, Section 725.4, as last amended by Section 2, Chapter 165, O.S.L. 1993 (59 O.S. Supp. 1994, Section 725.4), is amended to read as follows:

Section 725.4 A. Any health or mental health care professional or health care provider who refers patients or clients to a testing center or laboratory shall provide written disclosure to such patient or client or the guardian of such patient or client of any financial interest of the professional or provider in the center or laboratory or any remuneration received by the professional or

provider for referrals to the center or laboratory. Provided, however, that disclosure shall not be required where:

1. The testing center or laboratory is an extension of or ancillary to the health or mental health care professional's or health care provider's practice;

2. The testing center or laboratory is not a separate business entity and is not billed as a separate entity; and

3. The health or mental health care professional or health care provider provides for and supervises the services at the facility.

B. Any person who has been determined to be in violation of subsection A of this section by the State Board of Health, after notice and a hearing by the Board shall be liable for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) or~~ more than One Thousand Dollars ($1,000.00).

C. In addition to any other penalties or remedies provided by law:

1. A violation of this section by a health or mental health care professional or health care provider shall be grounds for disciplinary action by the state agency licensing, certifying or registering such professional or provider; and

2. A state agency licensing, certifying or registering such professional or provider may institute an action to enjoin violation or potential violation of this section. The action for an injunction shall be in addition to any other action, proceeding or remedy authorized by law.

SECTION 665. AMENDATORY 59 O.S. 1991, Section 731.4, is amended to read as follows:

Section 731.4 Any person who shall ~~violate~~ breach the provisions of this act shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Fifty Dollars ($50.00), nor more than Five Hundred Dollars~~

~~($500.00), or by imprisonment in the county jail for not less than five (5) days, nor more than thirty (30) days, or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Each day upon which this act shall be violated shall constitute a separate offense and be punishable as such.

SECTION 666. AMENDATORY 59 O.S. 1991, Section 858-401, as amended by Section 2, Chapter 54, O.S.L. 1993 (59 O.S. Supp. 1994, Section 858-401), is amended to read as follows:

Section 858-401. A. In addition to any other ~~penalties provided by law,~~ violation of Title 21 of the Oklahoma Statutes, any person unlicensed pursuant to The Oklahoma Real Estate License Code who ~~shall willingly and knowingly violate~~ violates any provision of this Code~~, upon conviction, shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

B. In addition to any civil or criminal actions authorized by law, the Commission, the Attorney General, or the district attorney may apply to the district court in the county in which a violation of this act has allegedly occurred for an order enjoining or restraining the unlicensed person from continuing the acts specified in the complaint. The court may grant any temporary or permanent injunction or restraining order, without bond, as it deems just and proper.

SECTION 667. AMENDATORY 59 O.S. 1991, Section 887.16, is amended to read as follows:

Section 887.16 A. No person shall advertise, in any manner, or otherwise represent himself as a physical therapist or physical therapist assistant or as a provider of physical therapy services

unless such person is licensed pursuant to the provisions of the Physical Therapy Practice Act.

B. ~~Any~~ In addition to any violation of Title 21 of the Oklahoma Statutes, any person who ~~violates~~ breaches any provision of the Physical Therapy Practice Act shall be ~~found guilty of a misdemeanor and upon conviction shall be subject to punishment pursuant to the provisions of Section 491 of this title~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) and to one or more of the following actions which may be taken by the State Board of Medical Examiners in consultation with the Physical Therapy Committee:

1. Revocation of license;

2. Suspension of license not to exceed six (6) months from the date of hearing;

3. Invocation of restrictions in the form of probation as defined by the Board; or

4. For emergency situations where the question of continued right to practice is a threat to public welfare, utilization of procedures as outlined in Section 481 et seq. of this title regarding physicians.

SECTION 668. AMENDATORY 59 O.S. 1991, Section 887.17, is amended to read as follows:

Section 887.17 Any person licensed under this act as a physical therapist or physical therapist assistant shall treat human ailments by physical therapy only under the referral of a person licensed as a physician or surgeon with unlimited license and Doctors of Dentistry, Chiropractic and Podiatry, with those referrals being limited to their respective areas of training and practice. Nothing in this act shall prevent a physical therapist from performing screening and educational procedures within the scope of physical therapy practice without a physician referral. Nothing in this act shall be construed as authorization for a physical therapist or

physical therapist assistant to practice any branch of the healing arts. Any person ~~violating~~ breaching the provisions of this act shall be ~~guilty of a misdemeanor as per Section 887.16 of this title~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00).

The provisions of this act are not intended to limit the activities of persons legitimately engaged in the nontherapeutic administration of baths, massage, and normal exercise. This act shall not prohibit students who are enrolled in schools of physical therapy approved by the Board from performing such work as is incidental to their course of study; nor shall it prevent any student in any recognized school of the healing arts in carrying out prescribed courses of study; provided such school is a recognized institution by the statutes of Oklahoma, and its practitioners are duly licensed as prescribed by law. Nothing in this act shall apply to any person employed by an agency, bureau, or division of the federal government while in the discharge of official duties, however, if such individual engages in the practice of physical therapy outside the line of official duty, he must be licensed as herein provided.

SECTION 669. AMENDATORY 59 O.S. 1991, Section 888.15, is amended to read as follows:

Section 888.15 A. Any person holding a license as occupational therapist issued by the Board may use the title "Occupational Therapist", "Registered Occupational Therapist", or "Licensed Occupational Therapist", or the letters "O.T.", "O.T.R.", or "O.T.R./L.". Any person holding a license as an occupational therapy assistant issued by the Board may use the title "Occupational Therapy Assistant", "Certified Occupational Therapy Assistant", or "Licensed Occupational Therapy Assistant" or use the letters "O.T.A.", "C.O.T.A.", or "O.T.A./L.". No other person shall in any way, orally or in writing, in print, or by sign or

transmission of sound or sight, directly or by implication, represent himself as an occupational therapist. Such misrepresentation~~, upon conviction,~~ shall ~~constitute a misdemeanor and shall be punishable as herein provided; provided~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes, however, that nothing in this act shall prohibit any person who does not in any way assume or represent himself to be an occupational therapist, registered occupational therapist, licensed occupational therapist, occupational therapy assistant, certified occupational therapy assistant, or licensed occupational therapy assistant, from doing other types of therapies as may be authorized by law.

B. ~~Any person who obtains, or attempts to obtain, licensure as an occupational therapist or occupational therapy assistant by any willful misrepresentation, grossly negligent misrepresentation, or any fraudulent misrepresentation, upon conviction, shall be guilty of a misdemeanor and punishable as herein set forth.~~

~~C. Any~~ In addition to any violation of Title 21 of the Oklahoma Statutes, a person who ~~violates~~ breaches any provisions of this act~~, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) or by imprisonment in the county jail in the county in which such conviction occurred for not less than five (5) days nor more than thirty (30) days, or by both such fine and imprisonment~~ shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Each day upon which this act shall be ~~violated~~ breached shall constitute a separate offense and shall be punishable as such.

SECTION 670. AMENDATORY 59 O.S. 1991, Section 943.1, is amended to read as follows:

Section 943.1 A. No person, firm or corporation shall publish or display, or cause or permit to be published or displayed in any

newspaper or by radio, television, window display, poster, sign, billboard or any other means, any statement or advertisement concerning ophthalmic lenses, frames, eyeglasses, spectacles or parts thereof, that is fraudulent, deceitful or misleading, including statements or advertisements of discount, premiums, price, gifts or any statements or advertisements of a similar nature, import or meaning or which is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts.

B. No person, firm or corporation shall publish or display or cause or permit to be published or displayed in any newspaper, or by radio, television, window display, poster, sign, billboard or any other means of media, any statement or advertisement of or reference to the price or prices of any eyeglasses, spectacles, lenses, frames or any other optical device or materials or parts thereof requiring a prescription from a licensed physician or optometrist unless such person, firm or corporation complies with the provisions of subsections C through E of this section.

C. Any advertisement or statement published or displayed that contains the price of an item in any of the following categories:

1. Single vision lenses;

2. Kryptok bifocal lenses;

3. Regular bifocal lenses;

4. Trifocal lenses;

5. Aphakic lenses;

6. Prism lenses;

7. Double segment bifocal lenses;

8. Subnormal vision lenses;

9. Tinted lenses; and

10. Frames;

or any other items advertised shall also contain the prices of all items in the same category. All items and prices shall be published or displayed with equal prominence. No advertisement that shows the

price of items listed in the categories shown above shall contain any language which directly or indirectly compares the prices so quoted with any other prices of similar items. In showing the price of all items in any category, it shall be permissible to combine two or more categories into one general category of "all other lenses" and designate the price thereby of "up to $_____," which represents the highest price of any lenses included within this combined general category. Should there be a category in which two or more price differentials exist, it shall be permissible for the category to have a single listing in the advertisement with the lowest and the highest price in the category designated.

D. In the event the dispensing optician owns more than one office, the prices for all eyeglasses, spectacles, lenses, frames or other optical devices or materials or parts thereof in the same category shall be the same in all offices located within the same county or city regardless of the name under which the dispensing optician operates the offices.

E. All items advertised by price in accordance with this section shall be available at the advertised price without limit to quantity unless the advertisement contained quantity limitations to all persons including, but not limited to, individuals, physicians, optometrists and dispensing opticians.

F. Any advertisement quoting a price or prices of spectacles, eyeglasses and other optical appliances only, shall contain a readily legible statement that the quoted price or prices "Does not include professional services of an examining optometrist or physician."

G. Dispensers of optical appliances or devices are subject to the Oklahoma Deceptive Trade Practices Act, as provided in Sections 51 through 55 of Title 78 of the Oklahoma Statutes, and in addition to the civil remedies provided therein, it shall be a misdemeanor for any dispenser of optical appliances or devices as defined herein

to knowingly commit a deceptive trade practice as defined in the Oklahoma Deceptive Trade Practices Act.

H. ~~A~~ In addition to any violations of Title 21 of the Oklahoma Statutes, a person who ~~violates~~ breaches any provision of this act is ~~guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) or by confinement in the county jail for not less than two (2) months nor more than six (6) months, or both~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). A separate offense is committed each day a ~~violation~~ breach of this act occurs or continues. Should the violator be an optometrist, such violation also constitutes grounds for revocation of his license to practice optometry. Provided, however, the owner, officer or employee of any advertising media, not otherwise having a pecuniary interest in any advertising authorized by the provisions of this act, shall not be ~~guilty of the misdemeanor~~ liable for the civil infraction hereinabove defined by reason of the publishing or other delivery of any advertising furnished by a vendor of the service or material so advertised.

SECTION 671. AMENDATORY 59 O.S. 1991, Section 946, is amended to read as follows:

Section 946. Any person, firm, company, corporation, or partnership ~~violating~~ breaching any of the provisions~~,~~ of this act shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished for each such offense, as provided by law~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00), and in addition thereto may be enjoined by a court of competent jurisdiction for any further violations of the provisions of this act. It shall be the mandatory duty of the district attorneys of the respective counties to bring such injunction suits when a verified complaint is filed with such district attorney alleging any violations of this act. This act

shall not supercede other laws, but shall be cumulative to other statutes of the State of Oklahoma.

SECTION 672. AMENDATORY 59 O.S. 1991, Section 989, is amended to read as follows:

Section 989. Every person, firm or corporation, either as principal or agent, who shall in any manner engage in, or conduct a public auction sale, without having first obtained a license as hereinbefore provided, or who shall ~~knowingly~~ advertise, represent or hold forth any sale of goods, wares or merchandise to be conducted contrary to the provisions of this act shall be ~~deemed guilty of a misdemeanor and shall upon conviction thereof be fined in any sum not less than Two Hundred Dollars ($200.00) and not more than One Thousand Dollars ($1,000.00), to which may be added imprisonment of not less than thirty (30) days and not more than one hundred eighty (180) days~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 673. AMENDATORY 59 O.S. 1991, Section 1002, as amended by Section 1, Chapter 236, O.S.L. 1993 (59 O.S. Supp. 1994, Section 1002), is amended to read as follows:

Section 1002. The State Board of Health, in pursuance of its general power of supervision over the interests of the health and life of the citizens of this state, and over the sanitary conditions under which they live, is hereby authorized, empowered and directed, through the Commissioner of Health, to make, prescribe, enforce, amend and repeal rules and regulations governing the examination and licensing of persons desiring or intending to engage in the business, trade or calling of master plumber (plumbing contractor) or journeyman plumber, the registering of and issuing of certificates to persons desiring or intending to work or act as a plumber's apprentice~~, the establishment and levying of~~

~~administrative fines, the initiation of disciplinary proceedings, the requesting of prosecution of and initiation of injunctive proceedings against any~~. Any person who ~~violates~~ breaches any of the provisions of this act or any rule promulgated pursuant to this act~~, and to~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). The Board may also initiate appropriate injunctive proceedings against any person breaching this act. The Board may also establish bonding requirements for the issuance of a license as a plumbing contractor, provided, such rules and regulations shall not be inconsistent with the terms and conditions hereinafter provided. Such bonding requirements shall allow the filing of cash or a certificate of deposit in lieu of a bond. A state bond or cash or certificate of deposit filed in lieu of a bond and which is posted pursuant to the provisions of this section shall be deemed sufficient to meet the requirements of any municipality, provided that a copy of said bond or documentation of cash or certificate of deposit filed in lieu of a bond shall be filed with any municipality in which the licensee does work as a plumbing contractor. A copy of the bond or documentation of cash or certificate of deposit filed in lieu of a bond shall be filed with the municipality prior to the commencement of any such work by the licensee. The State Board of Health shall establish a Grand Master Plumbing License for contractors in Oklahoma which will include all plumbing licenses in one license on an annual basis.

SECTION 674. AMENDATORY 59 O.S. 1991, Section 1019, is amended to read as follows:

Section 1019. Any person, firm, partnership, association or corporation who shall ~~violate~~ breach any of the provisions of this act, or any provision of an ordinance or regulation enacted by a city, town, or sewer commission, by authority of this act shall, in addition to suffering possible suspension or revocation of a

license, ~~be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00), together with the costs of prosecution~~ or conviction under a provision of Title 21 of the Oklahoma Statutes, be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 675. AMENDATORY 59 O.S. 1991, Section 1044, is amended to read as follows:

Section 1044. Any person ~~convicted of~~ determined to be acting or performing as a building and construction inspector without the proper license shall be ~~guilty of a misdemeanor and shall be punished by a fine of not less than Two Hundred Fifty Dollars ($250.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00), together with the costs of prosecution~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Each day of violation shall constitute a separate offense.

Any entity who employs an unlicensed person to perform the duties and responsibilities of a building and construction inspector or who fails to notify the Commissioner of the employment of an inspector shall be subject to administrative penalties pursuant to the provisions of Section 1-1701 and 1-1701.1A of Title 63 of the Oklahoma Statutes.

SECTION 676. AMENDATORY 59 O.S. 1991, Section 1115, as amended by Section 288, Chapter 145, O.S.L. 1993 (59 O.S. Supp. 1994, Section 1115), is amended to read as follows:

Section 1115. Any public officer who shall ~~knowingly violate~~ breach any provision of the Waterworks and Wastewater Works Operator Certification Act shall upon conviction thereof be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). If any county, district, municipality, or any agency or instrumentality thereof, or

any state board, institution, agency, instrumentality, or commission shall ~~violate~~ breach any provision of the Waterworks and Wastewater Works Operator Certification Act, each of the members of the governing board thereof who shall vote for or otherwise approve of such ~~violation~~ breach shall ~~upon conviction thereof be guilty of a misdemeanor~~ be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Every other person who shall violate any provision of the Waterworks and Wastewater Works Operator Certification Act shall ~~upon conviction thereof be guilty of a misdemeanor. Any person guilty of a misdemeanor hereunder shall, upon conviction thereof, be punished by a fine of not to exceed One Hundred Dollars ($100.00), or by imprisonment in the county jail for not to exceed thirty (30) days, or by both such fine and imprisonment~~ be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 677. AMENDATORY Section 298, Chapter 145, O.S.L. 1993 (59 O.S. Supp. 1994, Section 1150.9), is amended to read as follows:

Section 1150.9 A. The Commissioner shall issue a registration as a sanitarian to any person who:

1. Has been certified by the Council as either having successfully passed the appropriate examination or having a valid license issued by another governmental entity with registration requirements similar to those provided in the Oklahoma Sanitarian Registration Act; and

2. Has paid the license fee and otherwise complied with the provisions of the Oklahoma Sanitarian Registration Act.

B. Any person practicing as a sanitarian without a license shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. All licenses shall be nontransferable and ~~it shall be a misdemeanor for~~ any person licensed under the provisions

of the Oklahoma Sanitarian Registration Act ~~to loan or allow~~ who loans or allows the use of such registration by any other person shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

C. Until January 1, 1994, the Council shall, upon proper application, issue registrations without examinations and without payment of additional fees to persons who prior to October 1, 1993, hold unexpired registrations as sanitarians issued by the Commissioner, and who have otherwise complied with the requirements of the Oklahoma Sanitarian Registration Act. This registration must be produced as a prerequisite to obtaining a registration.

SECTION 678. AMENDATORY 59 O.S. 1991, Section 1215, is amended to read as follows:

Section 1215. The Board shall issue a license upon payment of the registration fee as provided for in this act to any applicant who, in the opinion of the Board, has satisfactorily met all the requirements of the act. Licenses shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman and secretary of the Board under seal of the Board. The issuance of a license by the Board shall be evidence that the person named therein is entitled to all the rights and privileges of a licensed forester while the said license remains unrevoked or unexpired. Plans, maps, specifications, and reports issued by a registrant shall be endorsed with his name and license number. It shall be a ~~misdemeanor~~ civil infraction for anyone to endorse any plan, specifications, estimate, or map unless he shall have actually prepared such plan, specification, estimate, or map or shall have been in the actual charge of the preparation and/or responsible therefor. Any violator shall be subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 679. AMENDATORY 59 O.S. 1991, Section 1220, is amended to read as follows:

Section 1220. Any person who shall practice or offer to practice the profession of forestry as a registered forester in this state, without being registered in accordance with the provisions of this act, or any person who shall use in connection with his name or otherwise assume, use, or advertise any title or description tending to convey the impression that he is a registered forester, without being registered in accordance with the provisions of this act, or any person who shall present or attempt to use as his own the license of another, ~~or any person who shall give any false or forged evidence of any kind to the Board, or any member thereof, in obtaining a license,~~ or any person who shall attempt to use an expired or revoked license~~, or any~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Any person, firm, partnership, or corporation who shall ~~violate~~ breach any of the provisions of this act, shall be ~~guilty of a misdemeanor and upon conviction thereof shall be fined not less than One Hundred Dollars ($100.00) or more than Five Hundred Dollars ($500.00), and such monies shall be impounded by the Board~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). The Board, or such person or persons as may be designated by the Board to act in its stead, is empowered to prefer charges for any violations of this act in any court of competent jurisdiction. It shall be the duty of all duly-constituted officers of the law of this state to enforce the provisions of this act and to prosecute any persons, firms, partnerships, or corporations violating the same. The Attorney General of the state or his designated assistant shall act as legal advisor of the Board and render such assistance as may be necessary in carrying out the provisions of this act.

SECTION 680. AMENDATORY 59 O.S. 1991, Section 1270, is amended to read as follows:

Section 1270. It shall be ~~a misdemeanor~~ unlawful for any person to: (1) use in connection with his or her name any designation tending to imply that he or she is a licensed social worker or licensed social work associate unless he or she is duly and respectively licensed under the provisions of this law; or (2) use in connection with his or her name any designation tending to imply that he or she is licensed under the provisions of this law during the time his or her license shall be suspended or revoked~~; or (3) otherwise violate~~. It shall be a civil infraction subject to a fine of not more than One Thousand Dollars ($1,000.00) for any violation of the provisions of this ~~law~~ section. ~~All such misdemeanors shall be punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00).~~

SECTION 681. AMENDATORY 59 O.S. 1991, Section 1318, is amended to read as follows:

Section 1318. A. Any bail bondsman who discontinues writing bail bonds during the period for which he is licensed shall notify the clerks of the district courts and the sheriffs with whom he is registered and return his license to the Commissioner for cancellation within thirty (30) days from such discontinuance. Prior to the discontinuance of licensure, the bail bondsman shall make and submit to the Commissioner a list of all outstanding bonds and obtain a release for each bond that he has written from the court clerk or sheriff of each county in which a bond is written or an affidavit from another bondsman stating that such bonds have been transferred to his care.

B. Any person ~~convicted of violating~~ breaching this section shall be ~~guilty of a misdemeanor and upon conviction thereof, be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment for not less than six (6) months nor more than one (1) year, or by~~

~~both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 682. AMENDATORY 59 O.S. 1991, Section 1336, as amended by Section 9, Chapter 98, O.S.L. 1992 (59 O.S. Supp. 1994, Section 1336), is amended to read as follows:

Section 1336. Any person ~~violating~~ breaching any of the provisions of this act relating to bondsman for which another penalty is not specified shall~~, upon conviction,~~ be ~~fined~~ liable for a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each offense~~, or imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment~~.

Any person acting as a bondsman without a license shall be subject to ~~the penalties provided in this section~~ criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 683. AMENDATORY 59 O.S. 1991, Section 1374, is amended to read as follows:

Section 1374. Any person who~~, after the first day of January, 1966,~~ represents himself to be a psychologist or engages in the practice of psychology within this state without being licensed or exempted in accordance with the provisions of this act is ~~guilty of a misdemeanor and, upon conviction, shall be fined not more than Five Hundred Dollars ($500.00) or be confined in jail for not more than six (6) months, or both. Each day of violation is a separate offense~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 684. AMENDATORY 59 O.S. 1991, Section 1408, is amended to read as follows:

Section 1408. (a) Anyone acting as a junk dealer without a license, as required by Section 2 of this act, is ~~guilty of a misdemeanor and, upon conviction thereof, is subject to a fine of Fifty Dollars ($50.00)~~ subject to criminal prosecution as provided

in Title 21 of the Oklahoma Statutes; provided that each day's operation without a license constitutes a separate offense.

(b) Any junk dealer failing to maintain records, as required by Section 6 of this act, and any junk dealer failing to hold copper material, as required by Section 7 of this act, is ~~guilty of a misdemeanor and, upon conviction thereof, is subject to a fine of Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

(c) Any person who ~~knowingly~~ gives false information with respect to the information required in Section 6 of this act is ~~guilty of a misdemeanor and, upon conviction thereof, is subject to a fine not to exceed Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). A violator may also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

(d) Each ~~conviction of a junk dealer for violation of~~ determination that a junk dealer has breached any provision of this act shall be reported to the Oklahoma Tax Commission by the clerk of the court rendering such verdict.

SECTION 685. AMENDATORY 59 O.S. 1991, Section 1474, is amended to read as follows:

Section 1474. A. Any person ~~who violates any provision of this act or any person who falsely states or represents that he has been or is a polygraph examiner or trainee or that he is qualified to apply instrumentation to the detection of deception or verification of truth of statements shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Thousand Dollars ($5,000.00) or by imprisonment in the county jail for a term of not to exceed six (6) months, or both such fine and imprisonment~~ claiming to be a licensed polygraph examiner who does not hold such

license shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. 1. In addition to the penalties authorized by this section, any person who has been determined by the Board to have ~~violated~~ breached any provision of the Polygraph Examiners Act or any rule, regulation, or order issued pursuant thereto may also be liable for ~~a penalty assessed by the Board~~ an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00) for any related series of ~~violations~~ breaches.

2. The amount of the ~~penalty~~ fine shall be assessed by the Board pursuant to the provisions of paragraph 1 of this subsection, after notice and hearing pursuant to Sections 310 through 326 of Title 75 of the Oklahoma Statutes. In determining the amount of the ~~penalty~~ fine, the Board shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with state laws.

3. Any person aggrieved by a final order or other final determination of the Board may petition for a judicial review for rehearing, reopening or reconsideration of the matter as provided for in Title 75 of the Oklahoma Statutes. If an appeal is not made by the person to whom such an order is directed within thirty (30) days after notice has been sent to the parties, the order of the Board shall become final and binding on all parties and shall be docketed with the district court in the county of the residence of the violator, or the district court in the county in which the violation occurred. The order shall be enforced in the same manner as an order of the district court.

C. Except as otherwise expressly provided by law, any notice, order or other instrument issued by or pursuant to authority of the

Board may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by certified mail, return receipt requested, directed to the person affected at his last-known post office address as shown by the files or records of the Council. Proof of service shall be made as in the case of service of a summons or by publication in a civil action or may be made by the affidavit of the person who did the mailing. Such proof of service shall be filed in the office of the Council.

Every certificate or affidavit of service made and filed as provided for in this section shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.

D. Any ~~penalty~~ fine assessed under the provisions of this section shall constitute a lien upon all the property of said violator within this state except the homestead of the violator. Before any such ~~penalty~~ fine becomes a lien upon such property as against third persons, a copy of the order of the Board assessing the penalty shall be filed in the office of the county clerk of the county wherein the property is located. The copy of the order shall be filed and may be enforced as provided by the provisions of Section 143.1 and Sections 171 through 178 of Title 42 of the Oklahoma Statutes.

E. Any ~~penalties~~ fines collected by the Board pursuant to this section shall be deposited in the State Treasury to the credit of the Polygraph Examiners Fund.

SECTION 686. AMENDATORY 59 O.S. 1991, Section 1512, as amended by Section 5, Chapter 280, O.S.L. 1992 (59 O.S. Supp. 1994, Section 1512), is amended to read as follows:

Section 1512. A. Rule Making Power. The Administrator shall have the same authority to adopt, amend and repeal rules as is conferred upon him by paragraph (e) of subsection (1), and

subsections (2) and (3) of Section 6-104 of Title 14A of the Oklahoma Statutes, as applicable, and such rules shall have the same effect as provided in subsection (4) of Section 6-104 thereunder. In addition, the Administrator may adopt, amend and repeal such other rules as are necessary for the enforcement of the provisions of Section 1501 et seq. of this title and consistent with all its provisions.

B. Administrative Enforcement. Compliance with the provisions of this act may be enforced by the Administrator who may exercise, for such purpose, all the powers enumerated in Part 1 of Article 6, Title 14A of the Oklahoma Statutes, in the same manner as in relation to consumer credit transactions under that act, as well as those powers conferred in this act.

C. ~~Criminal Penalties.~~ 1. Any person who engages in the business of operating a pawnshop without first securing the license prescribed by this act shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not in excess of One Thousand Dollars ($1,000.00), by confinement in the county jail for not more than six (6) months or by both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Any pawnbroker who does not allow a peace officer to examine his transactions, books, accounts and other records shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each such refusal or failure.

2. ~~Any person selling or pledging property to a pawnbroker who uses false or altered identification or a false declaration of ownership as related to the provisions of Section 1515 of this title shall be guilty of a felony and upon conviction shall be punished by imprisonment in the State Penitentiary not to exceed five (5) years or in the county jail not to exceed one (1) year, or by a fine not to exceed Five Hundred Dollars ($500.00), or by both such imprisonment and fine.~~

~~3.~~ Any person who fails to repay a pawnbroker the full amount received from a pawn or buy transaction after being officially notified by a peace officer that the goods he pledged or sold in that transaction were stolen or embezzled shall be ~~guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for a term not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars ($500.00), or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

D. Private Enforcement. 1. If any person engages in the business of operating a pawnshop without first securing the license prescribed by this act, or if any pawnbroker contracts for, charges or receives a pawn finance charge in excess of that authorized by this act, the pawn transaction shall be void and the customer is not obligated to pay either the amount financed or the pawn finance charge in connection with the transaction, and upon the customer's demand, the pawnbroker shall be obligated to return to the customer, as a refund, all amounts paid in connection with the transaction by the customer and the pledged goods delivered to the pawnbroker in connection with the pawn transaction or their value if the goods cannot be returned. If a customer is entitled to a refund under this section and a pawnbroker liable to the customer refuses to make the refund within a reasonable time after demand, the customer shall have an action against the pawnbroker and in the case of a successful action to enforce such liability, the costs of the action together with attorney's fees as determined by the court shall be awarded to the customer.

2. A pawnbroker who fails to disclose information to a customer entitled to the information under this act is liable to that person in an amount equal to the sum of:

a. twice the amount of the pawn finance charge in connection with the transaction, or One Hundred Dollars ($100.00), whichever is greater; and

b. in the case of a successful action to enforce the liability under paragraph 1 of this subsection, the costs of the action together with reasonable attorneys' fees as determined by the court.

SECTION 687. AMENDATORY 59 O.S. 1991, Section 1523, is amended to read as follows:

Section 1523. No person, unless exempt by this act, shall operate as a dealer or employee as defined in this act without first obtaining a license from the Administrator specifically authorizing the person to act in such capacity. Any person breaching this provision shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 688. AMENDATORY 59 O.S. 1991, Section 1529, is amended to read as follows:

Section 1529. ~~Willful violation of~~ Any person breaching any of the provisions of this act for which a penalty is not otherwise provided shall be ~~a misdemeanor upon first conviction punishable by not more than thirty (30) days in the county jail or by a fine not to exceed Five Hundred Dollars ($500.00) or both~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Subsequent convictions of a willful violation of this act shall be a felony punishable by not more than three (3) years in a state penitentiary.

SECTION 689. AMENDATORY 59 O.S. 1991, Section 1619, is amended to read as follows:

Section 1619. A. The license of any licensee under this act may be suspended or revoked or a reprimand may be issued by the Board upon proof that the licensee:

1. Has been guilty of fraud or deceit in connection with his services rendered as a speech pathologist and/or audiologist;

2. Has aided or abetted a person who is not a licensed speech pathologist and/or audiologist and who is not an employee of and under the supervision of a licensed speech pathologist or audiologist and subject to the regulations of the Board, in illegally engaging in the practice of speech pathology or audiology within this state;

3. Has been guilty of unprofessional conduct as defined by the rules established by the Board or has violated the code of ethics made and published by the Board;

4. Has used fraud or deception in applying for a license or in passing an examination provided for in this act;

5. Has been grossly negligent in the practice of his profession; or

6. Has willfully violated any of the provisions of this act or any regulations adopted hereunder.

B. No license shall be suspended or revoked or reprimand issued until after a hearing before the Board. A notice of at least ten (10) days shall be served, either personally or by registered or certified mail, to the licensee charged, stating the time and place of the hearing, and setting forth the ground or grounds constituting the charges against the licensee. The licensee shall be entitled to be heard in his defense either in person or by counsel, and may produce testimony and may testify in his own behalf. A record of such hearing shall be taken and preserved. The hearing may be adjourned from time to time. If, after due receipt of notice of a hearing, the licensee shall be unable to appear for good cause shown, then a continuance shall be granted by the Board. The time allowed shall be at the discretion of the Board, but in no instance shall it be less than two (2) weeks from the originally scheduled date of the hearing. If a licensee pleads guilty, or if upon

hearing the charges, a majority of the Board finds them to be true, the Board shall enter an order suspending or revoking the license or reprimanding the licensee, as the case may be. The Board shall record its findings and order in writing.

C. The Board, through its chairman or vice-chairman, may administer oaths and may compel the attendance of witnesses and the production of physical evidence before it from witnesses upon whom process is served anywhere within the state, as in civil cases in the district court, by subpoena issued over the signature of the chairman or vice-chairman and the seal of the Board. Upon request by an accused speech pathologist and/or audiologist, and statement under oath that the testimony or evidence is reasonably necessary to his defense, the Board shall use this subpoena power in behalf of the accused speech pathologist and/or audiologist. Said subpoenas shall be served, and a return of service thereof made, in the same manner as a subpoena is served out of the district courts in this state, and as a return in such case is made. If a person fails and refuses to attend in obedience to such subpoena, or refuses to be sworn or examined or answer any legally proper question propounded by any member of said Board or any attorney or licensee upon permission from said Board, such person shall be ~~guilty of a misdemeanor, and, upon conviction, may be punished by a fine not to exceed Two Hundred Fifty Dollars ($250.00) or by confinement in the county jail not to exceed ninety (90) days, or both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Board shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

D. Any person who feels aggrieved by reason of the denial, suspension or revocation of his license or of the Board's reprimand or of the Board's rejection of his application may appeal to the Board for a review of the case; if the Board does not reverse itself

at such a hearing, then the aggrieved person may file suit within thirty (30) days after receiving notice of the Board's action, or of the Board's order, in the district court of Oklahoma County, or in the district court of the county of his residence, to annul or vacate the action or the order of the Board. The suit shall be filed against the Board as defendant, and service of process shall be upon either the chairman or secretary of the Board. The suit shall be tried by the court without a jury and shall be a trial de novo, but the burden of proof is upon the plaintiff assailing the order of the Board. The judgment of the district court may be appealed to the Supreme Court of Oklahoma in the same manner as other civil cases.

E. Upon a vote of three of its members, the Board may restore a license which has been revoked, reduce the period of suspension, or withdraw a reprimand.

SECTION 690. AMENDATORY 59 O.S. 1991, Section 1621, is amended to read as follows:

Section 1621. Any person who~~, after the first day of January, 1974,~~ represents himself to be a speech pathologist and/or audiologist or engages in the practice of speech pathology and/or audiology within this state without being licensed or exempted in accordance with the provisions of this act is ~~guilty of a misdemeanor and, upon conviction, shall be fined not more than Five Hundred Dollars ($500.00) or be confined to jail for not more than six (6) months, or both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Each day of violation is a separate offense.

SECTION 691. AMENDATORY 59 O.S. 1991, Section 1631, is amended to read as follows:

Section 1631. The Oklahoma Commissioner of Labor shall have the power to suspend, refuse renewal of or revoke the welding inspector's certification~~, and the power to place on probation or to~~

~~reprimand the holder, if he is found guilty of an unauthorized practice~~. Any person acting as a welding inspector without proper certification is subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Commissioner of Labor may apply to any court of competent jurisdiction for an enforcement of its administrative decisions and rulings.

SECTION 692. AMENDATORY 59 O.S. 1991, Section 1634, is amended to read as follows:

Section 1634. A. The following United States of America National Standard Institute Codes shall be the piping codes for this state:

1. The power piping code;

2. The fuel gas piping code;

3. The gas transmission and distribution piping system code;

4. The petroleum refining piping code; and

5. The liquid petroleum transportation piping system code.

The provisions of this act shall apply only to weldments required by the above codes.

B. All welders prior to performing weldments within this state on any piping enumerated in subsection A shall be tested, qualified and certified by the Commissioner of Labor pursuant to this act.

C. It shall be mandatory upon the owner, or a contractor to whom a contract is awarded and upon any welders wherein welders are to perform weldments on any piping enumerated in subsection A, upon any subcontractor under him, to insure that all welders performing weldments within this state shall be certified by the Commissioner of Labor before any weldments are fabricated.

D. Penalties:

1. Any welder who performs services without proper certification shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Any welder who violates or omits to comply with any of the provisions of this section, and any

officer, agent or representative of any owner or any contractor or subcontractor who violates or omits to comply with any of the provisions of this section shall be ~~subjected to the penalties provided in this title~~ subject to the provisions of Section 1640 of this title.

2. The Commissioner of Labor is empowered to issue cease and desist orders against violations of this act until such time as compliance of the law is met. If an owner, welder, contractor and/or subcontractor fails to obey the orders issued by the Commissioner of Labor, the Attorney General shall review the case and initiate necessary proceedings for contempt of the Commissioner's order and/or ask for an injunction in the district court as deemed appropriate to the facts of the case.

3. No person, firm or corporation or agent thereof shall in any manner interfere with the performance of the duties of any inspector or representative of the Commissioner of Labor for the implementation of this act.

SECTION 693. AMENDATORY 59 O.S. 1991, Section 1640, is amended to read as follows:

Section 1640. Any person who ~~violates~~ breaches any of the provisions of this act for which another penalty is not provided shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished by payment of a fine of Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 694. AMENDATORY 59 O.S. 1991, Section 1681, as last amended by Section 1, Chapter 155, O.S.L. 1994 (59 O.S. Supp. 1994, Section 1681), is amended to read as follows:

Section 1681. The State Board of Health is hereby authorized to adopt, amend and repeal rules governing the examination and licensing of electrical contractors and journeymen electricians, the defining of categories and limitations for such licenses, the

establishment of continuing education requirements and procedures as determined by the Committee~~, the establishment and levying of administrative fines, the initiation of disciplinary proceedings, the requesting of prosecution of and initiation of injunctive proceedings against any~~. Any person who violates any of the provisions of this act or any rule promulgated pursuant to this act~~, the establishment of~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). The Board may also initiate appropriate injunctive procedures against any person violating this act. The Board may also establish the bonding and insurance requirements precluding municipal requirements, the requirement of proof of possession of a Federal Tax ID Number and a State of Oklahoma Employment Security Commission identification number, the registration of electrical apprentices and the standard of electrical installations, and to adopt future editions of the Code. Provided, broiler houses will not be required to meet the electrical wiring requirements for environmentally controlled poultry houses as set out in the National Electric Code.

SECTION 695. AMENDATORY 59 O.S. 1991, Section 1685, is amended to read as follows:

Section 1685. A. The Commissioner shall issue a license as journeyman electrician or electrical contractor to any person who:

1. Has been certified by the Committee as either having successfully passed the appropriate examination or having a valid license issued by another governmental entity with licensing requirements similar to those provided in the Electrical License Act; and

2. Has paid the license fee and otherwise complied with the provisions of the Electrical License Act.

B. All licenses shall be nontransferable and it shall be a ~~misdemeanor~~ civil infraction and subject to a fine of not more than

One Thousand Dollars ($1,000.00) for any person licensed under the provisions of the Electrical License Act to loan or allow the use of such license by any other person, firm or corporation, except as specifically provided in the Electrical License Act. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

C. Until October 1, 1982, the Commissioner shall, upon proper application and payment of fees, issue licenses without examinations to persons who prior to July 1, 1982, held unexpired licenses as journeyman electricians or electrical contractors issued by a city or incorporated town of this state, and who have otherwise complied with the requirements of the Electrical License Act. This license must be produced as a prerequisite to obtaining a state license if the applicant is a resident of a city or town having a licensing law.

SECTION 696. AMENDATORY 59 O.S. 1991, Section 1690, is amended to read as follows:

Section 1690. A. ~~Ninety (90) days from and after July 1, 1982, it shall be a misdemeanor for any~~ Any person ~~to perform~~ who performs the work of a journeyman electrician until such person has qualified and is licensed as a journeyman electrician or electrical contractor shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. ~~Ninety (90) days from and after July 1, 1982, it shall be a misdemeanor for any~~ Any person ~~to act~~ who acts as an electrical contractor or ~~to engage~~ engages in or ~~offer~~ offers to engage in, by advertisement or otherwise, the business of an electrical contractor until the person, or a member of the partnership, or an officer of the firm, association or corporation, shall have qualified and is licensed as an electrical contractor shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 697. AMENDATORY 59 O.S. 1991, Section 1695, as last amended by Section 8, Chapter 155, O.S.L. 1994 (59 O.S. Supp. 1994, Section 1695), is amended to read as follows:

Section 1695. A. Any person who violates any of the provisions of the Electrical License Act or any provision of an ordinance or regulation enacted by a city or town by authority of the Electrical License Act, in addition to suffering possible suspension or revocation of a license or registration, shall~~, upon conviction, be guilty of a misdemeanor and shall be punished by~~ be liable for a civil infraction and subject to a fine of not ~~less than Fifty Dollars ($50.00) nor~~ more than ~~One Hundred Dollars ($100.00)~~ One Thousand Dollars ($1,000.00).

B. In addition to other penalties provided by law, if after a hearing in accordance with the provisions of Section 1689 of this title, the Electrical Hearing Board shall find any person to be in violation of any of the provisions of this act, such person may be subject to an administrative violation and fine of not more than Five Hundred Dollars ($500.00) for each violation. Each day a person is in violation of this act may constitute a separate violation. The maximum fine will not exceed One Thousand Dollars ($1,000.00). All administrative fines collected pursuant to the provisions of this subsection shall be deposited in the Electrical Revolving Fund. Administrative fines imposed pursuant to this subsection shall be enforceable in the district courts of this state.

C. The Electrical Hearing Board may make application to the appropriate court for an order enjoining the acts or practices prohibited by this act, and upon a showing by the Electrical Hearing Board that the person has engaged in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

D. If any electrical facilities as defined in the Electrical License Act are in violation of the National Electrical Code set forth in the National Fire Code (Electrical) issued by the National Fire Protection Association, NFPA number 70, current edition, as amended, or any ordinance or other regulation of a city or town, the proper authorities of the state or political subdivision of the state, in addition to other remedies, may institute appropriate action or proceedings to prevent any illegal installation or use of such facilities, to restrain, correct or abate any violation, or to prevent illegal occupancy of a building or structure.

SECTION 698. AMENDATORY 59 O.S. 1991, Section 1736, is amended to read as follows:

Section 1736. A. A person may not use the title or represent or imply that he or she has the title of licensed dietitian or provisional licensed dietitian or use the letters LD or PLD and may not use any facsimile of those titles in any manner to indicate or imply that the person is a licensed dietitian or provisional licensed dietitian, unless that person holds an appropriate license.

B. A person shall not use the title or represent or imply that he has the title of registered dietitian or the letters RD and shall not use any facsimile of the title in any manner to indicate or imply that the person is registered as a registered dietitian by the Commission on Dietetic Registration, unless the person is registered as a registered dietitian by the Commission on Dietetic Registration.

~~C. Any person convicted of knowingly or intentionally violating the provisions of subsection A or B of this section shall be guilty of a misdemeanor.~~

SECTION 699. AMENDATORY 59 O.S. 1991, Section 1750.4, is amended to read as follows:

Section 1750.4 ~~On and after January 1, 1988, no~~ No person may be employed or operate as a security guard, private investigator,

security agency, or investigative agency until a license therefor has been issued by the Council on Law Enforcement Education and Training pursuant to the Oklahoma Security Guard and Private Investigator Act. Any person violating this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 700. AMENDATORY 59 O.S. 1991, Section 1750.4a, is amended to read as follows:

Section 1750.4a ~~On and after July 1, 1988, no~~ No person may be employed or operate as an armed security guard until a license therefor has been issued by the Council on Law Enforcement Education and Training pursuant to the Oklahoma Security Guard and Private Investigator Act. Any person violating this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 701. AMENDATORY 59 O.S. 1991, Section 1750.8, is amended to read as follows:

Section 1750.8 A. No person who is exempt from the provisions of Section 1750.1 et seq. of this title shall display any badge or identification card bearing the words "private investigator" or "private detective", or use any words or phrases that imply that such person is a private investigator or private detective.

B. No person licensed as a private investigator shall:

1. Divulge any information gained by him in his employment except as his employer may direct or as he may be required by law to divulge; or

2. ~~Willfully make~~ Make a false report to his employer or to a client.

Any ~~violation~~ breach of this subsection~~, upon conviction,~~ shall be ~~punishable by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than one (1) year, or by~~

~~both such fine and imprisonment~~ a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

C. The Council on Law Enforcement Education and Training or its employees shall not disclose application information pertaining to persons licensed pursuant to this act, except:

1. To verify the current license status of any applicant or licensee to the public;

2. To perform duties pursuant to this act;

3. To a bona fide law enforcement agency;

4. To a licensing authority in another jurisdiction; or

5. As required by court order.

SECTION 702. AMENDATORY 59 O.S. 1991, Section 1750.11, is amended to read as follows:

Section 1750.11 ~~A.~~ Unless otherwise prescribed by law, any person ~~convicted of violating~~ breaching any provision of the Oklahoma Security Guard and Private Investigator Act or a rule or regulation promulgated pursuant to the Oklahoma Security Guard and Private Investigator Act shall be ~~guilty of a misdemeanor punishable by imprisonment for not more than sixty (60) days, or by~~ liable for a civil infraction and subject to a fine of not more than Two Thousand Dollars ($2,000.00)~~, or by both such imprisonment and fine~~.

~~B. Any person who willfully makes a false statement, knowing such statement is false, in any application to the Council on Law Enforcement Education and Training for a license pursuant to the Oklahoma Security Guard and Private Investigator Act, or who otherwise commits a fraud in connection with such application, shall be guilty of a felony punishable by a term of imprisonment for not less than two (2) years nor more than five (5) years, or by a fine of not more than Two Thousand Dollars ($2,000.00), or by both such imprisonment and fine.~~

SECTION 703. AMENDATORY 59 O.S. 1991, Section 1750.14, as amended by Section 1, Chapter 43, O.S.L. 1993 (59 O.S. Supp. 1994, Section 1750.14), is amended to read as follows:

Section 1750.14 A. Except as provided in subsection C of this section, any person who is not a resident of this state who apprehends in this state, or attempts to apprehend a defendant, who has failed to appear before any court of this state or another state or any federal court as required by law and has forfeited bail, shall be required to be accompanied at the time of the apprehension by a peace officer or a person licensed in this state as a bail bondsman.

B. Any person who ~~violates~~ breaches the provisions of this section shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00).

C. The provisions of this section shall not apply to law enforcement officers of any jurisdiction.

SECTION 704. AMENDATORY 59 O.S. 1991, Section 1800.6, is amended to read as follows:

Section 1800.6 No person shall engage in an alarm industry business in this state without first having obtained a license pursuant to the provisions of the Alarm Industry Act. Provided, every person engaged in an alarm industry business in this state on the effective date of the Alarm Industry Act shall have ninety (90) days in which to apply to the Commissioner of Health for a license. A person applying for a license within this ninety-day period may continue business pending a final determination by the Commissioner of his application. Additional time beyond the ninety-day period may be granted by the Commissioner. Any person violating this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 705. AMENDATORY 59 O.S. 1991, Section 1800.16, is amended to read as follows:

Section 1800.16 Any individual or person who is found to be in ~~violation~~ breach of the provisions of the Alarm Industry Act or of the rules and regulations adopted by the State Board of Health in administration of the Alarm Industry Act, ~~upon conviction, shall be guilty of a misdemeanor and shall be punished by confinement in the county jail for a period not to exceed one (1) year or by the imposition of a fine not to exceed Five Hundred Dollars ($500.00), or by both such imprisonment and fine~~ for which another penalty is not specified, shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 706. AMENDATORY 59 O.S. 1991, Section 1850.7, is amended to read as follows:

Section 1850.7 ~~After January 1, 1988, no~~ No person, on behalf of himself or of a mechanical firm, shall engage or offer to engage in, by advertisement or otherwise, any mechanical work as a journeyman or contractor who does not possess a valid and appropriate license from the Department. No business entity shall act as a mechanical firm unless a contractor is associated with and responsible for all mechanical work of such entity. Any person violating this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 707. AMENDATORY 59 O.S. 1991, Section 1850.11, as amended by Section 8, Chapter 236, O.S.L. 1993 (59 O.S. Supp. 1994, Section 1850.11), is amended to read as follows:

Section 1850.11 A. Any mechanical contractor, mechanical journeyman, mechanical apprentice or mechanical firm who ~~violates~~ breaches any of the provisions of the Mechanical Licensing Act, for which another penalty is not specified, in addition to suspension or revocation of a license, upon conviction, shall be ~~guilty of a misdemeanor and punished by a fine of not less than One Hundred~~

~~Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or both such fine and imprisonment together with the costs of prosecution~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

B. In addition to other penalties provided by law, if after a hearing in accordance with the provisions of Section 1850.14 of this title, the Mechanical Hearing Board shall find any mechanical contractor, mechanical journeyman, mechanical apprentice or mechanical firm to be in violation of any of the provisions of this act, such person or firm may be subject to an administrative ~~fine of~~ violation and fine of not more than Five Hundred Dollars ($500.00) for each violation. Each day a person or firm is in violation of this act may constitute a separate violation. The maximum fine will not exceed One Thousand Dollars ($1,000.00). All administrative fines collected pursuant to the provisions of this subsection shall be deposited in the Oklahoma Mechanical Licensing Revolving Fund. Administrative fines imposed pursuant to this subsection shall be enforceable in the district courts of this state.

C. The Mechanical Hearing Board may make application to the appropriate court for an order enjoining the acts or practices prohibited by this act, and upon a showing by the Mechanical Hearing Board that the person or firm has engaged in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

SECTION 708. AMENDATORY 59 O.S. 1991, Section 1911, is amended to read as follows:

Section 1911. Any person who represents himself by the title "licensed professional counselor" or "LPC" without having first complied with the provisions of the Licensed Professional Counselors Act~~, upon conviction,~~ shall be ~~guilty of a misdemeanor and shall be punished by imposition of a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) for~~

~~each offense and in addition may be imprisoned for a term not to exceed six (6) months in the county jail or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. A counselor violating any of the other provisions of this act shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 709. AMENDATORY 59 O.S. 1991, Section 1925.16, is amended to read as follows:

Section 1925.16 A. Any person who represents himself by the title "licensed marital and family therapist" or any designation representing such person to be a licensed marital and family therapist without having first complied with the provisions of the Marital and Family Therapist Licensure Act~~, upon conviction,~~ shall be ~~guilty of a misdemeanor and shall be punished by imposition of a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) for each offense and in addition may be imprisoned for a term not to exceed six (6) months in the county jail or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. The Commissioner may also proceed in district court to enjoin and restrain any unlicensed person from violating the prohibitions of the Marital and Family Therapist Licensure Act.

SECTION 710. AMENDATORY 59 O.S. 1991, Section 1957, is amended to read as follows:

Section 1957. The Oklahoma Rental-Purchase Act applies to persons, who in this state make or solicit rental-purchase agreements, or who directly collect payments from or enforce rights against debtors arising from the rental-purchase agreement, wherever they are made; or who engage in rental-purchase transactions subject to the provisions of the Oklahoma Rental-Purchase Act. A person who ~~willfully~~ engages in the business of making rental-purchase agreements without a license in ~~violation~~ breach of the provisions

of this act pertaining to authority to make rental-purchase agreements~~, upon conviction, is guilty of a misdemeanor and may be sentenced to pay a fine not exceeding Five Thousand Dollars ($5,000.00), or to imprisonment not exceeding one (1) year, or both~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 711. AMENDATORY 59 O.S. 1991, Section 2009, is amended to read as follows:

Section 2009. A. Any person who engages in business as a health spa without first being properly registered with the Administrator as prescribed in the Oklahoma Health Spa Act ~~or~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Any person who otherwise ~~violates~~ breaches any provision of the Oklahoma Health Spa Act~~, upon conviction,~~ shall be ~~guilty of a misdemeanor and shall be punished by the imposition of a fine not to exceed Five Thousand Dollars ($5,000.00) or imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

B. The provisions of Title 14A of the Oklahoma Statutes shall also apply to those health spas registered pursuant to the Oklahoma Health Spa Act.

C. The Oklahoma Health Spa Act shall only govern those health spa contracts or membership agreements executed after November 1, 1987.

SECTION 712. AMENDATORY 60 O.S. 1991, Section 177.3, is amended to read as follows:

Section 177.3 A. Any officer of a school district or county who authorizes the participation of the school district or county to participate in a short-term cash management program without the approval of the Oklahoma Commission on School and County Funds Management ~~or who fraudulently submits any false or misleading~~

~~information to the Commission pursuant to Section 177.2 of Title 60 of the Oklahoma Statutes, shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than One Thousand Dollars ($1,000.00) or imprisoned in the county jail for not to exceed one (1) year, or by both such fine and imprisonment~~ shall be liable for a civil infraction and subject to a fine of not more than Ten Thousand Dollars ($10,000.00), and shall forfeit and be removed from office pursuant to Section 1181 et seq. of Title 22 of the Oklahoma Statutes or Section 91 et seq. of Title 51 of the Oklahoma Statutes. In addition, any professional license issued to an officer by a state agency or instrumentality who has been ~~convicted of a misdemeanor~~ held liable for a civil infraction pursuant to this section shall be revoked.

B. Any person who receives any payment or compensation, indirectly or directly, for the endorsement of any short-term cash management program and who has not been properly designated or registered, if registration is required, pursuant to subsection C of Section 177.2 of ~~Title 60 of the Oklahoma Statutes~~ this title, shall be ~~guilty of a misdemeanor and upon conviction, shall be punished according to the penalties prescribed in subsection A of this section~~ liable for a civil infraction and subject to a fine of not more than Ten Thousand Dollars ($10,000.00).

SECTION 713. AMENDATORY 60 O.S. 1991, Section 178.2, is amended to read as follows:

Section 178.2 At least five (5) business days prior to the delivery of and payment for bonds, notes or other evidences of indebtedness by any public trust, except as hereafter excluded, there shall be filed with the Secretary of State a preliminary copy of the official statement, prospectus or other offering document pertaining to the issuance; prior to the expiration of fifteen (15) business days following said delivery of and payment therefor, there shall be filed with the Secretary of State and the Oklahoma

Securities Commission a copy, in final form, of said official statement, prospectus or other offering document. Any person responsible for the preparation of the official statement, prospectus or other offering document in preliminary and/or final form who ~~violates~~ breaches this section shall~~, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than Five Thousand Dollars ($5,000.00) nor more than Ten Thousand Dollars ($10,000.00), or a jail sentence not less than six (6) months nor more than one (1) year, or both~~ be liable for a civil infraction and subject to a fine of not more than Twenty Thousand Dollars ($20,000.00).

SECTION 714. AMENDATORY 60 O.S. 1991, Section 680, is amended to read as follows:

Section 680. A. A person who fails to pay or deliver property within the time prescribed by the Uniform Unclaimed Property Act (1981), Section 651 et seq. of this title, shall be required to pay interest at the annual rate of ten percent (10%) on the property or value thereof from the date the property should have been paid or delivered.

B. In addition to the penalty imposed in subsection A of this section, a person who ~~willfully~~ fails to render any report or ~~deliver property or~~ perform any other duties required under the Uniform Unclaimed Property Act (1981) shall ~~pay a civil penalty of One Hundred Dollars ($100.00)~~ be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each day the report is withheld or the duty is not performed~~, but not more than Five Thousand Dollars ($5,000.00)~~.

C. A person who ~~willfully~~ fails to pay or deliver property to the Commission as required under this act shall ~~pay a civil penalty~~ be liable for a civil infraction in an amount equal to twenty-five percent (25%) of the value of the property that should have been paid or delivered.

D. A person who ~~willfully~~ refuses after written demand by the Commission to pay or deliver property to the Commission as required under this act is ~~guilty of a misdemeanor and upon conviction may be punished by a fine of not less than Five Hundred Dollars ($500.00) nor~~ liable for a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00)~~, or imprisonment for not more than six (6) months, or both~~.

E. The interest or penalty or any portion thereof, as imposed by subsections A, B or C of this section, may be waived or remitted by the Oklahoma Tax Commission if the person's failure to pay abandoned funds or deliver property is satisfactorily explained to the Tax Commission or if such failure has resulted from a mistake by the person of either the law or the facts subjecting that person to pay abandoned funds or deliver property subject to the Uniform Unclaimed Property Act (1981), or inability to pay such interest or penalty resulting from insolvency.

SECTION 715. AMENDATORY 61 O.S. 1991, Section 5, is amended to read as follows:

Section 5. Any officer of the state, or of any county, city, township, or other municipality, or any person acting under or for such officer, or any contractor with the state, or any county, city, township, or other municipality thereof, or other persons violating any of the provisions of the two preceding sections, shall ~~for each offense be fined in any sum not less than Fifty Dollars ($50.00), nor more than Five Hundred Dollars ($500.00), or punished by imprisonment of not less than three (3) months not more than six (6) months. Each day such violation continues shall constitute a separate offense~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 716. AMENDATORY 61 O.S. 1991, Section 64, is amended to read as follows:

Section 64. Any consultant or person doing engineering work for the State of Oklahoma, their agents, servants or employees, who shall receive gratuity from any contractor or builder of any public building or works, or solicit, receive or make any political contribution from or to a contractor or builder of any public building or works~~, or who attempts to interfere with the competitive bidding process of the State of Oklahoma in any manner, is guilty of a misdemeanor, and upon conviction thereof shall be fined not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), and by imprisonment in the county jail for not less than six (6) months nor more than one (1) year~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Any contractor or builder of any public building or works, their agents, servants or employees, who shall offer any gratuity or political contribution to any consultant doing engineering work for the State of Oklahoma, or who attempts to interfere with the competitive bidding process of the State of Oklahoma in any manner, ~~is guilty of a misdemeanor, and upon conviction thereof shall be fined not less than One Hundred Dollars ($100.00) nor more than five Hundred Dollars ($500.00), and by imprisonment in the county jail for not less than six (6) months nor more than one (1) year~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 717. AMENDATORY 61 O.S. 1991, Section 114, is amended to read as follows:

Section 114. The chief administrative officer and members of the governing body of the awarding public agency authorizing or awarding or supervising the execution of a public construction contract, and their relatives within the third degree of consanguinity or affinity, are forbidden to be interested directly or indirectly through stock ownership, partnership interest or otherwise in any such contract. Contracts entered into in violation

of this provision shall be void and persons ~~willfully~~ violating this provision shall be ~~guilty of a felony~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes and shall be subject to removal from office.

SECTION 718. AMENDATORY 61 O.S. 1991, Section 115, is amended to read as follows:

Section 115. Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding, or otherwise, shall render the bids of such bidders void and persons ~~willfully~~ violating this provision shall be ~~guilty of a felony~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Each bidder shall accompany his bid with a sworn statement that he has not been a party to any such agreement. The form of the statement shall be substantially as provided in Section 85.22 of Title 74, but modified in wording to refer to the appropriate public agency requesting bids.

SECTION 719. AMENDATORY 61 O.S. 1991, Section 116, as amended by Section 4, Chapter 239, O.S.L. 1992 (61 O.S. Supp. 1994, Section 116), is amended to read as follows:

Section 116. Any disclosure by an employee of a public agency of the terms of a bid submitted in response to a bid notice issued by a public agency in advance of the time set for opening of all bids so submitted shall be unlawful and subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. It shall also be unlawful and subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes for any person to solicit, possess or receive information which is to be contained in a bid notice of a public agency, for use in preparing a bid, in advance of the date on which said bid notice is to be made equally and uniformly known to all prospective bidders and the public, and it shall further be unlawful and subject the

violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes for any employee of a public agency to withhold or impede the distribution of said information after notice of the bid has been given, unless the solicitation of bids has been withdrawn or the particular information in question has been deleted or replaced through alteration of the bid notice and said withdrawal or alteration has been made equally and uniformly known. The public agency's engineering estimate of the actual cost of the project shall remain confidential until the bids have been opened. Any violation of this section ~~shall constitute a felony and~~ shall render the proceedings void and require solicitation and award anew.

SECTION 720. AMENDATORY 61 O.S. 1991, Section 135, is amended to read as follows:

Section 135. A. No public agency, nor any officer, agent or employee thereof, nor any person acting or purporting to act on behalf of such public agency or an officer, agent or employee thereof, shall, with respect to any public construction contract require or attempt to require a contractor or any subcontractor to make application to or to procure or obtain from a particular insurance or surety company, agent or broker, any of the bonds or insurance required by this act.

B. Any provisions in a public construction contract or in the bidding documents in conflict herewith are hereby declared to be contrary to the public policy of this state and thereby void.

C. Any person who violates this section shall~~, upon conviction, be deemed guilty of a misdemeanor~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 721. AMENDATORY 62 O.S. 1991, Section 81, is amended to read as follows:

Section 81. Any official or employee thereof or any member or employee of any state board or state commission who shall fail, neglect or refuse to comply with the requirements of ~~Section two (2)~~

~~hereof, or~~ any ~~other~~ provision of this act, shall ~~forfeit and pay to the use of the State of Oklahoma the sum of Twenty-five Dollars ($25.00) per day for each and every day that he shall so fail, neglect or refuse to comply with requirements of said act~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes, and shall forfeit and be removed from office; and any such official who shall issue, sign, attest or utter any false or illegal voucher against any monies deposited, as in this act provided, shall be liable to the state on his official bond for a sum double in amount of any such illegal or fraudulent voucher, and shall be ~~deemed guilty of a felony, and upon conviction thereof shall be punished by a fine in a sum of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) and by imprisonment in the State Penitentiary for a term of not less than one (1) nor more than five (5) years~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 722. AMENDATORY 62 O.S. 1991, Section 213, is amended to read as follows:

Section 213. Any official of either of the boards hereinbefore named who shall fail, neglect or refuse to make and file any report or pay the fees provided for herein shall be ~~deemed guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes and in addition thereto shall be removed from his office.

SECTION 723. AMENDATORY 62 O.S. 1991, Section 352, is amended to read as follows:

Section 352. Any member of any board of county commissioners, any member of any city council, or member of any board of city commissioners, any member of any town council, any member of any township board, any member of any city board of education, any member of any school district board, and any other officer of any of the aforesaid political corporations or subdivisions of this state,

or any other officer of any political corporation or subdivision of this state, who shall sell, or agree to sell, or contract to sell at less than par, any bonds of his respective county, city, town, township, school district, or other political corporation or subdivision, shall ~~be guilty of a misdemeanor, forfeit and be removed from office, and in addition,~~ forfeit his office and be removed therefrom; be liable on his official bond for the difference between the sum received and the par value of the bonds with accrued interest thereon and shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 724. AMENDATORY 62 O.S. 1991, Section 397, is amended to read as follows:

Section 397. In every instance in which any county, city, town, township, the board of education of any city, or any school district shall issue bonds under Sections 391 et seq. of this title, it shall be the imperative duty of the proper officers to provide annually, at the time of providing for the levy of other taxes, for a tax sufficient in amount to pay the interest upon said bonds or the coupons as they become due, and to create a sinking fund, as provided for in this article, for the payment of the principal of such bonds; and if such officers fail or neglect to provide for such levy, it shall be the duty of the county clerk forthwith to do so; and in case any such officer shall neglect or refuse to levy any such tax at the time aforesaid, and in case any county clerk shall neglect or refuse to extend such tax upon the tax roll of the county at the proper time, then and in that case any such officer so neglecting or refusing to levy or extend such tax shall be severally and individually liable and shall also be liable upon his official bond to the holder of any such bond or coupon falling due during the year for which such tax should have been levied or extended for the full amount thereof as soon as the same is due, which liability may be enforced in a civil action in the name of such holder; and any

such officer so neglecting or refusing to levy or extend such tax shall also be ~~deemed guilty of a misdemeanor, and on conviction thereof shall be fined~~ liable in an amount equal to the amount which it may be shown should have been so levied or extended during such year~~, or imprisoned in the county jail for a term not less than three (3) nor more than twelve (12) months~~. Any officer shall also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 725. AMENDATORY 62 O.S. 1991, Section 398, is amended to read as follows:

Section 398. Should the proper officer whose duty it is to levy the taxes to pay such bonds and coupons, fail or neglect to make such levy as provided for in this article, it shall be the duty of the State Auditor and Inspector, at any time thereafter, to ascertain the amount of interest and sinking fund, or principal of such bonds, accrued and to accrue during that year, and to certify the amount thereof to the treasurer of the county in which such bonds were issued, setting forth the amount thus due, and whether from the county or from a particular city, town, township, the board of education of any city or school district within such county; and it shall be the duty of such county treasurer, immediately upon receiving such certified statement from the State Auditor and Inspector to proceed to ascertain from the assessment roll of the county the amount of taxable property in such county, city, town, township, or such school district, and what percentage is required to be levied thereon to pay the said interest and sinking fund or principal, and when so ascertained to levy such percentage upon the taxable property of such county, city, township, or such school district, as may be liable thereto, and immediately to place the same upon the tax roll of the county in a separate column or columns, designating the purpose for which such taxes are levied; and the said taxes shall be collected by the county treasurer of

such county in the same manner that other taxes are collected. And should such county treasurer neglect or refuse to levy tax and place the same upon the tax roll for collection as herein provided, he shall be personally liable, and also liable upon his official bond to the holder of any such bonds or coupons then due, for the full amount thereof, and shall also be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 726. AMENDATORY 62 O.S. 1991, Section 401, is amended to read as follows:

Section 401. Any person who shall appropriate or use, or aid or abet in appropriating or using, any of the funds or monies mentioned in this article, for any other purpose than as in this article, provided, shall be ~~deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum equal to the amount of money so appropriated or used, and imprisoned in the county jail for not less than three (3) nor more than twelve (12) months, and shall also be~~ liable in a civil action for the amount so misappropriated or used, to be prosecuted by any such bond holder or other party entitled thereto. In addition, the person shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 727. AMENDATORY 62 O.S. 1991, Section 478, is amended to read as follows:

Section 478. Any treasurer who shall register or pay a warrant, or certificate of indebtedness, issued in excess of the estimate made and approved by the excise board for the current fiscal year, or in excess of a bond issue for such purpose, shall be ~~guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail not exceeding one (1) year, or by both such fine and~~

~~imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 728. AMENDATORY 62 O.S. 1991, Section 480, is amended to read as follows:

Section 480. Any officer contracting, incurring, acknowledging, authorizing, allowing or approving any indebtedness, or any officer issuing, drawing, or attesting any warrant or certificate of indebtedness in excess of the estimate made and approved by the excise board for such purpose for such current fiscal year or in excess of the specific amount authorized for such purpose by a bond issue, or who ~~violates~~ breaches any other provision of this act, shall be ~~deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Thousand Dollars ($1,000.00) or imprisoned in the county jail for not to exceed one (1) year, or by both such fine and imprisonment,~~ liable for a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00) and shall forfeit and be removed from office pursuant to Section 1181 et seq. of Title 22 of the Oklahoma Statutes or Section 91 et seq. of Title 51 of the Oklahoma Statutes. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 729. AMENDATORY 62 O.S. 1991, Section 516.10, is amended to read as follows:

Section 516.10 (A) The State Treasurer is hereby authorized to accept in lieu of collateral securities for the security of public monies and funds deposited by him in approved depository banks a joint-custody receipt issued by the Oklahoma City Federal Reserve Branch Bank or any reserve city bank designated by the State Treasurer as a security depository bank for collateral securities of the types approved by the State Treasurer, such joint-custody receipt to be issued in favor of the depository bank and the State Treasurer. Such joint-custody receipt before being accepted by the

State Treasurer shall be released by the depository bank by the signatures of one or more officers of such depository bank duly acknowledged. Such collateral securities evidenced by said joint-custody receipt released as aforesaid and accepted by the State Treasurer shall constitute a pledge in favor of the state for the funds and monies deposited by the State Treasurer in said depository bank the same as if the collateral securities evidenced by said joint-custody receipt were deposited with the State Treasurer under existing law.

(B) In addition to the manner of securing public deposits set forth previously in this section, and in the sections immediately preceding this section (62 O.S.1951, Sections 516.1 through 516.9) any treasurer or custodian required by Section 511 of this title to secure the deposit of public funds in a bank may use the procedure prescribed in this and the remaining subsections of this section.

(C) Upon offer to pledge securities for the purpose of securing public funds deposited in the offeror bank by written offer actually signed by an officer of the offeror bank, on a form to be prescribed by the State Treasurer, provided that it shall sufficiently describe the securities offered for pledge and shall actually be signed by an officer of the offeror bank, the State Treasurer may accept a joint-custody receipt of the type hereinbefore authorized in this section (Section 516.10 of Title 62 O.S.1951), or a sole custody receipt running in favor of the State Treasurer for and on behalf of the pledgor depository bank for the public funds secured by the collateral securities described in such sole custody receipt. The form of such sole custody receipts may be prescribed from time to time by the State Treasurer, so long as any such receipt shall describe with particularity sufficient for identification the collateral securities pledged and receipted for thereunder. No such receipt shall be issued by a depository bank, or shall be accepted by the State Treasurer, and no deposits may be made on the basis of

the security afforded by collateral securities described therein, until such collateral securities are actually in the physical possession of the depository bank which issued such custody receipt. Upon the consummation of such possession, and the issuance and acceptance of a sole or joint-custody receipt, as the case may be, by the State Treasurer, the collateral securities described therein shall be pledged to secure deposits of public funds in the pledgor bank under the terms and conditions hereinafter set forth.

(D) With respect to collateral securities pledged in the manner prescribed in the foregoing subsection, it shall be conclusively presumed:

(1) That the officer signing the offer to pledge on behalf of the bank in which public funds are deposited had authority from such bank to accept such deposits, make such a pledge, and to execute such offer to pledge and any other incidental documents as he may have executed for the consummation of such pledge;

(2) That such securities were absolutely owned by the pledgor bank, or that such bank otherwise possessed the right to pledge such securities for the purpose of securing deposits of public funds in such bank, including the right and legal power to subordinate the equities, ownership and rights, of any and all nature whatsoever, of any and all other persons or entities in or to the said collateral securities to the interests of the owner of the public funds deposited in the pledgor bank and secured by such collateral securities;

(3) That the pledge of such securities was otherwise properly accomplished and that the applicable and material provisions of the statutes of Oklahoma had been substantially complied with, with respect to such pledge.

(E) The foregoing provisions shall not be construed to impair the privilege of a pledgor bank to withdraw collateral securities previously pledged, or to substitute other securities eligible under

applicable law for securities previously pledged, when such withdrawal or substitution is accomplished in a legal manner. In addition to any other means of withdrawing or substituting collateral securities pledged for the purpose of securing deposits of public funds in the pledgor bank, any collateral securities pledged in the manner prescribed by subsection (B) and (C) of this section may be withdrawn or substituted by the pledgor bank at any such time as the State Treasurer shall have received from any treasurer or custodian of public funds a certificate substantially as follows (the form of which may be prescribed from time to time by the State Treasurer):

(1) stating that public funds previously deposited have been withdrawn or otherwise diminished, and stating that collateral securities previously pledged will be sufficient to legally secure such deposits after the proposed withdrawal, if the pledgor bank involved desires to withdraw securities rather than to substitute other eligible securities for those previously pledged;

(2) Containing a sworn statement by such treasurer or custodian that the matters previously stated are true and correct, and are personally known by such treasurer or custodian to be true and correct at the time of submission of such certificate.

If approved by the State Treasurer, the form for a treasurer or, custodian's certificate authorizing the withdrawal of pledged collateral securities as set forth above, may contain also the request of the pledgor bank to withdraw such pledged securities. If any pledgor bank desires to substitute other eligible securities, such substitution may be accomplished by the submission to the State Treasurer an offer to substitute, signed by an officer of the pledgor bank involved, on a form to be prescribed by the State Treasurer, which shall contain however, a description of the securities offered for substitution sufficient to identify the same with particularity. Upon the approval by the State Treasurer of such

offer and the notification to the State Treasurer by a depository bank that the offered securities, as described in the foregoing offer of substitution, are actually in the physical possession of such depository bank, the State Treasurer shall, through such form as he may prescribe from time to time, authorize the release from the depository bank of securities previously pledged for the purposes herein set forth, and shall surrender to such depository bank the custody receipt previously taken for collateral securities originally pledged, and shall receive therefor a new custody receipt, either joint or sole as appropriate, describing with particularity the substitute securities.

The withdrawal of collateral securities, when authorized hereunder, and to such extent as authorized hereunder, may also be accomplished by such authorization forms as the State Treasurer may from time to time prescribe, and by the surrender by him to the depository bank involved of the custody receipt originally issued to him for such collateral securities, and if appropriate the issuance to the State Treasurer of a new custody receipt, either sole or joint as appropriate, with the remaining securities of the quantity originally pledged being described in the new or substitute custody receipt with the same particularity as described in the original.

A bank which has previously pledged collateral securities hereunder may substitute therefor an appropriate amount of cash by depositing the same with the State Treasurer and such securities may be released by the State Treasurer's authorization through such form as he may prescribe.

(F) No provision of this section shall be construed to authorize the deposit of any public funds by any treasurer or custodian required by Section 511 of this title, or any other provision of law, to secure the same, until such treasurer or custodian has received notification in legal form from the State Treasurer that such funds have been secured by the deposit of collateral securities

as required by this section or other provisions of law as applicable.

(G) The knowing violation of any requirement of the foregoing subsection by the treasurer or custodian of public funds affected thereby, or the false certification of any fact or statement submitted to satisfy a requirement of this section shall ~~constitute a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The knowing submission of ineligible securities for pledge, or the knowing withdrawal of pledge securities in ~~violation~~ breach of the requirements of this section or another provision of law or the knowing false statement of any fact or statement required by this Section or other provisions applicable to such pledges of collateral securities by any officer or officers of a bank in which public funds affected have been so deposited shall ~~constitute a misdemeanor~~ be a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00). The knowing release or authorization for release or substitution, by the State Treasurer or by an employee of his authorized to act for him in such capacity, when such release of pledged collateral securities or substitution of cash or other eligible collateral securities is not authorized by this or other applicable sections shall ~~constitute a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The release of any collateral security pledged to secure the deposit of public funds by any officer or employee of a depository bank, when such officer or employee knows that the release of such securities is in contravention of the requirements of this Section or other applicable provisions of law, shall ~~constitute a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

(H) The State Treasurer shall be liable on his official bonds for any of the collateral securities evidenced by any custody

receipt improperly released or withdrawn by him from the Oklahoma City Federal Reserve Branch Bank or any security-depository bank. The provisions of this section shall be cumulative to existing laws but any statute or portion thereof in conflict with this is hereby repealed.

SECTION 730. AMENDATORY 62 O.S. 1991, Section 552, is amended to read as follows:

Section 552. Whenever a warrant or order shall be presented to any treasurer named in the preceding section, and the same is not paid for the reason that there is not money sufficient in the fund on which same is drawn, the treasurer shall endorse on the back of such warrant or order, "Not paid for want of funds," number, date and sign the same; and he shall set down in a book to be kept for that purpose, the number, amount, the date and upon what fund drawn, to whom payable, and the date when presented for payment, and such warrants or orders shall be paid in the order of their presentation and registration as shown by such book, and such book shall be known in each such office as the "Warrant Register"; and any such treasurer who shall fail, neglect or refuse to pay any warrant or order drawn on the treasurer in the order of registration as shown by the warrant register, or shall pay any warrant or order so drawn out of its regular order, and give preference to the same over other warrants or orders, shall be ~~deemed guilty of a misdemeanor, and upon conviction shall~~ liable for a civil infraction and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than One Thousand Dollars ($1,000.00). Such person may also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 731. AMENDATORY 62 O.S. 1991, Section 553, as amended by Section 6, Chapter 318, O.S.L. 1993 (62 O.S. Supp. 1994, Section 553), is amended to read as follows:

Section 553. It shall be the duty of all such treasurers, whenever any money comes into their hands by virtue of their respective office, to set apart a sufficient fund to pay any or all warrants or orders they may have registered in compliance with the provisions of Section 551 et seq. of this title, and to keep the same until called for; and the State Treasurer shall make regular calls, at least every sixty (60) days, by publishing notice in some newspaper of general circulation published at the state capital, giving notice that he has money in his hands with which to pay warrants, and give the numbers and the several funds, and requesting that the same be presented at the Treasury for payment and cancellation, and every county treasurer, city or town treasurer and the treasurer of every board of education, shall make calls for warrants or orders by posting notices in the manner as provided by Section 475 of this title or by publication of a like notice as that required of the State Treasurer, in some paper of general circulation published in the county, and the interest on any and all warrants or orders called as above specified, shall cease on and after thirty (30) days from the date of the publication of such notice: Provided, that each county treasurer shall transmit to the State Treasurer all state funds or warrants in his hands on the first day of each month: Provided, further, that any treasurer who ~~violates~~ breaches any of the provisions of this article, shall be ~~guilty of a misdemeanor, and punished as provided in Section 552 of this title~~ liable for a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00): And provided, further, that each school district treasurer shall publish such notice by posting printed or written notices of the same in two or more public places in his district.

SECTION 732. AMENDATORY 63 O.S. 1991, Section 1-213, is amended to read as follows:

Section 1-213. (a) The board of county commissioners in any county that qualifies under Section 210 of this article is hereby authorized and empowered to make and enforce all reasonable rules and regulations with regard to the preservation and promotion of public health; provided, that any such rules or regulations shall have first been recommended or approved by the city-county board of health, and further provided that such rules and regulations shall not be inconsistent with state laws or rules and regulations of the State Board of Health. Such rules and regulations shall be operative throughout the county, except within the limits of incorporated cities and towns.

(b) The board of county commissioners is also authorized to provide for the levying and collection of fees for services performed by such city-county health department outside the boundaries of incorporated cities and towns within such county. Any person who ~~violates~~ breaches any rule or regulation made by such board of county commissioners under the authority of this section shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 733. AMENDATORY 63 O.S. 1991, Section 1-331, is amended to read as follows:

Section 1-331. No person shall dispose of the body of any deceased person by cremation, dehydration, combustion, or other similar means, within the State of Oklahoma, without first having obtained from the State Commissioner of Health an annual license to operate a crematory. Application for such annual license shall be made to the Commissioner upon forms prescribed and furnished by him, shall give the location of the crematory, and such other information as the Commissioner shall require, and shall be accompanied by the license fee not to exceed Twenty-five Dollars ($25.00), to be determined by the State Board of Health. Annual licenses shall

expire on the 31st day of December each year, shall specify the name or names of the owners of the crematory and the location thereof, and shall not be transferable either as to the ownership of the crematory or as to the location thereof. The first annual license issued for any crematory at any location shall not be issued by the Commissioner until he has been satisfied that the crematory is, or will be, so constructed as to be capable of reducing the body of a deceased person to a residue which shall not weigh more than five percent (5%) of the weight of the body immediately after death. Such a showing may, but need not, be required by the Commissioner for any subsequent annual license issued for the same crematory. All crematories shall be subject to inspection, at all reasonable times, by the Commissioner or his duly authorized agents or employees. Any person operating a crematory without a license shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 734. AMENDATORY 63 O.S. 1991, Section 1-333, is amended to read as follows:

Section 1-333. Disposing of the body of a deceased person by cremation, dehydration, combustion or other similar means, within the State of Oklahoma, except in a crematory duly licensed as provided for herein and under a special permit for cremation thereof issued in accordance with the provisions hereof~~, is hereby declared to be a felony~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 735. AMENDATORY 63 O.S. 1991, Section 1-502.2, as amended by Section 1, Chapter 144, O.S.L. 1992 (63 O.S. Supp. 1994, Section 1-502.2), is amended to read as follows:

Section 1-502.2 A. Unless otherwise provided by law, all information and records which identify any person who has or may have any communicable or venereal disease which is required to be reported pursuant to Sections 1-501 through 1-532.1 of this title

and which are held or maintained by any state agency, health care provider or facility, physician, health professional, laboratory, clinic, blood bank, funeral director, third party payor, or any other agency, person, or organization in the state shall be confidential. Any information authorized to be released pursuant to paragraphs 1 through 7 of this subsection shall be released in such a way that no person can be identified unless otherwise provided for in such paragraph or by law. Such information shall not be released except under the following circumstances:

1. Release is made upon court order;

2. Release is made in writing, by or with the written consent of the person whose information is being kept confidential or with the written consent of the legal guardian or legal custodian of such person, or if such person is a minor, with the written consent of the parent or legal guardian of such minor;

3. Release is necessary as determined by the State Department of Health to protect the health and well-being of the general public. Any such order for release by the Department and any review of such order shall be in accordance with the procedures specified in Sections 309 through 323 of Title 75 of the Oklahoma Statutes. Only the initials of the person whose information is being kept confidential shall be on public record for such proceedings unless the order by the Department specifies the release of the name of such person and such order is not appealed by such person or such order is upheld by the reviewing court;

4. Release is made of medical or epidemiological information to those persons who have had risk exposures pursuant to Section 1-502.1 of this title;

5. Release is made of medical or epidemiological information to health professionals, appropriate state agencies, or district courts to enforce the provisions of Sections 1-501 through 1-532.1 of this

title and related rules and regulations concerning the control and treatment of communicable or venereal diseases;

6. Release is made of specific medical or epidemiological information for statistical purposes in such a way that no person can be identified; or

7. Release is made of medical information among health care providers, their agents or employees, within the continuum of care for the purpose of diagnosis and treatment of the person whose information is released. This exception shall not authorize the release of confidential information by a state agency to a health care provider unless such release is otherwise authorized by this section.

B. For the purposes of this section only, the words "written consent" shall mean that the person whose information is required to be kept confidential by this section or the person legally authorized to consent to release by this section has been informed of all persons or organizations to whom such information may be released or disclosed by the specific release granted. Releases granted pursuant to paragraph 2 of subsection A of this section shall include a notice in bold typeface that the information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but are not limited to, diseases such as hepatitis, syphilis, gonorrhea and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS). Consent obtained for release of information, pursuant to paragraph 2 of subsection A of this section, shall not be considered valid unless prior to consent, the person consenting to the release was given notice of the provisions for release of confidential information pursuant to this section.

C. 1. The State Department of Health may convene a confidential meeting of a multidisciplinary team for recommendation

on school placement of a student who is infected with the human immunodeficiency virus. The multidisciplinary team shall include, but not be limited to the following:

a. the parent, parents, legal representative, or legal guardian or legal custodian of the student;

b. the physician of the student;

c. a representative from the superintendent's office of the affected school district;

d. a representative from the State Department of Education; and

e. a representative from the State Department of Health.

Each member of the team shall be responsible for protecting the confidentiality of the student and any information made available to such person as a member of the team. The multidisciplinary team shall be exempt from the requirements of Sections 301 through 314 of Title 25 of the Oklahoma Statutes and Sections 24A.1 through 24A.19 of Title 51 of the Oklahoma Statutes.

2. Each member of the local school board having jurisdiction over the student shall also be responsible for protecting the confidentiality of the student and any information made available to such person as a school board member.

D. The State Department of Health may convene a confidential meeting of a multidisciplinary advisory committee to make recommendations regarding the practice of health care workers who are infected with the human immunodeficiency virus (HIV) or hepatitis B (HBV), who may be performing exposure-prone procedures. The membership of the multidisciplinary advisory committee shall include, but not be limited to, the following:

1. The Commissioner of Health or her designee;

2. Legal counsel to the Commissioner of Health;

3. The state epidemiologist or his designee;

4. An infectious disease specialist with expertise in HIV/HBV infection; and

5. Two practicing health care workers from the same discipline as the HIV/HBV-infected health care worker.

In addition, the health care worker being discussed, and/or an advocate, and the personal physician of the health care worker being discussed shall be invited to the multidisciplinary advisory committee meeting. Discussion of the case shall be made without using the actual name of the health care worker. Each member of the multidisciplinary advisory committee shall be responsible for protecting the confidentiality of the HIV/HBV-infected health care worker and the confidentiality of any information made available to such person as a member of the multidisciplinary advisory committee. The multidisciplinary advisory committee shall be exempt from the requirements of the Open Meetings Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, and the Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes.

E. Upon advice of the multidisciplinary advisory committee, the Commissioner of Health, or her designee, may notify an appropriate official at the health care facility where the HIV/HBV-infected health care worker practices that said health care worker is seropositive for HIV and/or HBV. Notification shall be made only when necessary to monitor the ability of the HIV/HBV-infected health care worker to comply with universal precautions and appropriate infection control practices, and/or to monitor the ongoing functional capacity of the health care worker to perform his or her duties. Notification shall occur through one of the following officials:

1. The facility administrator;

2. The hospital epidemiologist;

3. The chairman of the infection control committee of the facility; or

4. The medical chief of staff of the facility.

F. If the HIV/HBV-infected health care worker fails or refuses to comply with the recommendations of the multidisciplinary advisory committee, the Commissioner of Health, or her designee, may take such actions as may be required to perform the duties imposed by the laws of the State of Oklahoma, and may advise the appropriate licensing board.

G. Any person who ~~negligently, knowingly or intentionally~~ discloses or fails to protect medical or epidemiological information classified as confidential pursuant to this section, upon conviction, shall be ~~guilty of a misdemeanor punishable by the imposition of~~ liable for a civil infraction and subject to a fine of not ~~less~~ more than One Thousand Dollars ($1,000.00). Any public servant who violates the provisions of this section shall also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

H. Any person who negligently, knowingly or intentionally discloses or fails to protect medical or epidemiological information classified as confidential pursuant to this section shall be civilly liable to the person who is the subject of the disclosure for court costs, attorneys fees, exemplary damages and all actual damages, including damages for economic, bodily or psychological harm which is proximately caused by the disclosure.

SECTION 736. AMENDATORY 63 O.S. 1991, Section 1-503, is amended to read as follows:

Section 1-503. (a) The State Board of Health shall promulgate rules and regulations establishing a system of reporting of cases of diseases diagnosed or detected by practicing physicians and/or clinical laboratories which come within the purview of this article. A reporting system established by the Board shall be applicable to penal and eleemosynary institutions. Failure ~~or refusal~~ to report diseases as required by the Board shall ~~constitute a misdemeanor~~ be

an administrative violation and subject the violator to a fine of not more than One Thousand Dollars ($1,000.00). Refusal to report diseases as required by the Board shall be an administrative violation and subject the violator to a fine of not more than Five Thousand Dollars ($5,000.00).

(b) It shall be the duty of each local health officer to report the existence of disease in his jurisdiction, as may be required by rules and regulations of the State Board of Health.

SECTION 737. AMENDATORY 63 O.S. 1991, Section 1-520, is amended to read as follows:

Section 1-520. Any physician who shall, after having knowledge or information that any person is or may be an infected person, sell, give or furnish to such infected person, or to any other person for such infected person, a discharge from treatment, or written instrument or statement pronouncing such infected person cured, before such infected person is actually cured of such venereal disease, shall be ~~guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Provided, however, that no person who is infected with a venereal disease but who has received treatment adequate to render him noninfectious shall be denied a permit to work, because of his infection, in those categories of employment where permits to work are required by state law or local ordinance.

SECTION 738. AMENDATORY 63 O.S. 1991, Section 1-550.2, as amended by Section 1, Chapter 123, O.S.L. 1992 (63 O.S. Supp. 1994, Section 1-550.2), is amended to read as follows:

Section 1-550.2 A. It is hereby found that the occurrence of a birth defect is a tragedy for the child, the family and the community, and a matter of vital concern to the public health. A system to obtain more information about these conditions could result in their prevention, treatment and management. Therefore, it

is the intent of the Oklahoma State Legislature, in enacting this section, to:

1. Obtain information on the incidence and trends of birth defects and poor reproductive outcomes;

2. Obtain information to determine whether environmental hazards are associated with birth defects and poor reproductive outcomes;

3. Obtain information as to other possible causes of birth defects and poor reproductive outcomes; and

4. Develop prevention strategies for reducing the incidence of birth defects, and poor reproductive outcomes.

B. The Commissioner of Health may establish a system for the collection and verification of information concerning birth defects and other poor reproductive outcomes. In establishing the system, the Commissioner may require general acute care hospitals to maintain a list of patients up to six (6) years of age who have been diagnosed with birth defects incorporated within the ICD-9-CM diagnostic code categories 740 through 759.9 or such other information as the Commissioner deems appropriate, and all women discharged with a diagnosis of stillbirth or miscarriage. The list shall be made available to the Commissioner upon request and shall be used solely for purposes provided in this section.

C. The Commissioner may require general acute care hospitals, and other sources as deemed necessary, to make available to the State Department of Health the medical records of those patients who have been diagnosed with birth defects or poor reproductive outcomes as required in this section.

D. The system shall be implemented statewide.

E. The Commissioner may use the information collected pursuant to subsection B of this section and information available from other reporting systems and health providers to conduct studies to:

1. Investigate the causes of birth defects and poor reproductive outcomes;

2. Determine and evaluate measures designed to prevent their occurrences; and

3. Where possible ensure delivery of services for children identified with birth defects. The Department's investigation of poor reproductive outcomes shall include geographic, time-related or occupational associations, as well as investigations of past exposure to potentially harmful substances.

F. The Commissioner may appoint an advisory committee of health professionals who shall advise on the implementation of this section. Advisory committee members shall serve without compensation.

G. If the Commissioner finds it is necessary to collect information from sources other than general acute care hospitals, the Commissioner shall first submit for approval to the advisory committee a proposal stating the need for such information.

H. All information collected and analyzed pursuant to this section shall be confidential insofar as the identity of the individual patient is concerned and shall be used solely for the purpose provided in this section. Access to such information shall be limited to the State Department of Health, provided that the Commissioner may provide access to those scientists approved by the advisory committee who are engaged in demographic, epidemiological or other similar studies related to health, and who agree, in writing as nonstate employees, to be identified and coded while maintaining confidentiality as described herein.

I. The Department shall maintain an accurate record of all persons who are given access to the information in the system. The record shall include:

1. The name of the persons authorizing access;

2. The name, title and organizational affiliation of persons given access;

3. The dates of access;

4. The specific purpose for which the information is to be used; and

5. The results of the independent research.

J. Nothing in this section shall prohibit the publishing of statistical compilations relating to birth defects or poor reproductive outcomes which do not in any way identify individual cases or individual sources of information.

K. Any person who, in ~~violation~~ breach of a written agreement to maintain confidentiality, ~~willfully~~ discloses any information provided pursuant to this section shall be denied further access to any confidential information maintained by the Department. That person shall also be ~~deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of Two Hundred Dollars ($200.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

L. The State Board of Health is authorized to adopt, amend and repeal rules and regulations for the purpose of carrying out the provisions of this section.

SECTION 739. AMENDATORY 63 O.S. 1991, Section 1-551.1, is amended to read as follows:

Section 1-551.1 A. The State Commissioner of Health shall establish and maintain an up-to-date tumor registry to ensure an accurate and continuing source of data concerning such cancerous, precancerous and tumorous diseases as the State Board of Health may by rule specify. Such registry may include data necessary for epidemiological surveys and scientific research, and other data which is necessary and proper to further the recognition,

prevention, control, treatment and cure of cancer, precancerous and tumorous diseases.

B. The Commissioner, pursuant to rules of the State Board of Health, may require any hospital, clinic, laboratory, pathologist, physician or dentist, or any facility providing diagnostic or treatment services, to report any or all data and information necessary for the purposes of this act which may include the following:

1. Patient name, address, age, race, sex, social security number and hospital identifier or other identifier;

2. Patient's residential, family, environmental, occupational and medical histories; and

3. Physician's name, diagnosis, stage of the disease, method of treatment and the name and address of any facility providing treatment.

C. The Commissioner shall protect the identity of the patient and physician involved in any report required by this act, and may not release their identity without written consent, except that:

1. The Commissioner may grant any person involved in a legitimate research activity access to confidential information obtained by the Department concerning individual patients if:

a. the research activity is determined to be in the interest of the public health and welfare,

b. the person conducting the research provides written information about the purpose of the research project, the nature of the data to be collected and how the researcher intends to analyze it, the records the researcher wishes to review, and the safeguards the researcher will take to protect the identity of the patients whose records the researcher will be reviewing,

c. the proposed safeguards are adequate to protect the identity of each patient whose records will be reviewed, and

d. an agreement is executed between the Commissioner of Health and the researcher that specifies the researcher's use of the records and that prohibits the publication or release of the names of individual cancer patients or any facts tending to lead to the identification of individual cancer patients;

2. Researchers may, with the approval of the Commissioner, use the names of individual patients when requesting additional information for research purposes or soliciting an individual patient's participation in a research project. However, if a researcher requests additional information or an individual patient's participation in a research project, the researcher must first obtain the written consent of the patient's attending physician. If the consent of the patient's attending physician is obtained, the researcher must then obtain the individual cancer patient's written consent by having the patient complete a release of confidential medical information form;

3. Data on patients may be shared with other registries, private or governmental, within or without the state, provided that a reciprocal data sharing agreement, approved by the Commissioner, is implemented with that registry. Such agreements must include patient identification confidentiality requirements; and

4. Provided further, that any confidential information released by the Commissioner under this act shall be deemed to be a confidential communication within the meaning of the physician-patient and the psychotherapist-patient privilege.

D. Nothing in this act shall be construed to compel any individual to submit to any medical examination, treatment or supervision of any kind; nor shall anyone providing information in

accordance with this act be deemed to be, or held liable for, divulging confidential information. An individual shall have the right to deny registration on religious grounds.

E. The State Board of Health is empowered to adopt reasonable regulations to carry out the provisions of this act.

F. Any person who, in ~~violation~~ breach of a written agreement to maintain confidentiality, ~~willfully~~ discloses any information provided pursuant to this section shall be denied further access to any confidential information maintained by the Department. That person shall also be ~~deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of Two Hundred Dollars ($200.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 740. AMENDATORY Section 3, Chapter 165, O.S.L. 1993 (63 O.S. Supp. 1994, Section 1-742), is amended to read as follows:

Section 1-742. A. 1. Any person who ~~intentionally or knowingly~~ pays to or accepts anything of value from any person, firm, association of persons, partnership or corporation for securing or soliciting patients for any hospital or other entity providing health care services in this state~~, upon conviction, shall be guilty of a misdemeanor and~~ shall be ~~punished by~~ liable for a civil infraction and subject to a fine of not less than Five Hundred Dollars ($500.00) and not more than Two Thousand Dollars ($2,000.00). This section shall be in addition to any appropriate provision in Title 21 of the Oklahoma Statutes.

2. In addition to any other penalties or remedies provided by law:

a. a violation of this section by a health care professional or health care provider shall be grounds

for disciplinary action by the state agency licensing, certifying or registering such professional or provider, and

b. the state agency licensing, certifying or registering such professional or provider may institute an action to enjoin violation or potential violation of this section. The action for an injunction shall be in addition to any other action, proceeding or remedy authorized by law.

B. This section shall not be construed to prohibit:

1. Advertising, except that advertising which:

a. is false, misleading or deceptive,

b. advertises professional superiority or the performance of a professional service in a superior manner, and

c. is not readily subject to verification;

2. Remuneration for advertising, marketing or other services that are provided for the purpose of securing or soliciting patients, provided the remuneration is:

a. set in advance,

b. consistent with the fair market value of the services, and

c. not based on the volume or value of any patient referrals or business otherwise generated between the parties; and

3. Any payment, business arrangements or payments practice not prohibited by 42 U.S.C., Section 1320a-7b(b), or any regulations promulgated pursuant thereto.

C. This section shall not apply to licensed insurers, including but not limited to, group hospital service corporations or health maintenance organizations which reimburse, provide, offer to provide or administer hospital, medical, dental or other health-related

benefits under a health benefits plan for which it is the payor when it is providing those services under a health benefits plan.

D. For purposes of this section:

1. "Health care professional" means any person who offers or provides counseling or health or mental health care under a license, certification or registration issued pursuant to Title 59 of the Oklahoma Statutes; and

2. "Health care provider" means any hospital or related institution offering or providing health care services licensed pursuant to Section 1-702 of this title.

SECTION 741. AMENDATORY Section 4, Chapter 165, O.S.L. 1993 (63 O.S. Supp. 1994, Section 1-743), is amended to read as follows:

Section 1-743. Any entity advertising mammography services must include in its advertising the total cost of the procedure. Any entity who has been determined to be in violation of this section by the State Board of Health, after notice and hearing by the Board, shall be liable for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) or~~ more than One Thousand Dollars ($1,000.00) for each violation.

SECTION 742. AMENDATORY 63 O.S. 1991, Section 1-818.9, is amended to read as follows:

Section 1-818.9 Any person who ~~violates~~ breaches any of the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act or any order or determination of the Department promulgated pursuant to the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, or who fails to perform any duty imposed upon such person by the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) and subject to any of the following

penalties and liabilities as authorized by the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act:

1. License revocation, suspension, or nonrenewal; and

2. Conditional license; and

3. Transfer of residents; and

4. Receivership; and

5. Injunctive proceedings, including prohibiting the admission of new residents to the group home; and

6. ~~Civil fines; and~~

~~7. Criminal penalties~~ Any appropriate criminal penalty provided in Title 21 of the Oklahoma Statutes.

SECTION 743. AMENDATORY 63 O.S. 1991, Section 1-818.20, as amended by Section 12, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, Section 1-818.20), is amended to read as follows:

Section 1-818.20 A. All principles enunciated in this section shall be posted in a conspicuous, easily accessible place in each group home and each resident and resident's representative, if any, shall be provided a copy of these principles prior to or upon admission. The group home shall ensure that its staff is familiar with and observes the rights and responsibilities enumerated in this section.

B. A statement of rights and responsibilities shall include, but not be limited to, the following:

1. Every resident's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and the group home shall encourage and assist in the exercise of these rights;

2. Every resident shall have the right to have private communications and consultations with the physician, attorney or any other person of the resident's choice, and may send and promptly receive, unopened, the resident's personal mail;

3. Every resident shall have the right, without fear of reprisal, to present grievances on behalf of the resident or others to the group home's staff or administrator, to governmental officials or to any other person and to join with other residents or individuals within or outside of the facility to work for improvements in resident care;

4. Every resident shall have the right to manage his or her own financial affairs, unless the resident or a representative, if any, delegates the responsibility, in writing to the group home pursuant to the program certification requirements as provided in Section 1-818.11 of this title. The resident and a representative, if any, shall have at least a quarterly accounting of any personal financial transactions undertaken in the resident's behalf by the group home during any period of time such responsibilities have been delegated to the group home;

5. Every resident shall have the right to receive adequate and appropriate medical care consistent with established and recognized medical practice standards within the community. Every resident shall be fully informed by the attending physician of the resident's own medical condition and proposed treatment in terms and language that the resident can understand, unless medically contraindicated, and to refuse medication and treatment after being fully informed of and understanding the consequences of such actions;

6. Every resident shall receive respect and privacy in the resident's medical care program. Case discussion, consultation, examination and treatment shall remain confidential and shall be conducted discreetly. Personal and medical records shall be confidential;

7. Every resident shall have the right to retain and use his or her personal clothing and possessions, unless medically contraindicated, and shall have the right to security in the storage and use of such clothing and possessions;

8. Every resident shall have the right to receive courteous and respectful care and treatment and a written statement of the services provided by the group home, including those required to be offered on an as-needed basis, and a statement of related charges, including any costs for services not covered under medicare or medicaid, or not covered by the group home's basic per diem rate;

9. Every resident shall be free from mental and physical abuse, and from physical and chemical restraints as provided by the program certification standards;

10. Every resident shall receive a statement of the facility's regulations and an explanation of the resident's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other residents;

11. No resident shall be required to perform services for a group home. Regular participation in shared household tasks shall not be construed to mean "services for a group home" when said tasks are included as part of a training, habilitation or rehabilitation plan for the resident pursuant to the program certification requirements for the group home and are performed as a part of normal shared household tasks;

12. Every resident shall have privacy for spousal visits. Every resident may share a room with their spouse, if the spouse is residing in the same group home; and

13. When a physician indicates it is appropriate, a group home shall immediately notify the resident's next of kin, or representative of the resident's death or when the resident's death appears to be imminent.

C. No licensed facility shall deny appropriate care on the basis of the resident's source of payment as defined in the regulations.

D. Each group home shall prepare a written plan and provide appropriate staff training to implement each resident's rights as stated in this section.

E. Any person ~~convicted of~~ violating any provision of this section shall be ~~guilty of a misdemeanor, punishable by~~ liable for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than ~~Three Hundred Dollars ($300.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00).

F. In addition to the ~~penalties~~ fine provided in this section, an action may be brought against an individual by any resident who is injured by any violation of this section, or who shall suffer injury from any person whose threats would cause a violation of this section if carried through, may maintain an action to prevent, restrain or enjoin a violation or threatened violation. If a violation or threatened violation of this section shall be established in any action, the court shall enjoin and restrain or otherwise prohibit the violation or threatened violation and assess in favor of the plaintiff and against the defendant the cost of the suit, and the reasonable attorney fees incurred by the plaintiff. If damages are alleged and proved in the action, the plaintiff shall be entitled to recover from the defendant the actual damages sustained by the plaintiff. If it is proved in an action that the defendant's conduct was willful or in reckless disregard of the rights provided by this section, punitive damages may be assessed.

G. Any employee of a state agency that inspects any group home shall report any flagrant violations of this act or any other statute to the administrative head of the state agency, who shall immediately take whatever steps are necessary to correct the situation including, when appropriate, reporting the violation to the district attorney of the county in which the violation occurred.

H. Upon the death of a resident who has no sources of payment for funeral services, the group home shall immediately notify appropriate county officials who shall be responsible for funeral and burial procedures of the deceased in the same manner as with any indigent resident of the county. However, if the resident is a client of the Department of Human Services, the Department of Human Services shall be responsible for the burial of the resident as provided by law.

SECTION 744. AMENDATORY 63 O.S. 1991, Section 1-818.31, is amended to read as follows:

Section 1-818.31 A. No person shall ~~willfully~~:

1. Fail to correct or interfere with the correction of a violation within the time specified on the notice or approved plan of correction pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act as the maximum period given for correction, unless an extension is granted and the corrections are made before expiration of extension; or

2. Prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the Department in the investigation and enforcement of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; or

3. Prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of official duties pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; or

4. Prevent or interfere with any such representative in the preserving of evidence of any violation of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act or the rules promulgated pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; or

5. Retaliate or discriminate against any resident or employee for contacting or providing information to any state official, or for initiating, participating in, or testifying in an action for any remedy authorized pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; or

6. File any false, incomplete, or intentionally misleading information required to be filed pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act or ~~willfully~~ fail or refuse to file any information required by the Department pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; or

7. Open a group home without a license or operate a group home without a license and program certification.

B. ~~No employee of a state or unit of a local government agency shall aid, abet, assist, conceal, or conspire with an administrator, house manager or other employee of a home in a violation of any provision of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act or any rule, regulation, or standard promulgated by the Board pursuant to the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act.~~

~~C.~~ Any person who ~~violates~~ breaches any of the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act~~, upon conviction,~~ for which a penalty has not been provided shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Each day upon which such ~~violation~~ breach occurs shall constitute a separate ~~violation~~ breach.

SECTION 745. AMENDATORY 63 O.S. 1991, Section 1-818.32, is amended to read as follows:

Section 1-818.32 A. Any person who has been determined by the Department to have violated any provision of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act or any rule, regulation, or order issued pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act ~~may: Be~~ shall be liable for ~~a civil penalty of not more than One Hundred Dollars ($100.00)~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each day that said violation continues. The maximum ~~civil penalty~~ fine shall not exceed Ten Thousand Dollars ($10,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Department shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act.

C. Any license holder may elect to surrender his license in lieu of said fine but shall be forever barred from obtaining a reissuance of said license.

D. In addition to or in lieu of a fine as provided in this section, the Department may issue an administrative order prohibiting a group home which has a history of incomplete or partial compliance with the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act or which has a history of failure to fully implement a plan of

correction in a timely manner from admitting new or additional residents to the group home.

SECTION 746. AMENDATORY 63 O.S. 1991, Section 1-825, is amended to read as follows:

Section 1-825. Any person who ~~violates~~ breaches any of the provisions of the Residential Care Act or any order or determination of the Department promulgated pursuant to the Residential Care Act, or who fails to perform any duty imposed upon such person by the provisions of the Residential Care Act, shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) and subject to any of the following ~~penalties and~~ liabilities as authorized by the provisions of the Residential Care Act:

1. License revocation, suspension, or nonrenewal; and

2. Conditional license; and

3. Transfer of residents; and

4. Receivership; and

5. Injunctive proceedings; and

6. ~~Civil fines; and~~

~~7. Criminal penalties~~ Any appropriate criminal penalty provided in Title 21 of the Oklahoma Statutes.

SECTION 747. AMENDATORY 63 O.S. 1991, Section 1-832, is amended to read as follows:

Section 1-832. A. No person shall ~~willfully~~:

1. Fail to correct or interfere with the correction of a violation within the time specified on the notice or approved plan of correction pursuant to the provisions of the Residential Care Act as the maximum period given for correction, unless an extension is granted and the corrections are made before expiration of extension; or

2. Prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the Department in the investigation and enforcement of the Residential Care Act; or

3. Prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of official duties pursuant to the provisions of the Residential Care Act; or

4. Prevent or interfere with any such representative in the preserving of evidence of any violation of the Residential Care Act or the rules promulgated pursuant to the provisions of the Residential Care Act; or

5. Retaliate or discriminate against any resident or employee for contacting or providing information to any state official, or for initiating, participating in, or testifying in an action for any remedy authorized pursuant to the provisions of the Residential Care Act; or

6. File any false, incomplete, or intentionally misleading information required to be filed pursuant to the provisions of the Residential Care Act, or ~~willfully~~ fail or refuse to file any information required by the Department pursuant to the provisions of the Residential Care Act; or

7. Open or operate a home without a license.

B. ~~No employee of a state or unit of a local government agency shall aid, abet, assist, conceal, or conspire with an administrator, operator or other employee of a home in a violation of any provision of the Residential Care Act or any rule, regulation, or standard promulgated by the Board pursuant to the Residential Care Act.~~

~~C.~~ Any person who ~~violates~~ breaches any of the provisions of the Residential Care Act~~, upon conviction,~~ for which a penalty has not been provided shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Each day upon which such ~~violation~~ breach occurs shall constitute a separate ~~violation~~ breach.

SECTION 748. AMENDATORY 63 O.S. 1991, Section 1-833, is amended to read as follows:

Section 1-833. A. Any person who has been determined by the Department to have ~~violated~~ breached any provision of the Residential Care Act or any rule, regulation, or order issued pursuant to the provisions of the Residential Care Act may be liable for ~~a civil penalty of not more than One Hundred Dollars ($100.00)~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each day that said ~~violation~~ breach continues. The maximum civil penalty shall not exceed Ten Thousand Dollars ($10,000.00) for any related series of ~~violations~~ breaches.

B. The amount of the ~~penalty~~ fine shall be assessed by the Department pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the ~~penalty~~ fine, the Department shall include but not be limited to consideration of the nature, circumstances, and gravity of the ~~violation~~ breach and, with respect to the person found to have committed the ~~violation~~ breach, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Residential Care Act.

C. Any license holder may elect to surrender his license in lieu of said fine but shall be forever barred from obtaining a reissuance of said license.

SECTION 749. AMENDATORY 63 O.S. 1991, Section 1-858, is amended to read as follows:

Section 1-858. Any person who offers or develops or begins to offer or develop a long-term care facility or an addition thereto without having first obtained a certificate of need, as provided by the Long-term Care Certificate of Need Act, shall be ~~deemed guilty of a misdemeanor, and upon conviction shall be punishable by payment~~

~~of a fine of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00)~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00). If the State Department of Health, through one of its agents or representatives, notifies in writing, through certified mail, return receipt requested, the person who has unlawfully commenced the offering or development of a long-term care facility to cease and desist, then each day that such person continues such offering or development shall be a separate offense. If any person continues to offer or develop an institutional health service after the issuance of a cease and desist order, the Department shall seek an injunction to prohibit the continued offering or development.

SECTION 750. AMENDATORY 63 O.S. 1991, Section 1-878, is amended to read as follows:

Section 1-878. A. It shall be unlawful to operate an adult day care center, without possessing a current, valid license issued pursuant to the Adult Day Care Act. It shall be unlawful for any holder of a license issued pursuant to the Adult Day Care Act to advertise or hold out to the public that it holds a license for a center other than that for which it actually holds a license. Operation of such a center without a license shall subject the operator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. Any person who has been determined by the Department to have ~~violated~~ breached any provision of the Adult Day Care Act or any rule, regulation, or order issued pursuant thereto may be liable for an administrative ~~penalty~~ violation and subject to a fine of not more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00) for each day that said ~~violation~~ breach continues.

C. The amount of the ~~penalty~~ fine shall be assessed by the Department pursuant to the provisions of subsection B of this

section, after notice and hearing. In determining the amount of the ~~penalty~~ fine, the Department shall include but not be limited to consideration of the nature, circumstances, and gravity of the ~~violation~~ breach and, with respect to the person found to have committed the ~~violation~~ breach, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Adult Day Care Act.

D. Any license holder may elect to surrender his license in lieu of said fine but shall be forever barred from obtaining a reissuance of said license.

E. ~~Any person who violates any of the provisions of the Adult Day Care Act, upon conviction, shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.~~

~~F.~~ 1. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Adult Day Care Act or any rule, regulation, or order issued pursuant thereto.

2. Enforcement of any action for equitable relief to redress or restrain a violation by any person of a provision of the Adult Day Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the Adult Day Care Act may be brought by:

a. the district attorney of the appropriate district court of the State of Oklahoma;

b. the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma; or

c. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

3. The court has jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

SECTION 751. AMENDATORY 63 O.S. 1991, Section 1-880.11, is amended to read as follows:

Section 1-880.11 Any person who offers or develops or begins to offer or develop a psychiatric or chemical dependency facility or an addition thereto without having first obtained a certificate of need, as provided by this act, shall be ~~deemed guilty of a misdemeanor, and upon conviction shall be punishable by payment of a fine of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00)~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00). If the State Department of Health, through one of its agents or representatives, notifies in writing, through certified mail, return receipt requested, the person who has unlawfully commenced the offering or development of a psychiatric or chemical dependency facility to cease and desist, then each day that such person continues such offering or development shall be a separate offense. If any person continues to offer or develop such service after the issuance of a cease and desist order, the Department shall seek an injunction to prohibit the continued offering or development.

SECTION 752. AMENDATORY 63 O.S. 1991, Section 1-1011, is amended to read as follows:

Section 1-1011. (a) The local health officer and, if authorized by appropriate ordinance of the city, the city health officer shall have such authority as to any private premises within the corporate

limits of the city, and shall have the authority to order the owner or occupant of any private premises in the county to remove from such premises, at his own expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any other condition adversely affecting the public health, within twenty-four (24) hours, or within such other time as might be reasonable, and a failure to do so shall ~~constitute a misdemeanor~~ be a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Such order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, or a copy thereof may be left at the last usual place of abode of such owner, occupant or agent, if known and within the state. If the premises are unoccupied and the residence of such owner, occupant or agent is unknown, or is without the state, such order may be served by posting a copy thereof on the premises, or by publication in at least one issue of a newspaper having a general circulation in the county. In the event of any conflict between the city health officer and the local health officer of the county, the county shall prevail.

(b) If such order is not complied with, the local health officer of the county or of the city may cause the order to be executed and complied with, and the cost thereof shall be certified to the county clerk, who shall add the same to the ad valorem taxes assessed against the property, and such cost shall be a lien against the property, until paid, and shall be collected in the same manner as ad valorem taxes against the property, and when collected shall be paid to the local health officer, county or city, or successor thereof, issuing the order, for reimbursement of the funds used to pay such cost.

(c) Cities and towns may enact ordinances providing for proceedings similar to those authorized by the foregoing provisions

of this section, by city and town officials, and the cost of removing or abating any such nuisances may be added to municipal utility bills and collected in the same manner as such bills.

SECTION 753. AMENDATORY 63 O.S. 1991, Section 1-1016B, is amended to read as follows:

Section 1-1016B. Every person who shall have control of a public restroom located within a building built with public funds and who shall ~~knowingly violate~~ breach this act shall be ~~deemed guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 754. AMENDATORY 63 O.S. 1991, Section 1-1104, is amended to read as follows:

Section 1-1104. (a) Any person who ~~violates~~ breaches any of the provisions of Section 1102 of this article shall be ~~guilty of a misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than thirty (30) days, or a fine of not more than One Hundred Dollars ($100.00), or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than six (6) months, or a fine of not more than Five Hundred Dollars ($500.00), or both such imprisonment and fine~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). In addition, a violator may be subject to criminal prosecution for various crimes in Title 21 of the Oklahoma Statutes.

(b) No person shall be subject to the ~~penalties~~ fines of subsection (a) of this section for having ~~violated~~ breached Section 1102(a) or (c) of this article if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect that such article is not

adulterated or misbranded within the meaning of this article, designating this article.

(c) No publisher, radio broadcast or television licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused on the request of the State Commissioner of Health or his duly authorized agent to furnish the Commissioner the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency residing in the United States who caused him to disseminate such advertisement.

SECTION 755. AMENDATORY 63 O.S. 1991, Section 1-1301.37, is amended to read as follows:

Section 1-1301.37 A. The Department shall issue an annual license authorizing the manufacture of Mello-drink products. The license shall expire at the end of each fiscal year.

B. Each application for a license shall be in the form as prescribed by the Department and shall be accompanied by a fee of Fifteen Dollars ($15.00).

C. The Department shall issue a license to each applicant who satisfies the requirements of this act and the rules, regulations and orders adopted pursuant to this act.

D. It is unlawful ~~and a misdemeanor~~ <u>for any person or entity</u> to engage in the manufacture of Mello-drink products without a license for the current fiscal year. <u>Breach of this provision shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.</u> Each separate plant or place of manufacturing shall require a license.

E. The manufacture of Mello-drink products under unhealthful or insanitary conditions or any other violation of this act shall be grounds for revocation or suspension of the manufacturer's license.

F. It is unlawful and ~~a misdemeanor~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person to sell, give away or deliver any Mello-drink product which has been produced in a plant that is in an insanitary condition, or that is handled by any carrier or any store or depot that is in an insanitary condition.

SECTION 756. AMENDATORY 63 O.S. 1991, Section 1-1301.38, is amended to read as follows:

Section 1-1301.38 A. It is unlawful ~~and a misdemeanor~~ for any person or entity to import Mello-drink products into the State of Oklahoma without a license for such importation. Breach of this provision shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. Each application for an import license shall be in the form as prescribed by the Department and shall be accompanied by a fee of Fifteen Dollars ($15.00).

C. In addition to an import license, each imported Mello-drink product must be registered and approved by the Department and otherwise meet the same requirements and standards as Mello-drink products manufactured in this state.

D. The application for product registration or the import license shall not be approved unless the provisions of this act and the rules, regulations and orders adopted pursuant to the provisions of this act are satisfied.

SECTION 757. AMENDATORY 63 O.S. 1991, Section 1-1301.40, is amended to read as follows:

Section 1-1301.40 A. Any person ~~violating~~ breaching any provisions of this act or any rule, regulation or order adopted in accordance with its provisions for which a specific penalty is not provided is ~~guilty of a misdemeanor punishable by~~ liable for an administrative violation and subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than One Thousand Dollars

($1,000.00) for each ~~violation or by imprisonment in the county jail for not to exceed ninety (90) days, or both~~ breach.

B. Upon failure or refusal of a person to comply with the provisions of this act or any rule, regulation or order adopted in accordance with its provisions, the Board or its authorized agent may file an action in the district court to restrain and enjoin the person from engaging in further acts violating the provisions of this act or any rule, regulation or order.

The court shall proceed as in other actions for injunctions. Any person found to be in contempt of an injunctive order of the court shall be fined not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) or be imprisoned in the county jail for not to exceed ninety (90) days, or both, with each day constituting a separate contempt.

SECTION 758. AMENDATORY 63 O.S. 1991, Section 1-1404, is amended to read as follows:

Section 1-1404. (a) Any person who ~~violates~~ breaches any of the provisions of Section ~~1402~~ 1-1402 of this ~~article~~ title shall be ~~guilty of a misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than thirty (30) days, or a fine of not more than One Hundred Dollars ($100.00), or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than six (6) months, or a fine of not more than Five Hundred Dollars ($500.00), or both such imprisonment and fine~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate punishment in Title 21 of the Oklahoma Statutes.

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated Section ~~1402~~ 1-1402(a) or (c) of this ~~article~~ title, if he establishes a guaranty or

undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this article, designating this article.

(c) No publisher, radio broadcast or television licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the State Commissioner of Health, or his duly authorized agent, to furnish the Commissioner the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency residing in the United States who caused him to disseminate such advertisement.

SECTION 759. AMENDATORY 63 O.S. 1991, Section 1-1604, is amended to read as follows:

Section 1-1604. (a) Any person who ~~violates~~ breaches any of the provisions of Section ~~1603~~ 1-1603 of this title shall be ~~guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than Five Hundred Dollars ($500.00), or to imprisonment for not more than ninety (90) days, or both~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00); but ~~for offenses committed with intent to defraud or mislead, or~~ for second and subsequent offenses, the ~~penalty~~ fine shall be ~~imprisonment for not more than one year, or a fine of~~ not more than ~~Three Thousand Dollars ($3,000.00), or both such imprisonment and fine~~ Five Thousand Dollars ($5,000.00). This section shall be in addition to any appropriate provisions of Title 21 of the Oklahoma Statutes.

(b) No person shall be subject to the penalties of subsection (a) of this section (1) for having violated Section ~~1603~~ 1-1603(c),

if the receipt, delivery, or proffered delivery of the hazardous substance was made in good faith, unless he refuses to furnish, on request of an officer or employee duly designated by the State Commissioner of Health, the name and address of the person from whom he purchased or received such hazardous substance, and copies of all documents, if any there be, pertaining to the delivery of the hazardous substance to him; or (2) for having violated Section ~~1603~~ 1-1603(a), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the hazardous substance, to the effect that the hazardous substance is not in misbranded packages within the meaning of that term in this article; or (3) for having violated subsection (a) or (c) of Section ~~1603~~ 1-1603 in respect of any hazardous substance shipped or delivered for shipment for export to any foreign country, in a package marked for export on the outside of the shipping container and labeled in accordance with the specifications of the foreign purchaser and in accordance with the laws of the foreign country, but, if such hazardous substance is sold or offered for sale in domestic commerce, this clause shall not apply.

SECTION 760. AMENDATORY 63 O.S. 1991, Section 1-1701, as last amended by Section 310, Chapter 145, O.S.L. 1993 (63 O.S. Supp. 1994, Section 1-1701), is amended to read as follows:

Section 1-1701. A. Unless otherwise provided in the Oklahoma Public Health Code:

1. Any person who ~~willfully~~ fails or refuses to comply with, or ~~violates~~ breaches, a lawful order of the State Board of Health or the State Commissioner of Health, or his duly authorized representative, or of a local health officer, or who ~~violates~~ breaches the terms and conditions of a quarantine or embargo, shall~~, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not to exceed One Hundred~~

~~Dollars ($100.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment~~ be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00);

2. Any person who fails or refuses to make or file a report, or to file a certificate, or to keep a record, that is required by the provisions of this Code, or by rules of the State Board of Health, or the State Commissioner of Health, or who gives false information in or for such report, certificate or record, shall~~, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Two Hundred Dollars ($200.00)~~ be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00);

3. Any person who gives false information in an application for a license or permit, or to the Commissioner or a local health officer, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Two Hundred Dollars ($200.00);

4. Any person who does any act for which a license or permit is required by the provisions of this Code, and who is not at the time the holder of such a license or permit, shall~~, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes; and

5. Any person who does any act that is made unlawful ~~or a misdemeanor~~ by the provisions of this Code, or who violates any of the other provisions of this Code, or any standard, rule or regulation authorized by this Code, unless a specific penalty is provided, shall~~, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than~~

~~Two Hundred Dollars ($200.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment~~ be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

B. 1. Notwithstanding the penalties provided for in this section, district courts may also grant injunctive relief to prevent a violation of, or to compel a compliance with, any of the provisions of this Code or any rule or order issued pursuant to this Code.

2. Any action for injunctive relief to redress or restrain a violation by any person of any provision of this Code, any rule or order issued pursuant to this Code, or recovery of any administrative or civil penalty assessed pursuant to Section 1-1701.1A of this title may be filed and prosecuted by:

a. the district attorney in the appropriate district court of the State of Oklahoma, or

b. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

3. As used in this subsection, the term "this Code" includes Section 1-101 et seq. of this title and those statutes codified in Title 59 of the Oklahoma Statutes for the regulation of professions and occupations for which the Department issues a license.

SECTION 761. AMENDATORY 63 O.S. 1991, Section 1-1701.1A, as last amended by Section 311, Chapter 145, O.S.L. 1993 (63 O.S. Supp. 1994, Section 1-1701.1A), is amended to read as follows:

Section 1-1701.1A A. In addition to any other remedies provided for by law, the Department, pursuant to rules and regulations, may issue a written order to any person whom the Department has reason to believe is presently in violation of any

standards or rules promulgated by the State Board of Health and to whom the Department has served, no less than fifteen (15) days previously, a written notice of violation of such standards or rules. The fifteen-day notice period may be reduced as, in the opinion of the Department, may be necessary to render the order reasonably effectual.

B. The written order may require compliance with such standards or rules immediately or within a specified time period or both. The order may also assess an administrative fine for each day or part of a day that such person fails to comply with the order.

C. Any order issued pursuant to this section shall state with specificity the nature of the violation. Any ~~penalty assessed in the order shall not exceed~~ person violating such order shall be liable for an administrative violation and subject to a fine of not more than Ten Thousand Dollars ($10,000.00) per day of noncompliance with the order. In assessing such a penalty, the Department shall consider the seriousness of the violation and any efforts to comply with applicable requirements.

D. Any order issued pursuant to the provisions of this section shall become a final order unless, no later than fifteen (15) days after the order is served, the person or persons named therein request an administrative hearing. Upon such request the Department shall promptly conduct the hearing. The Department shall dismiss such proceedings where compliance with the order is demonstrated. A final order following a hearing may assess an administrative fine of an amount based upon consideration of the evidence but not exceeding the amount stated in the written order.

E. Such orders and hearings are subject to the Administrative Procedures Act.

SECTION 762. AMENDATORY 63 O.S. 1991, Section 1-1911, is amended to read as follows:

Section 1-1911. A. Every building, institution, or establishment for which a license has been issued shall be periodically inspected by a duly appointed representative of the Commissioner, pursuant to rules and regulations adopted by the Board with the advice and counsel of the Long-Term Care Facility Advisory Board created pursuant to the provisions of Section 1-1923 of this title. Inspection reports shall be prepared on forms prescribed by the Commissioner with the advice and counsel of the Advisory Board.

Facilities licensed pursuant to the provisions of the Nursing Home Care Act shall not be exempt from being inspected or licensed pursuant to the laws of this state relating to hotels, restaurants, lodging houses, boarding houses, and places of refreshment. Inspections of residential care homes shall be conducted in accordance with the standards established by the Commissioner pursuant to the provisions of the Residential Care Act.

B. The Department, whenever it deems necessary, shall inspect, survey, and evaluate every facility to determine compliance with applicable licensure and certification requirements and standards. All inspections of facilities shall be unannounced. The Department may have as many unannounced inspections as it deems necessary. The Department may periodically visit a facility for the purpose of consultation. An inspection, survey, or evaluation, other than an inspection of financial records, shall be conducted without prior notice to the facility. One person shall be invited from a statewide organization of the elderly by the Department to act as a citizen observer in an unannounced inspection; the individual may be a state or local ombudsman as defined by the Special Unit on Aging established by the Department of Human Services acting pursuant to the provisions of the Older Americans Act of 1965, Public Law No. 89-73, as amended. The citizen observer shall receive expenses as provided for in the State Travel Reimbursement Act. An employee of a state or unit of a local government agency charged with

inspecting, surveying, and evaluating facilities who aids, abets, assists, conceals, or conspires with a facility administrator or employee in ~~violation~~ breach of the provisions of the Nursing Home Care Act shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) and shall be subject to dismissal from employment. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

C. The Department shall hold open meetings at least once every four (4) years in each of the licensed facilities to advise and to facilitate communication and cooperation between facility personnel and the residents of facilities in their mutual efforts to improve patient care. Administrators, employees of the facility, residents, residents' relatives, friends, residents' representatives, employees from appropriate state and federal agencies shall be encouraged to attend these meetings to contribute to this process.

D. The Department shall require periodic reports and shall have access to books, records, and other documents maintained by the facility to the extent necessary to implement the provisions of the Nursing Home Care Act and the rules promulgated pursuant to said provisions.

Any holder of a license or applicant for a license shall be deemed to have given consent to any authorized officer, employee, or agent of the Department to enter and inspect the facility in accordance with the provisions of the Nursing Home Care Act. Refusal to permit said entry or inspection, except for good cause, shall constitute grounds for denial, nonrenewal, or revocation of a license as provided in the provisions of the Nursing Home Care Act.

E. The Department shall make at least one annual report on each facility in the state. All conditions and practices not in compliance with applicable standards within the year for which the report is made shall be specifically stated. If a violation is

corrected or is subject to an approved plan of correction, such action shall be specified in the annual report. Upon receiving a written request for a copy of the annual report, the Department shall send a copy of the report to any person making the written request. The Department may charge a reasonable fee for copying costs.

SECTION 763. AMENDATORY 63 O.S. 1991, Section 1-1916, is amended to read as follows:

Section 1-1916. A. No person shall:

1. ~~Intentionally fail~~ Fail to correct or interfere with the correction of a violation within the time specified on the notice or approved plan of correction under this act as the maximum period given for correction, unless an extension is granted and the corrections are made before expiration of extension;

2. ~~Intentionally prevent~~ Prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the Department in the investigation and enforcement of this act;

3. ~~Intentionally prevent~~ Prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of official duties under this act;

4. ~~Intentionally prevent~~ Prevent or interfere with any such representative in the preserving of evidence of any violation of this act or the rules promulgated under this act;

5. ~~Intentionally retaliate~~ Retaliate or discriminate against any resident or employee for contacting or providing information to any state official, or for initiating, participating in, or testifying in an action for any remedy authorized under this act;

6. ~~Willfully file~~ File any false, incomplete or intentionally misleading information required to be filed under this act, or ~~willfully~~ fail or refuse to file any information; or

7. Open or operate a facility without a license.

B. A ~~violation~~ breach of this section is ~~a misdemeanor~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

C. The district attorney of the county in which the facility is located, or the Attorney General, may be requested by the Department to initiate prosecutions under this section.

SECTION 764. AMENDATORY 63 O.S. 1991, Section 1-1918, as amended by Section 1, Chapter 173, O.S.L. 1992 (63 O.S. Supp. 1994, Section 1-1918), is amended to read as follows:

Section 1-1918. A. All principles enunciated in this section shall be posted in a conspicuous, easily accessible place in each facility and each resident and personally appointed representative, if any, shall be provided a copy of these principles and advised verbally prior to or upon admission. The facility shall ensure that its staff is familiar with and observes the rights and responsibilities enumerated in this section. The facility shall make available to each resident, upon reasonable requests, a current written statement of such rights.

B. A statement of rights and responsibilities shall include, but not be limited to, the following:

1. Every resident's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and the facility shall encourage and assist in the exercise of these rights;

2. Every resident shall have the right to have private communications, including telephonic communications and visits and consultations with the physician, attorney, meetings of family and resident groups or any other person or persons of his choice, and may send and promptly receive, unopened, his personal mail;

3. Every resident shall have the right, without fear of reprisal or discrimination, to present grievances with respect to

treatment or care that is or fails to be furnished on behalf of himself or others to the facility's staff or administrator, to governmental officials or to any other person and to organize to join with other residents or individuals within or outside of the facility to work for improvements in resident care. The family of a resident shall have the right to meet in the facility with other residents' families. Every resident shall have the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents;

4. Every resident shall have the right to manage his own financial affairs, unless the resident delegates the responsibility, in writing, to the facility. The resident shall have at least a quarterly accounting of any personal financial transactions undertaken in his behalf by the facility during any period of time the resident has delegated such responsibilities to the facility;

5. Every resident shall have the right to receive adequate and appropriate medical care consistent with established and recognized medical practice standards within the community. Every resident unless adjudged to be mentally incapacitated shall be fully informed by his attending physician of his medical condition and advised in advance of proposed treatment or changes in treatment in terms and language that the resident can understand, unless medically contraindicated, and to participate in the planning of care and treatment or changes in care and treatment. Every resident shall have the right to refuse medication and treatment after being fully informed of and understanding the consequences of such actions unless adjudged to be mentally incapacitated;

6. Every resident shall receive respect and privacy in his medical care program. Case discussion, consultation, examination and treatment shall remain confidential and shall be conducted discreetly. Personal and medical records shall be confidential, and shall include such documentation or information so as to alert a

health care provider or an emergency medical care facility of the existence of a directive to physicians or a living will;

7. Every resident shall have the right to reside and to receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered;

8. Every resident shall have the right to receive notice before the room or roommate of the resident in the facility is changed and if the resident has a telephone in his or her room, the resident must be informed of any charges to be incurred when moving;

9. Every resident shall have the right to retain and use his personal clothing and possessions, unless medically contraindicated, and shall have the right to security in the storage and use of such clothing and possessions;

10. Every resident shall have the right to receive courteous and respectful care and treatment and a written statement of the services provided by the facility, including those required to be offered on an as-needed basis, and a statement of related charges, including any costs for services not covered under medicare or medicaid, or not covered by the facility's basic per diem rate;

11. Every resident shall be free from mental and physical abuse, corporal punishment, involuntary seclusion, and from any physical and chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms, except those restraints authorized in writing by a physician for a specified period of time or as are necessitated by an emergency where the restraint may only be applied by a physician, qualified licensed nurse or other personnel under the supervision of said physician who shall set forth in writing the circumstances requiring the use of restraint. Use of a chemical or physical restraint shall require the consultation of a physician within twenty-four (24) hours of such emergency;

12. Every resident shall receive a statement of the facility's regulations and an explanation of the resident's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other residents;

13. Every resident shall receive a statement that, should they be adjudicated incompetent and have no ability to be restored to legal capacity, the above rights and responsibilities shall be exercised by a court-appointed representative;

14. No resident shall be required to perform services for a facility;

15. Every resident shall have privacy for spousal visits. Every resident may share a room with their spouse, if the spouse is residing in the same facility;

16. When a physician indicates it is appropriate, a facility shall immediately notify the resident's next of kin, or representative of the resident's death or when the resident's death appears to be imminent;

17. Every resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility; and

18. Every resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Department with respect to the facility and any plan of correction in effect with respect to the facility.

C. No licensed facility shall deny appropriate care on the basis of the resident's source of payment as defined in the regulations. Appropriate care shall not include duplication of services by a nursing home, hospice, or any combination of care providers.

D. Each facility shall prepare a written plan and provide appropriate staff training to implement each resident's rights as stated in this section.

E. Any person ~~convicted of violating~~ determined to have breached any provisions of this section shall be ~~guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

F. In addition to the ~~penalties~~ fines provided in this section, an action may be brought against an individual by any resident who is injured by any ~~violation~~ breach of this section, or who shall suffer injury from any person whose threats would cause a ~~violation~~ breach of this section if carried through, may maintain an action to prevent, restrain or enjoin a violation or threatened ~~violation~~ breach. If a ~~violation~~ breach or threatened ~~violation~~ breach of this section shall be established in any action, the court shall enjoin and restrain or otherwise prohibit the ~~violation~~ breach or threatened ~~violation~~ breach and assess in favor of the plaintiff and against the defendant the cost of the suit, and the reasonable attorney fees incurred by the plaintiff. If damages are alleged and proved in the action, the plaintiff shall be entitled to recover from the defendant the actual damages sustained by the plaintiff. If it is proved in an action that the defendant's conduct was willful or in reckless disregard of the rights provided by this section, punitive damages may be assessed.

G. Any employee of a state agency that inspects any nursing facility or special facility shall report any flagrant violations of this act or any other statute to the administrative head of the state agency, who shall immediately take whatever steps are necessary to correct the situation including, when appropriate,

reporting the violation to the district attorney of the county in which the violation occurred.

H. Upon the death of a resident who has no sources of payment for funeral services, the facility shall immediately notify appropriate county officials who shall be responsible for funeral and burial procedures of the deceased in the same manner as with any indigent resident of the county.

SECTION 765. AMENDATORY 63 O.S. 1991, Section 1-1950.1, as last amended by Section 5, Chapter 249, O.S.L. 1992 (63 O.S. Supp. 1994, Section 1-1950.1), is amended to read as follows:

Section 1-1950.1 A. For purposes of this section:

1. "Nurses aide" means any person who provides, for compensation, nursing care or health-related services to residents in a nursing facility, a specialized facility, a residential care home or an adult day care center and who is not a licensed health professional. Such term also means any person who provides such services to individuals in their own homes as an employee or contract provider of a home health or home care agency, or as a contract provider of the Nontechnical Medical Care Program of the Oklahoma Department of Human Services;

2. "Employer" means any of the following facilities, homes, agencies or programs which are subject to the provision of this section:

a. a nursing facility, specialized facility, or residential care home as such terms are defined in Section 1-1902 of this title,

b. an adult day care center as such term is defined in Section 1-872 of this title,

c. a home health or home care agency, and

d. the Department of Human Services, in its capacity as an operator of any hospital or health care

institution, or as a contractor with providers of the Nontechnical Medical Care Program;

3. "Home health or home care agency" means any person, partnership, association, corporation or other organization which administers, offers or provides health care services or supportive assistance for compensation to three or more ill, disabled, or infirm persons in the temporary or permanent residence of such persons, and includes any subunits or branch offices of a parent home health or home care agency; and

4. "Bureau" means the Oklahoma State Bureau of Investigation.

B. 1. Except as otherwise provided by subsection C of this section, before any employer makes an offer to employ or to contract with a nurses aide or other person to provide nursing care, health-related services or supportive assistance to any individual except as provided by paragraph 4 of this subsection, the employer shall provide for a criminal arrest check to be made on the nurses aide or other person pursuant to the provisions of this section. If the employer is a facility, home or institution which is part of a larger complex of buildings, the requirement of a criminal arrest check shall apply only to an offer of employment or contract made to a person who will work primarily in the immediate boundaries of the facility, home or institution.

2. Except as otherwise specified by subsection D of this section, an employer is authorized to obtain any criminal arrest records maintained by the Oklahoma State Bureau of Investigation which the employer is required or authorized to request by the provisions of this section.

3. The employer shall request the Bureau to conduct a criminal arrest check on the person and shall provide to the Bureau any relevant information required by the Bureau to conduct the check. The employer shall pay a fee of Ten Dollars ($10.00) to the Bureau

for each criminal arrest check that is conducted pursuant to such a request.

4. The requirement of a criminal arrest check shall not apply to an offer of employment made to:

a. a nursing home administrator licensed pursuant to the provisions of Section 330.53 of this title;

b. any person who is the holder of a current license or certificate issued pursuant to the laws of this state authorizing such person to practice the healing arts;

c. a registered nurse or practical nurse licensed pursuant to the Oklahoma Nursing Practice Act;

d. a physical therapist registered pursuant to the Physical Therapy Practice Act;

e. a physical therapist assistant licensed pursuant to the Physical Therapy Practice Act;

f. a social worker licensed pursuant to the provisions of the Social Workers' Licensing Act;

g. a speech pathologist or audiologist licensed pursuant to the Speech Pathology and Audiology Licensing Act;

h. a dietitian licensed pursuant to the provisions of the Licensed Dietitian Act;

i. an occupational therapist licensed pursuant to the Occupational Therapy Practice Act; or

j. an individual who is to be employed by a nursing service conducted by and for the adherents of any religious denomination, the tenets of which include reliance on spiritual means through prayer alone for healing.

5. At the request of an employer, the Bureau shall conduct a criminal arrest check on any person employed by the employer, including the persons specified in paragraph 4 of this subsection at any time during the period of employment of such person.

C. 1. An employer may make an offer of temporary employment to a nurses aide or other person pending the results of the criminal arrest check on the person. The employer in such instance shall provide to the Bureau the name and relevant information relating to the person within seventy-two (72) hours after the date the person accepts temporary employment. The employer shall not hire or contract with a person on a permanent basis until the results of the criminal arrest check are received.

2. An employer may accept a criminal arrest report less than one (1) year old of a person to whom such employer makes an offer of employment or employment contract. The report shall be obtained from the previous employer or contractor of such person and shall only be obtained upon the written consent of such person.

D. 1. The Bureau shall not provide to the employer the criminal arrest records of a person being investigated pursuant to this section unless the criminal records relate to:

a. any felony or misdemeanor classified as a crime against the person;

b. any felony or misdemeanor classified as a crime against public decency or morality;

c. any felony or misdemeanor classified as domestic abuse pursuant to the provisions of the Protection from Domestic Abuse Act;

d. a felony violation of any state statute intended to control the possession or distribution of a Schedule I through V drug pursuant to the Uniform Controlled Dangerous Substances Act; and

e. any felony or misdemeanor classified as a crime against property.

2. Within five (5) days of receiving a request to conduct a criminal arrest check, the Bureau shall complete the criminal arrest

check and report the results of the check to the requesting employer.

E. Every employer who is subject to the provisions of this section shall inform each applicant for employment, or each prospective contract provider, as applicable, that the employer is required to obtain a criminal arrest record before making an offer of permanent employment or contract to a nurses aide or other person described in subsection B of this section.

F. 1. If the results of a criminal arrest check reveal that the subject person has been convicted of any of the following offenses, the employer shall not hire or contract with the person:

a. assault, battery, or assault and battery with a dangerous weapon;

b. aggravated assault and battery;

c. murder or attempted murder;

d. manslaughter, except involuntary manslaughter;

e. rape, incest or sodomy;

f. indecent exposure and indecent exhibition;

g. pandering;

h. child abuse;

i. abuse, neglect or financial exploitation of any person entrusted to his care or possession;

j. burglary in the first or second degree;

k. robbery in the first or second degree;

l. robbery or attempted robbery with a dangerous weapon, or imitation firearm;

m. arson in the first or second degree;

n. unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act;

o. grand larceny; or

p. petit larceny or shoplifting within the past seven (7) years.

2. If the results of a criminal arrest check reveal that an employee or a person hired on a temporary basis pursuant to subsection C of this section or any other person who is an employee or contract provider has been convicted of any of the offenses listed in paragraph 1 of this subsection, the employer shall immediately terminate the person's employment or contract. The provisions of this paragraph shall not apply to an employee or contract provider of an employer who has completed the requirements for certification and placement on the nurse aide registry and who has been continuously employed by the employer prior to January 1, 1992.

G. An employer shall not employ or continue employing a person addicted to any Schedule I through V drug as specified by the Uniform Controlled Dangerous Substances Act unless the person produces evidence that the person has successfully completed a drug rehabilitation program.

H. All criminal records received by the employer are confidential and are for the exclusive use of the State Department of Health and the employer which requested the information. Except on court order or with the written consent of the person being investigated, the records shall not be released or otherwise disclosed to any other person or agency. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate.

I. Any person releasing or disclosing any information received pursuant to this section without the authorization prescribed by this section shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

J. As part of the inspections required by the Nursing Home Care Act, the Residential Care Act, and the Adult Day Care Act, the State Department of Health shall review the employment files of any facility or home required to obtain criminal records to ensure such facilities or homes are in compliance with the provisions of this section.

SECTION 766. AMENDATORY 63 O.S. 1991, Section 1-1950.3, is amended to read as follows:

Section 1-1950.3 A. No employer or contractor who is subject to the provisions of Section 1-1950.1 or 1-1950.2 of this title ~~or Section 2 of this act~~ shall use, on a full-time, temporary, per diem, or other basis, any individual who is not a licensed health professional as a nurses aide for more than four (4) months, unless such individual has satisfied all requirements for certification and placement on the nurse aide registry maintained by the Oklahoma State Department of Health.

B. With respect to individuals used as nurses aides who have not completed requirements for certification and placement on the nurse aide registry, the employer shall provide for a competency evaluation program approved by the Oklahoma State Department of Health and such training and preparation as may be necessary for the individual to complete such a program.

C. Any person ~~convicted of violating~~ breaching any provision of this section or of Section 1-1950.1 of this title shall be ~~guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 767. AMENDATORY 63 O.S. 1991, Section 1-2215, is amended to read as follows:

Section 1-2215. A. ~~No person shall willfully interfere with a representative of the Office of the State Long-Term Care Ombudsman in the performance of official duties.~~

~~B.~~ No person shall engage in retaliation or reprisal against any resident or employee of a long-term care facility or other entity for having filed a complaint with or provided information to the Office.

~~C.~~ B. Any person ~~convicted of violating~~ determined to have breached any provisions of this section shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 768. AMENDATORY 63 O.S. 1991, Section 1-2509, is amended to read as follows:

Section 1-2509. A. No person, company, governmental entity or trust authority may operate an ambulance service within this state except as provided herein. The Commissioner of Health, the district attorney of the county wherein the ambulance service operates or may be found or the Attorney General of this state shall have the authority to bring an action to enjoin the operation of any such ambulance service not in compliance with the provisions of this act.

B. The Commissioner shall have the authority to revoke or suspend any license, to issue probationary licenses, or to levy such administrative fines and penalties as may be deemed necessary, for violations of the provisions of this act, subject to the provisions of the Oklahoma Administrative Procedures Act. The powers afforded the Commissioner within the general enforcement provisions of the Public Health Code are additionally incorporated herein.

C. In addition to any other ~~penalties~~ fines, any person, company, governmental entity or trust authority who ~~violates~~ breaches any of the provisions of this act relating to compliance

with the provisions of this act or of standards, specifications, procedures, rules and regulations adopted by the State Board ~~may be punished by the assessment of a civil penalty of not more than One Hundred Dollars ($100.00)~~ is liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each ~~violation~~ breach. Each day a ~~violation~~ breach continues shall be considered a separate offense.

D. The operation or maintenance of an ambulance service in violation of this act, or the rules and regulations promulgated by the State Board, is declared a public nuisance inimical to the public welfare. The Commissioner in the name of the people of the state, through the Attorney General, or the district attorney of the county in which the ambulance service is located, may, in addition to other remedies herein provided, bring action for an injunction to restrain such violation or to enjoin the future operation or maintenance of any such ambulance service.

SECTION 769. AMENDATORY 63 O.S. 1991, Section 2-104.1, as amended by Section 6, Chapter 364, O.S.L. 1992 (63 O.S. Supp. 1994, Section 2-104.1), is amended to read as follows:

Section 2-104.1 A. There is hereby created an Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission which shall consist of seven (7) members, not more than two of whom shall be from the same congressional district. The members shall be appointed by the Governor and confirmed by the Senate and shall be removable only for cause, as provided by law for the removal of officers not subject to impeachment. The term of office of each member shall be seven (7) years. The first appointments shall be for the following terms as designated by the Governor: one member for a term of one (1) year; one member for a term of two (2) years; one member for a term of three (3) years; one member for a term of four (4) years; one member for a term of five (5) years; one member for a term of six (6) years; and one member for a term of seven (7)

years. A member may serve more than one term on the Commission. Each member shall continue to serve so long as he is qualified until his successor has been appointed and confirmed by the Senate. Vacancies occurring during a term shall be filled for the unexpired portion of the term by the same procedure used to make the regular appointments.

B. Four of the members shall represent the lay citizenry, one member shall be a district attorney while serving in that capacity, one member shall be a sheriff while serving in that capacity, and one member shall be a chief of police while serving in that capacity; provided that the sheriff and police chief members shall have successfully completed an approved course of instruction for peace officers as required by law.

C. Annually the Commission shall select one of the Commission members to serve as Chairman and one member to serve as Vice Chairman. The Commission shall meet at least quarterly. The Chairman shall preside at all meetings of the Commission and shall have the power to call meetings of the Commission. In addition, meetings of the Commission may be called by a majority of the members. The Vice Chairman shall perform these functions in the absence or incapacity of the Chairman. A quorum of four members of the Commission shall be necessary to conduct any official business. All actions taken by the Commission shall be by a simple majority vote of a quorum. In the event of a tie vote, the measure being voted upon shall be deemed to have failed.

The Commission shall adopt rules of procedure for the orderly performance of its functions.

D. Members of the Commission shall serve without salary but may be reimbursed for travel expenses in attending meetings and performing their duties in the manner provided for other state officers and employees under the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. No

other provisions of law shall be construed as prohibiting public officers from also serving as members of the Commission, nor shall any other provisions of law be construed as prohibiting public officers or public employees from performing services for the Commission without compensation. It is further provided that no town, city, county, or other subdivision or other agency of state government shall be prohibited from receiving a grant or from benefiting from grants or expenditures of the Commission for the reason that an officer or employee of such town, city, county, or other subdivision or agency of state government is a Commission member or employee.

E. The Commission shall have the following powers and duties and responsibilities:

1. To appoint the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, whose compensation shall be determined by the Legislature.

2. To hear any complaint against the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or any of its employees according to the following procedure:

a. Only those complaints which have been submitted in writing and are signed will be acted upon by the Commission.

b. All hearings on complaints shall be conducted in executive sessions, and shall not be open to the public.

c. The Commission shall have limited access to pertinent investigative files when investigating a complaint. The Director shall provide a procedure whereby the identification of all persons named in any investigative file except the subject of the complaint and the complaining witness shall not be revealed to the members of the Commission. Any consideration of

files shall be in executive session not open to the public. No information or evidence received in connection with the hearings shall be revealed to any person or agency. Any violation hereof shall be grounds for removal from the Commission, and ~~shall constitute a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

3. To make recommendations to the Director of any needed disciplinary action necessary as a result of an investigation conducted upon a complaint received.

4. To establish general procedures with regard to assisting law enforcement officers and district attorneys.

5. To establish a program of training for agents utilizing such courses as the National Police Academy conducted by the Federal Bureau of Investigation.

SECTION 770. AMENDATORY 63 O.S. 1991, Section 2-304, as amended by Section 1, Chapter 285, O.S.L. 1993 (63 O.S. Supp. 1994, Section 2-304), is amended to read as follows:

Section 2-304. A. A registration, pursuant to Section 2-303 of this title, to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes a controlled dangerous substance shall be denied, suspended or revoked by the Director upon a finding that the registrant:

1. Has materially falsified any application filed pursuant to this act or required by this act;

2. Has been convicted of a misdemeanor relating to any substance defined herein as a controlled dangerous substance or any felony under the laws of this state or the United States;

3. Has had his federal registration suspended or revoked by a competent federal authority and is no longer authorized by federal

law to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes controlled dangerous substances;

4. Has failed to maintain effective controls against the diversion of controlled dangerous substances to unauthorized persons or entities;

5. Has prescribed, dispensed or administered a controlled dangerous substance from schedules other than those specified in his state or federal registration;

6. Has had a restriction, suspension, revocation or limitation placed on his professional license or certificate as a result of a proceeding pursuant to the general statutes;

7. Has abused or excessively used drugs or controlled dangerous substances;

8. Has possessed, used, prescribed, dispensed or administered drugs or controlled dangerous substances for other than legitimate medical or scientific purposes or for purposes outside the normal course of his professional practice; or

9. Has been under the influence of alcohol or another intoxicating substance which adversely affected the central nervous system, vision, hearing or other sensory or motor functioning to such degree the person was impaired during the performance of his job.

B. In the event the Director suspends or revokes a registration granted under Section 2-303 of this title, all controlled dangerous substances owned or possessed by the registrant pursuant to such registration at the time of denial or suspension or the effective date of the revocation order, as the case may be, may in the discretion of the Director be impounded and preserved. No disposition may be made of substances impounded and preserved until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the

sale with the court. Upon a revocation order becoming final, all such controlled dangerous substances shall be forfeited to the state.

C. The Drug Enforcement Administration shall promptly be notified of all orders suspending or revoking registration and all forfeitures of controlled dangerous substances.

D. In lieu of or in addition to any other remedies available to the Director, if a finding is made that a registrant has committed any act provided for in paragraphs 1, 4, 5, 7 or 8 of subsection A of this section, ~~the Director is hereby authorized to assess an administrative penalty not to exceed Two Thousand Dollars ($2,000.00)~~ the violator is liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each such act.

SECTION 771. AMENDATORY 63 O.S. 1991, Section 2-309C, is amended to read as follows:

Section 2-309C. A. Beginning January 1, 1991, the dispenser of a Schedule II controlled dangerous substance shall transmit to a central repository designated by the Bureau the following information for each dispensation:

1. Recipient's name, when feasible to submit;

2. Recipient's identification number;

3. National Drug Code number of the substance dispensed;

4. Date of the dispensation;

5. Quantity of the substance dispensed;

6. Prescriber's U.S. Drug Enforcement Agency registration number; and

7. Dispenser's registration number and location.

B. The information required by this section shall be transmitted:

1. On an electronic device which is compatible with the receiving device of the central repository or by computer diskette,

magnetic tape, or pharmacy universal claim form, which meets the specifications provided by rules of the Bureau; and

2. Within fifteen (15) days of the time that the substance is dispensed.

C. ~~Willful failure~~ Failure to transmit information as required by this section shall be a ~~misdemeanor punishable, upon conviction, by not more than one (1) year in the county jail or~~ civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) ~~or both such imprisonment and fine~~.

SECTION 772. AMENDATORY 63 O.S. 1991, Section 2-309D, is amended to read as follows:

Section 2-309D. A. The information collected at the central repository pursuant to the Anti-Drug Diversion Act shall be confidential and shall not be open to the public. Access to the information shall be limited to:

1. Peace officers certified pursuant to Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Bureau;

2. The United States Drug Enforcement Administration Diversion Group Supervisor;

3. The executive director or chief investigator, as designated by each board, of the State Boards of Podiatry, Governors of Registered Dentists, Pharmacy, Medical Licensure and Supervision, Osteopathic Examiners, and Veterinary Medical Examiners; provided, however, that the executive director or chief investigator of each of these boards shall be limited to access to information relevant to licensees of his employing board; and

4. A multicounty grand jury properly convened pursuant to the Multicounty Grand Jury Act, Sections 350 through 363 of Title 22 of the Oklahoma Statutes.

B. This section shall not prevent the disclosure, at the discretion of the Director of the Bureau, of investigative

information to peace officers and investigative agents of federal, state, county or municipal law enforcement agencies, district attorneys and the Attorney General in furtherance of criminal investigations or prosecutions within their respective jurisdictions.

C. Any unauthorized disclosure of any information collected at the central repository provided by the Anti-Drug Diversion Act shall ~~be a misdemeanor. Violation of the provisions of this section shall be deemed willful neglect of duty~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes and shall be grounds for removal from office.

SECTION 773. AMENDATORY 63 O.S. 1991, Section 2-312.1, is amended to read as follows:

Section 2-312.1 A. A licensed practitioner as defined in Section 355 of Title 59 of the Oklahoma Statutes shall not prescribe, dispense, deliver, or administer an anabolic steroid or human growth hormone or cause an anabolic steroid or human growth hormone to be administered under the direction or supervision of the practitioner except for a valid medical purpose and in the course of a professional practice. A valid medical purpose for the use of anabolic steroids or human growth hormones shall not include bodybuilding, muscle enhancement or increasing muscle bulk or strength of a person who is in good health. This section shall not prohibit the use of anabolic steroids for the treatment of livestock or domestic animals in accordance with state or federal law.

B. The prescribing, dispensing, delivering or administering of an anabolic steroid by a licensed practitioner in violation of the provisions of subsection A of this section shall be grounds for revocation or nonrenewal of the license of such licensed practitioner to practice in this state. In addition, any licensed practitioner prescribing, dispensing, delivering or administering an anabolic steroid in violation of the provisions of subsection A of

this section~~, upon conviction thereof shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a term of not more than three (3) years, or by a fine not to exceed Ten Thousand Dollars ($10,000.00), or by both such imprisonment and fine~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 774. AMENDATORY 63 O.S. 1991, Section 99, is amended to read as follows:

Section 99. Any person having duties enjoined upon him by the provisions of this act~~,~~ who shall neglect, refuse or omit to perform the same as hereby required shall be ~~deemed guilty of a misdemeanor and shall on conviction thereof, be liable to a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) for each offense~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 775. AMENDATORY 63 O.S. 1991, Section 102, is amended to read as follows:

Section 102. Any agent, or employee, or officer of any railroad, or transportation company, ~~violating~~ breaching any of the provisions of this article, shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than Twenty-five Dollars ($25.00), nor more than One Hundred Dollars ($100.00), or confined in the county jail for a period of not less than thirty (30) days nor more than ninety (90) days~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 776. AMENDATORY 63 O.S. 1991, Section 126, is amended to read as follows:

Section 126. Whoever, either as principal, agent, servant, or employee of such person, partnership, or corporation violates any of the preceding sections of this article, or fails to procure a valid certificate from the Chief State Mine Inspector, as herein provided,

shall be ~~fined not less than Fifty Dollars ($50.00) nor~~ liable for a civil infraction and subject to a fine of not more than Two Thousand Dollars ($2,000.00).

SECTION 777. AMENDATORY 63 O.S. 1991, Section 130, is amended to read as follows:

Section 130. Any person, partnership or corporation ~~violating~~ breaching any of the provisions of this act shall be ~~fined not less than Two Hundred Dollars ($200.00) nor~~ liable for a civil infraction and subject to a fine of not more than Five Thousand Dollars ($5,000.00) ~~or by imprisonment in the county jail for a term not exceeding twelve (12) months nor less than sixty (60) days~~. In addition, any person violating the provisions of this act may also be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 778. AMENDATORY 63 O.S. 1991, Section 132, is amended to read as follows:

Section 132. Any grocer, druggist, or other person who shall be ~~convicted of a violation of~~ determined to have breached the provisions of the preceding section~~,~~ shall be ~~deemed guilty of a misdemeanor and shall be fined not less than Ten Dollars ($10.00) nor more than Fifty Dollars ($50.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00), and shall in addition thereto be liable in damages in civil suit for any damage resulting from a ~~violation~~ breach of the preceding section.

SECTION 779. AMENDATORY 63 O.S. 1991, Section 141.9, is amended to read as follows:

Section 141.9 A. Any firm, corporation, company or partnership shall see that all personnel, field crews, magazine attendants, truck drivers, supervisors and superintendents are fully conversant with all provisions of this act and the regulations promulgated hereunder. The permit holder shall be responsible for violations

committed by employees working under the company or corporation permit.

B. Any person violating any of the provisions of this act or any rules or regulations made thereunder shall be ~~guilty of a felony and shall be punished by a fine of not more than Five Thousand Dollars ($5,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment. If such violation was committed with the knowledge or intent that any explosive or blasting agent involved was to be used to kill, injure or intimidate any person or unlawfully to damage any real or personal property, the person or persons committing such violations, upon conviction, shall be guilty of a felony and shall be punished by a fine of not more than Ten Thousand Dollars ($10,000.00) or imprisoned for not more than ten (10) years, or both. If in a case involving such knowledge or intent personal injury results, such person shall be imprisoned for not more than twenty (20) years, or fined not more than Twenty Thousand Dollars ($20,000.00), or both; and if death results such person shall be subject to imprisonment for any term of years or for life~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 780. AMENDATORY 63 O.S. 1991, Section 330.59, is amended to read as follows:

Section 330.59 ~~It shall be unlawful and a misdemeanor for any~~ Any person ~~to act or serve~~ who acts or serves in the capacity as a nursing home administrator ~~unless he is~~ who is not the holder of a license as a nursing home administrator~~,~~ issued in accordance with the provisions of this act shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 781. AMENDATORY 63 O.S. 1991, Section 479, is amended to read as follows:

Section 479. Any official failing in any duty prescribed by the provisions of this article shall be ~~deemed guilty of a misdemeanor and shall, upon conviction, be fined in any sum not less than Ten Dollars ($10.00) nor more than Five Hundred Dollars ($500.00)~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes, and in addition thereto may be removed from office.

SECTION 782. AMENDATORY 63 O.S. 1991, Section 683.23, is amended to read as follows:

Section 683.23 A. The Office of Civil Defense may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order or any other appropriate order in the appropriate district court, whenever any person:

1. Violates or fails or refuses to comply with any order or decision issued by the Office of Civil Defense;

2. Interferes with, hinders or delays the Office of Civil Defense in carrying out its duties and responsibilities;

3. Refuses to admit authorized representatives of the Office of Civil Defense;

4. Refuses to permit inspection by authorized representatives of the Office of Civil Defense;

5. Refuses to furnish any information or report requested by the Office of Civil Defense to accomplish its duties and responsibilities;

6. Refuses to permit access to, or copying of, such records as the Office of Civil Defense determines necessary to accomplish its duties and responsibilities.

B. The court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under subsection A of this section shall continue in effect until the completion or final termination of all proceedings for

review of such order is made, unless the district court granting such relief sets it aside or modifies it.

C. If any person shall violate any rule, regulation or order of the Office of Civil Defense, the Director may terminate all allocations of fuel to the offender from any fuel reserves administered by the Office of Civil Defense.

D. Any person ~~willfully violating~~ breaching any rule, regulation or order of the Office of Civil Defense shall be deemed guilty of a misdemeanor, and shall~~, upon conviction thereof, be punished by imprisonment in the county jail for not more than six (6) months, or by~~ be liable for a civil infraction and subject to a fine of not more than Three Thousand Dollars ($3,000.00)~~, or both~~. Each day of ~~violation~~ breach shall constitute a separate offense.

E. The Department of Public Safety, the Oklahoma State Bureau of Investigation, and the Tax Commission shall assist the Office of Civil Defense in the enforcement of any rule, regulation or order of the Office of Civil Defense.

SECTION 783. AMENDATORY 63 O.S. 1991, Section 707, is amended to read as follows:

Section 707. Any violation of this act is ~~hereby made a misdemeanor punishable by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00) or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment~~ a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 784. AMENDATORY 63 O.S. 1991, Section 953, is amended to read as follows:

Section 953. Any person who ~~willfully~~ fails to comply with the provisions of this act shall be ~~guilty of a misdemeanor, and upon conviction shall be fined not to exceed Five Hundred Dollars ($500.00), or by imprisonment in the county jail for a term not to~~

~~exceed thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 785. AMENDATORY 63 O.S. 1991, Section 984, is amended to read as follows:

Section 984. Every person, firm, corporation, or association, and every agent or employee of any such person, firm, corporation, or association, who ~~violates~~ breaches any of the provisions of this act, shall be ~~guilty of a misdemeanor, and upon conviction thereof, shall be liable to a fine of not more than Five Hundred Dollars ($500.00), or imprisonment in the county jail for a term not to exceed six (6) months, or both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00); and in addition ~~thereof~~, if such violation results in physical or electrical contact with any overhead high voltage line or conductor, the person, firm, corporation, or association violating the provisions of this act~~,~~ shall be liable to the owner or operator of such high voltage line or conductor for all damage to such facilities and for all liability incurred by such owner or operator as a result of any such accidental contact.

SECTION 786. AMENDATORY 63 O.S. 1991, Section 2170, is amended to read as follows:

Section 2170. Any ~~violation~~ breach of this act shall be a ~~misdemeanor and upon conviction thereof, shall result in a fine of not more than Five Hundred Dollars ($500.00)~~ civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 787. AMENDATORY 63 O.S. 1991, Section 2353, is amended to read as follows:

Section 2353. It shall be unlawful within the State of Oklahoma to ~~knowingly~~ sell, fabricate, assemble, glaze, install, consent or cause to be installed glazing material other than safety glazing

materials in, or for use in, any hazardous location as defined in Section ~~1, paragraph 2~~ 2351 of this title.

SECTION 788. AMENDATORY 63 O.S. 1991, Section 2356, is amended to read as follows:

Section 2356. Whoever ~~violates~~ breaches the provisions of this act shall be ~~guilty of a misdemeanor and upon conviction thereof, shall be sentenced to pay a fine of not less than Five Hundred Dollars ($500.00) or imprisonment of not more than one (1) year, or both~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 789. AMENDATORY Section 11, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1994, Section 2511), is amended to read as follows:

Section 2511. No person may proceed to operate a health maintenance organization or prepaid health plan or imply directly or indirectly that it is authorized to operate a health maintenance organization or prepaid health plan, unless that person first applies for and is granted a license by the Department under Section 2501 et seq. of this title. Any person who operates a health maintenance organization or prepaid health plan without first having obtained a license as required herein, shall be ~~deemed guilty of a misdemeanor, and upon conviction, shall be punishable by payment or a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00)~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. If the State Department of Health, through one of its agents or representatives, notifies in writing, through certified mail, the person who has unlawfully commenced the operation of a health maintenance organization or prepaid health plan to cease and desist, then each day that such person continues such offering or development shall be a separate offense. If any person continues to operate a health maintenance organization or prepaid health plan after the issuance

of a cease and desist order, the Department shall seek an injunction to prohibit the continued offering or development.

SECTION 790. AMENDATORY 63 O.S. 1991, Section 2550, is amended to read as follows:

Section 2550. A. Unless otherwise licensed by the State Department of Health, on and after January 1, 1989, no laboratory or hospital, clinic, pathologist, physician or facility providing laboratory services to test for the evidence of the Human Immunodeficiency Virus infection shall provide such laboratory services unless it is licensed by the State Department of Health to perform such tests. The State Department of Health shall promulgate rules and regulations necessary for such license, including license revocation, suspension and nonrenewal. The rules and regulations shall include, but not be limited to, quality control, the number and qualifications of personnel, proficiency tests, number of tests and recordkeeping.

B. The fees for licensure of the laboratory facilities by the State Department of Health shall be set by the State Board of Health, and shall not be less than One Hundred Dollars ($100.00) per year nor more than One Hundred Fifty Dollars ($150.00). Such licenses shall be renewed annually.

C. Any laboratory or hospital, clinic, pathologist, physician or facility providing laboratory services to test for the evidence of the Human Immunodeficiency Virus infection which is not licensed by the State Department of Health pursuant to this section~~, upon conviction,~~ shall be ~~guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars ($500.00)~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each offense. Each test performed by the unlicensed laboratory facility in violation of this section shall constitute a separate offense.

SECTION 791. AMENDATORY 63 O.S. 1991, Section 2664, is amended to read as follows:

Section 2664. A. Any person operating, conducting, managing or establishing an ambulatory surgical center without a license required by this act is ~~guilty of a misdemeanor and, upon conviction, shall be punished as provided by law~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Each day of continuing violation shall constitute a separate offense.

B. The Attorney General shall represent the Commissioner and shall institute an action in the name of the state for injunctive or other relief against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of an ambulatory surgical center without a license issued pursuant to the provisions of this act.

SECTION 792. AMENDATORY 63 O.S. 1991, Section 4032, as amended by Section 17, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1994, Section 4032), is amended to read as follows:

Section 4032. A. It shall be unlawful for any person to:

1. Lend or to sell to, or ~~knowingly~~ permit the use of by one not entitled thereto, any certificate of title or registration issued to or in the custody of the person so lending or permitting the use thereof;

2. Alter or in any manner change a certificate of title or registration certificate issued under the laws of this or any other state;

3. Procure from another state or country or display upon any vessel owned by him within this state, except as otherwise provided by the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, any number issued by any state or country other than this state, unless there shall be displayed upon such vessel at all times the permanent number assigned to it by the Commission;

4. Buy, sell or dispose of, or have in his possession for sale, use or storage, any secondhand or used vessel or motor on which the registration fee has not been paid, as required by law, and on which vessel or motor said person neglects, fails or refuses to display at all times the permanent number assigned to it;

5. Register a vessel or motor on an assigned certificate of title. This particular paragraph shall be applicable to all persons except bona fide dealers who are holders of current and valid dealers' licenses;

6. Operate a vessel or motor upon the waters of this state after the registration deadline for that vessel or motor without a proper title and registration, as prescribed by the Oklahoma Vessel and Motor Registration Act, for the current year;

7. Release a certificate of title or excise tax receipt to any unauthorized person or source, including any dealer. Violation of this paragraph shall constitute sufficient grounds for discharge of a motor license agent by the Commission; or

8. Alter or in any manner change a permanent number issued for a vessel under the laws of this state or any other state.

Anyone ~~violating~~ breaching the provisions of this subsection shall be ~~guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed Fifty Dollars ($50.00)~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00) for each such violation. In addition, a person violating this subsection shall be subject to criminal prosecution for applicable crimes in Title 21 of the Oklahoma Statutes.

B. ~~Any owner who knowingly makes or causes to be made any false statement of a fact required in this section to be shown in an application for the title or registration of one or more vessels or motors shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars~~

~~($1,000.00), or shall be imprisoned in the county jail for not more than one (1) year, or both such fine and imprisonment.~~

~~C.~~ A violation of ~~this section and~~ any of the provisions of Sections 4002 through 4031 of this title where a specific penalty has not been imposed shall ~~constitute a misdemeanor and upon conviction thereof the person having violated it shall be fined not less than Ten Dollars ($10.00) and not more than One Hundred Dollars ($100.00)~~ be a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

~~D.~~ C. In addition thereto, it is specifically provided that any person stating or giving or causing to be stated or given any false information as to the location of any vessel or motor shall be ~~deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). If the false information is stated or given in writing, the person shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 793. AMENDATORY 63 O.S. 1991, Section 4041, as amended by Section 22, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1994, Section 4041), is amended to read as follows:

Section 4041. A. The Oklahoma Tax Commission may deny an application for a license, or revoke or suspend a license ~~or impose a fine not to exceed Five Hundred Dollars ($500.00) against~~ of a dealer for each day that any provision of this section or Sections 4033 through 4040 of this title is violated or for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant in any application for any license pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act;

2. For any material misstatement made by an applicant in any application for any license pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act;

3. For any failure to comply with any provision of the Oklahoma Vessel and Motor Registration Act or any rule promulgated by the Commission under authority vested in it by the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title;

4. A change of condition after license is granted resulting in failure to maintain the qualifications for license;

5. Being a dealer who:

a. has required a purchaser of a new vessel or motor, as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories or equipment not desired or requested by the purchaser and installed by the dealer,

b. uses any false or misleading advertising in connection with his business as such a dealer,

c. has committed any unlawful act which resulted in the revocation of any similar license in another state,

d. has failed or refused to perform any written agreement with any retail buyer involving the sale of a vessel or motor,

e. has been convicted of a crime involving moral turpitude,

f. has committed a fraudulent act in selling, purchasing, or otherwise dealing in vessels or motors or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a vessel or motor or any interest therein including an option to purchase such vessel or motor, or

g. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;

6. Being a dealer who does not have an established place of business;

7. Being a new vessel or new motor dealer who:

a. does not provide for a suitable repair shop separate from the display room with ample space to repair or recondition one or more vessels or motors at the same time, and which is equipped with such parts, tools and equipment as may be requisite for the servicing of vessels or motors in such a manner as to make them comply with the safety laws of this state and to properly fulfill the dealer's or manufacturer's warranty obligation. Provided that the provisions of this subparagraph shall not apply to:

(1) mercantile establishments engaged in the selling of vessels and motors if:

(a) such vessel and motor business does not constitute more than ten percent (10%) of the business of such establishment,

(b) the vessels sold at such establishment are under fourteen (14) feet in length, and

(c) the outboard motors sold at such establishment are under ten (10) horsepower, or

(2) dealers which are engaged solely in the business of selling canoes. For the purposes of this subsection, "canoe" shall mean a vessel that is long relative to its width, that has curved sides and is tapered to two (2) pointed ends, or is

tapered to one (1) pointed end and blunt on the other end, and is generally of traditional shape,

b. does not hold a dealer agreement in effect with a manufacturer or distributor of new vessels or motors for the sale of the same and is not authorized by the manufacturer or distributor to render predelivery preparation of such vessels or motors sold to purchasers and to perform any authorized post-sale work pursuant to the manufacturer's or distributor's warranty, or

c. does not properly service a new vessel or motor before delivery of same to the original purchaser thereof.

B. Such dealer may also be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 794. AMENDATORY 63 O.S. 1991, Section 4218, as amended by Section 57, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1994, Section 4218), is amended to read as follows:

Section 4218. A. Except as otherwise provided by the provisions of this section, any person violating the provisions of the Oklahoma Boating Safety Regulation Act, Section 4201 et seq. of this title, ~~upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine not to exceed Fifty Dollars ($50.00)~~ shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each such violation.

B. Any person who violates Section 4210 or 4213 of this title~~, upon conviction thereof,~~ shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and shall be subject to a fine of not ~~less than Two Hundred Dollars ($200.00) and not~~ more than One Thousand Dollars ($1,000.00).

C. Any person who violates any provision of Sections 4206 through 4212 of this title~~, upon conviction thereof, shall be guilty~~

~~of a misdemeanor and shall be subject to a fine of not to exceed One Hundred Dollars ($100.00) for each such violation~~ shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

~~D. In addition to any fines levied pursuant to this section, any person who violates any provision of Section 4210 of this title, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to imprisonment in the county jail for a period not to exceed six (6) months.~~ This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 795. AMENDATORY 64 O.S. 1991, Section 52, is amended to read as follows:

Section 52. Investments of the permanent funds and other educational funds in farm mortgages shall be made under the following rules and regulations:

(a) Such investments shall be made in first mortgages upon good and improved farm lands located within the State of Oklahoma, the cash value of which, disregarding all improvements, is at least double the amount of the loan, and the fair rental value of which is equal to the annual payments which are to be made by the borrower, and not to exceed One Hundred Fifty Thousand Dollars ($150,000.00), shall be loaned to any individual or family.

(b) Persons to be eligible for a new loan from funds held by the Commissioners of the Land Office shall be citizens of the State of Oklahoma and shall be the owners of legal or equitable title, as determined by the Marketable Record Title Act, to the land offered as security for such loan on the date of filing application for said loan. The provisions of this act shall not prohibit the Commissioners of the Land Office from renewing or increasing existing loans at the current rate of interest in cases where the applicant offers adequate security to justify a renewal.

(c) All farm loans made by the Commissioners of the Land Office of the State of Oklahoma from the trust funds under their jurisdiction and control, as otherwise provided by the laws of this state, shall bear interest at the rate of eight and one-half percent (8 1/2%) per annum, payable annually or semiannually, until paid. All delinquent installments, both principal and interest, shall bear interest at a rate of ten percent (10%) per annum until paid. All such loans shall be paid in the manner and within such period of time as may be required by the Commissioners of the Land Office; provided, the entire amount of any loan shall be paid within a period of not to exceed thirty-three (33) years from the date of the loan. Provided, further, that persons receiving fifty percent (50%) or more of their total annual income from the operation of a farm shall be given preference by the Commissioners in approval of any loans made under the provisions of this act.

(d) The Commissioners of the Land Office shall prepare applications for loans, appraisers' reports, notes and mortgages in conformity with these rules and regulations for use in making such loans. No application shall be accepted unless the Commission has funds available for timely closing of such loans. The necessary services incident to the making and closing of loans shall be rendered as nearly as practicable in the order in which applications are filed.

(e) No loan shall be made until the applicant furnishes a duly certified abstract of title, showing that he is the owner of title to the security offered, and before any loan is paid out to a borrower a final certificate of the title examiner of the Commissioners shall be made approving the title. Before any loan can be closed, the records held by the loan division must show that state's mortgage is a first and superior lien on the lands described therein and that all prior liens have been subordinated or released of record. All abstracts furnished may be retained and filed in the

Department or returned to the borrower when said loan is completed. In case of default and foreclosure the abstract shall be forfeited to and become the property of the School Land Department.

(f) When an application for a loan is filed and a deposit made of the required fees, the application shall be referred to an appraiser who shall view and appraise the land and improvements thereon and make his report to the Commissioners, setting forth the value of the security offered, together with his estimate of the annual rental value thereof, and his recommendations as to the necessary steps that should be taken to protect said land from erosion, wastage, and depletion, and such additional information as the Commissioners may require. If the report shows the security to be of sufficient value, said report shall be considered by the Commissioners at their next meeting following the filing of said report, and they shall either approve or reject said application; provided an applicant shall pay a loan fee on the basis of the amount of loan actually disbursed. The Commissioners are hereby given authority to, and shall, before completing any approved application, require the applicant to take any steps found necessary to properly conserve and protect the land from erosion, wastage, or depletion. After the Commissioners approve any application for a loan, the abstract of title shall be presented to the title examiners for examination. The title examiners of the School Land Commission shall recognize and be bound by the title examination standards of the Oklahoma Bar Association, and the applicable curative statutes, in making title examinations for loan purposes. Provided, further, that, in lieu of furnishing a duly certified abstract of title showing that he is the owner of title to the security offered, any such applicant for loan from the Commissioners of the Land Office may furnish, at his cost, mortgage guaranty of title or mortgage title insurance. The instruments of guaranty or insurance shall be on forms approved by the Commissioners of the

Land Office and issued by a title insurance company or title guaranty company authorized to transact title guaranty or title insurance business in the State of Oklahoma and approved by the Commissioners of the Land Office.

The guarantor or insurer shall be liable to the state for any and all damages or losses of the loan which the state may sustain by reason of any defect or irregularity in the chain of title to the subject land or encumbrance against said land covered by the state's mortgage, unless such defect or irregularity is shown as an exception in the guaranty or policy.

All instruments of guaranty or insurance in connection with any loan shall be retained by the Commissioners of the Land Office until such loan is liquidated. The abstracts used to write the title guaranty or insurance shall be retained by the title underwriter until possession thereof is required by the Commissioners of the Land Office.

(g) No loans shall be made to any state official, either legislative, executive, or judicial, whether elected or appointed, during his or her term of office or during his or her candidacy for an elective office; provided, that this rule and regulation shall not affect existing loans, nor hereafter to loans made to persons eligible therefor and who are elected after securing said loans.

(h) No loan shall be made on a tract of land of less than twenty (20) acres and in no case shall more than an average of Three Hundred Fifty Dollars ($350.00) per acre be loaned, regardless of value.

(i) The Commissioners shall permit payment of a loan in part or in whole at any time, provided, the borrower shall have the right at any time to pay all or any part of delinquent payments. The cashier in all cases, upon receipt of any payments of whatever nature, shall issue a receipt to the payer at the time said payment is made. Diligent effort shall be made to collect all matured installments of

both interest and principal. When a loan is liquidated, the Commissioners of the Land Office shall issue a release of their mortgage to be filed and recorded in the office of the county clerk, at the expense of the mortgagors. No settlement shall be made by the Commissioners of the Land Office or any employee with any borrower for less than the amount due upon his obligation; provided, that in all cases where the Commissioners have heretofore accepted deeds to land in satisfaction of loans, such transactions are hereby confirmed and title in and to said lands is hereby validated and confirmed.

(j) It shall be the duty of the Commissioners of the Land Office to authorize and approve all loans made and see to it that same are made in strict conformity to this act, and to authorize and approve all investments made from funds under their management and control.

(k) The duties of the officers comprising the Commissioners of the Land Office when acting as such Commissioners shall be deemed to be a part of the official duties of the several offices to which they are elected and by reason whereof they are members of said Commission. If any Commissioner or employee of the School Land Department ~~knowingly~~ permits, consents to, or participates in any act or transaction which is in violation of these rules, he shall be ~~deemed guilty of a misdemeanor and~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes, shall be subject to removal from office, and shall be liable on his bond for any loss occasioned thereby.

(l) The terms and provisions of this act providing for making of loans shall not prevent or prohibit the Commissioners of the Land Office from making loans which are approved prior to the date this act becomes effective under the rules and regulations prescribed by the Legislature as existed on the date said loans were approved.

SECTION 796. AMENDATORY 64 O.S. 1991, Section 61, is amended to read as follows:

Section 61. ~~A.~~ The appraiser for the Commissioners of the Land Office shall not appraise any land for loan purposes until after the application for the loan, together with the required fees have been received and filed in the Land Office. It shall be his duty in appraising land to personally inspect and go over each and every subdivision of every tract offered as security for the loan. The appraiser shall not at any time disclose to the applicant his valuation placed upon the land until after his appraisement is filed with the Commissioners of the Land Office.

~~B. No appraiser for the Commissioners of the Land Office shall:~~

~~1. Directly or indirectly solicit or accept any compensation, gift, loan, entertainment, favor or service given for the purpose of influencing such appraiser in the discharge of his official duties;~~

~~2. Use his official position to solicit or secure special privileges or exemptions for himself or others, except as may be provided by law;~~

~~3. Disclose or offer to disclose confidential information acquired by reason of his official position to any person, group or others not entitled to receive such confidential information, nor shall he use such information for his personal gain or benefit;~~

~~4. Receive or solicit any compensation that would impair his independence of judgment for his services as an appraiser for the Commissioners of the Land Office, from any source other than the Commissioners, unless otherwise provided by law; or~~

~~5. Accept or solicit other employment which would impair his efficiency or independence of judgment in the performance of his public duties.~~

~~Any appraiser violating this section shall be deemed guilty of a misdemeanor.~~

SECTION 797. AMENDATORY 64 O.S. 1991, Section 64, is amended to read as follows:

Section 64. Any person who shall execute or make any sworn statement or affidavit containing false information in connection with any loan to be made from the funds held by the Commissioners of the Land Office shall be ~~guilty of perjury and upon conviction therof shall be punished by imprisonment in the State Penitentiary for a term not to exceed one (1) year~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 798. AMENDATORY 64 O.S. 1991, Section 157, is amended to read as follows:

Section 157. Any person who shall execute or make any sworn statement or affidavit containing false information in connection with any loan, lease, sale or contract made or to be made by the Commissioners of the Land Office shall be ~~guilty of perjury and upon conviction thereof in a court of competent jurisdiction shall be punished by a fine not to exceed Three Thousand Dollars ($3,000.00) or by imprisonment in the State Penitentiary not exceeding five (5) years or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 799. AMENDATORY 64 O.S. 1991, Section 251, is amended to read as follows:

Section 251. The Commissioners of the Land Office and the Secretary thereof shall have the power to administer oaths to witnesses and take affidavits to petitions and other instruments filed before the Secretary or the Commissioners in the same manner as the clerks of the district courts of the State of Oklahoma; said affidavits shall be attested under seal of the Commissioners of the Land Office, which seal they shall provide, the Secretary to the Commissioners of the Land Office being custodian thereof; and any person, either as a witness or party interested, who makes false statements under oath in any ~~matter or~~ hearing pending before the

Secretary or Commissioners of the Land Office, shall be ~~deemed guilty of perjury and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for a term of not less than one (1) nor more than three (3) years~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Any person who executes any written instrument, petition or affidavit before the Commission or the Secretary under oath, and who in said petition, affidavit or other instrument, makes false statements shall be guilty of perjury and shall be punished as herein provided.

SECTION 800. AMENDATORY 64 O.S. 1991, Section 407, is amended to read as follows:

Section 407. (A) As used herein, "abandoned municipality" means any city, town, or school district in and for which there is not, and has not been for a period of one (1) year, any acting or functioning governing board and no persons purporting or claiming to act as such governing board: Provided, however, that a school district which has been disorganized and its territory legally made a part of another school district, by annexation, uniting, consolidation, or otherwise, shall not be considered an "abandoned municipality" within this act.

(B) Oil and gas mining leases of lands belonging to or under the control of an abandoned municipality may be entered into and executed in the following manner:

(1) Any legal resident of said abandoned municipality, or any person desiring to offer to purchase an oil or gas mining lease or leases of any lands owned by or belonging to any abandoned municipality, may file a petition in the district court of the county in which said abandoned municipality is located, alleging that said municipality is an abandoned municipality as defined by this act, stating the particular facts upon which said allegation is based, and that there are lands belonging to said abandoned municipality upon which it is desirable to execute an oil or gas

mining lease or leases, and requesting the appointment of a receiver authorized to enter into such lease or leases as herein provided. If said abandoned municipality is located in more than one county, the petition shall be filed in the district court of the county in which the greater portion of the area thereof is located.

(2) Notice of the filing of said petition and of the purpose thereof, and of the date of the hearing to be held as provided herein, shall be given by publication for three successive issues in a weekly newspaper of general circulation in the county in which the abandoned municipality is located, the first publication to be not less than twenty-five (25) days prior to said hearing, and in addition, such notice shall be posted not less than twenty-five (25) days prior to said hearing at five public places within such abandoned municipality.

(3) The district court shall hold a hearing at which any interested person may appear in support of, or in opposition to, the appointment of a receiver for the purpose of executing and entering into an oil and gas mining lease or leases of lands belonging to or under the control of the abandoned municipality. The district court may continue said hearing from time to time without additional notice.

(4) If the district court shall find that the municipality is an abandoned municipality as defined by this act, and that there are lands belonging to said abandoned municipality, and that there is a person or persons desiring to secure an oil or gas mining lease or leases upon such lands, or any part thereof, the court shall appoint a receiver who shall have power and authority, upon approval by the court, to enter into valid oil and gas mining lease or leases of such lands to any person, firm, association, or corporation for oil and gas development, said leases to be for the term and conditioned as are leases executed by governing boards under the provisions of Section 1, Chapter 8, Title 64, Session Laws 1943; and said leases

must be offered for sale and sold in the manner prescribed by Section 2, Chapter 8, Title 64, Session Laws 1943.

(5) After said lease or leases have been executed by the receiver, they shall be submitted to the district court for approval, and the district court shall approve the same if they comply with the provisions of this act.

(6) After said lease or leases have been executed by the receiver and approved by the district court, and the said lease or leases shall be recorded in each county in which any portion of said lands may be located, and the receiver shall be discharged.

(7) All monies to which said abandoned municipality is entitled, including rents, royalties, bonus payments, or any monies whatsoever, under any lease entered into under the provisions of this section, shall be paid to the county treasurer of the county in which the petition was filed, and shall be by the county treasurer deposited in a special account to the credit of said abandoned municipality, to be disposed of as may now or hereafter be provided by law.

(8) Any lessee, or the assignee of any lessee, under any lease executed as provided in this section, who shall fail to pay any monies to which said abandoned municipality is legally entitled under the terms of said lease, to the county treasurer, shall be ~~guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of~~ liable for a civil infraction and subject to a fine not more than Ten Thousand Dollars ($10,000.00).

(9) The district attorney shall have authority to enforce the obligations of any lessee or the assignee thereof under any lease entered into as prescribed by this section, by any legal proceeding he may deem necessary, and he shall defend the interests of said abandoned municipality in any action or proceeding in which the interests of said abandoned municipality under said lease may be adversely affected.

(10) If any municipality, after having been an abandoned municipality, shall again have an acting, functioning, and duly constituted governing board, said governing board shall assume control of any lands belonging to said abandoned municipality, and of any leases thereof, including those executed as provided by this section, in the same manner and to the same extent as though said leases had been executed and entered into by said governing board.

SECTION 801. AMENDATORY 66 O.S. 1991, Section 96, is amended to read as follows:

Section 96. Any railroad company, or the receiver, or lessee thereof, doing business in the State of Oklahoma, which shall ~~violate~~ breach the provisions of the preceding section, shall be liable ~~to the State of Oklahoma for a penalty of not less than One Hundred Dollars ($100.00) nor~~ for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each offense. And such ~~penalties~~ fines shall be recovered and suit brought in the name of the State of Oklahoma, in any court of competent jurisdiction, in any county in or through which such line of railroad may run, by the Attorney General, or by the district attorney in any county in or through which such line of railroad may be operated.

SECTION 802. AMENDATORY 66 O.S. 1991, Section 188, is amended to read as follows:

Section 188. Every transportation company which ~~violates~~ breaches the provisions of Section ~~1447,~~ 185 of this title shall ~~upon conviction thereof,~~ forfeit its charter or license to do business in the state, and in addition thereto, shall be ~~subject to a penalty not to exceed Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each offense, and each separate day that it shall ~~violate~~ breach the provisions of said section shall constitute a separate offense.

SECTION 803. AMENDATORY 66 O.S. 1991, Section 269, is amended to read as follows:

Section 269. ~~Violation~~ Breach of any provision of this act shall be ~~deemed a misdemeanor~~ a civil infraction, and any person or corporation in ~~violation~~ breach hereof shall be subject to a fine of not ~~less than One Hundred Dollars ($100.00)~~ more than One Thousand Dollars ($1,000.00).

SECTION 804. AMENDATORY 66 O.S. 1991, Section 304, is amended to read as follows:

Section 304. A. The Department is hereby authorized and empowered:

1. To acquire, construct, reconstruct, repair, replace, operate and maintain railroad rights-of-way and trackage projects at such locations and on such routes as it shall determine to be feasible and economically sound;

2. To enter into agreements with the owners of operating railroads for the acquisition and/or use of railroad rights-of-way and trackage on such terms, conditions, rates or rentals as the Department may consider to be in the best interests of the state;

3. To enter directly into agreements with owners of operating railroads or persons intending to operate as common carriers by rail to sell, lease, or sell by lease-purchase agreement any state-owned railroad property on such terms, conditions or amounts as the Department may consider to be in the best interests of the state and to promote the purposes of this act;

4. To acquire and hold real or personal property in the exercise of its powers for the performance of its duties as authorized by this act. Surplus property may be disposed of by the Department;

5. To acquire in the name of the Department, by purchase or otherwise on such terms and conditions and in such manner as it may deem proper, or by exercise of the right of condemnation, such

public or private lands and personalty, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, trackage, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of this act;

6. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, and to employ rail planning and management consultants, consulting engineers, attorneys, accountants, construction and financial consultants, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation; provided, that all such expenses shall be payable solely from funds made available under and pursuant to the provisions of this act or from revenues; provided, further, no attorney employed by the Department, nor any member of any law firm of which he may be connected, shall ever be paid any fee or compensation for any special or extraordinary services;

7. To receive, accept and expend funds from the state, any federal agency, or from private sources, for rail planning and for administration of railroad assistance projects, and for or in aid of the acquisition, construction, reconstruction, replacement, repair, maintenance and operation of railroad rights-of-way and trackage and for rail service continuation payments to railroad companies for operating losses sustained by reasons of continuing service on a line which may otherwise be abandoned or which may experience a reduced level of service not in the public interest, where such continuation of service is carried out under a written agreement with the Department establishing the terms and conditions for such payments, and to receive and accept funds, aid or contributions from any source of either money, property, labor or other things of

value, to be held, used and applied only for the purposes for which such funds, aid or contributions may be made;

8. To adopt such rules and regulations and to do any and all things necessary to comply with rules, regulations or requirements of the United States Department of Transportation, any successor thereof, the Interstate Commerce Commission or any federal agency administering any law enacted by the Congress of the United States or having funds available for the purpose of the Department that are not inconsistent with or contrary to the prohibitions and restrictions of Oklahoma law or public interest;

9. To expend income and funds from the Oklahoma Railroad Maintenance Revolving Fund in the exercise of any or all of the foregoing powers;

10. To do all things necessary or convenient to carry out the powers expressly granted in this act.

B. ~~It shall be unlawful for any member, officer or employee of the Department to transact with the Department, either directly or indirectly, any business for profit of such member, officer or employee; and any person, firm or corporation knowingly participating therein shall be equally liable for violation of this provision.~~

~~The term "business for profit" shall include, but not be limited to, the acceptance or payment of any fee, commission, gift, or consideration to such member, officer or employee.~~

~~Violation of this provision shall constitute a felony and, upon conviction shall be punishable by a fine of not less than Five Hundred Dollars ($500.00) and not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the State Penitentiary for not more than five (5) years, or by both such fine and imprisonment.~~

~~C.~~ All meetings of the Department shall be open public meetings, and all records shall be public records, except when considering personnel.

SECTION 805. AMENDATORY 67 O.S. 1991, Section 81, is amended to read as follows:

Section 81. The board of county commissioners of any county, created in whole or in part out of any county or counties, of the Territory of Oklahoma, or to which territory taken from any other county may have been attached, is hereby authorized and empowered to demand and secure the original taxrolls, or a duly authenticated copy of the same as herein provided of all of the property situated in all new counties formerly a part of the old counties, and to copy or transcribe, or to make contracts to procure copies or transcripts in substantial record books such as are required for said instruments, the same to be furnished by said counties so transcribing or copying the same at a rate not to exceed five cents ($0.05) per folio, of the records and government field notes of any county so divided, or from which territory may have been taken necessary to complete the records, so that the said counties may have a complete record of any such county or territory so affected. The party making such transcript or copy of records and files~~,~~ shall verify and certify under oath to the accuracy of any such copy, copies or transcripts, and such copy, copies or transcripts, so verified shall, after approval by the board of county commissioners of said new county, be treated for all purposes as the original records of such county. One certificate attached to each separate volume of such records or any portion thereof, identifying the same by proper recitals, to be made under the direction of the board of county commissioners, shall be deemed for all purposes a sufficient authentication of such record. Any violator of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 806. AMENDATORY 67 O.S. 1991, Section 82, is amended to read as follows:

Section 82. It is hereby made the duty of any officer or person having possession, custody or control of any record, book, paper, taxroll, assessment or any other files or matter of record, or any portion of same so required to be copied or transcribed, to produce and exhibit all records, books, papers, taxrolls, assessments, and any other files or matters of record in his possession, custody, or control, and to permit and facilitate the copying or transcribing of any such record, book, paper, taxroll, assessment and other file or matter of record, or other evidence of any record or any portion thereof, when requested by the board of county commissioners or anyone authorized by them to make such copies or transcripts. Any violator of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 807. AMENDATORY 68 O.S. 1991, Section 103, is amended to read as follows:

Section 103. In the performance of its duties, as defined by law, the Tax Commission, or any member thereof, shall have the power to administer oaths, to conduct hearings, and to compel the attendance of witnesses and the production of the books, records and papers of any person, firm, association or corporation.

Any person, or any member of any firm or association, or any official, agent or employee of any corporation, who shall fail or refuse to testify, or who shall fail or refuse to produce any books, records or papers which the Commission shall require; or who shall fail or refuse to permit the examination of the same; or who shall fail or refuse to furnish any other evidence or information which the Commission, or any member thereof, may require; or who shall fail or refuse to answer any question which may be put to him by said Commission, or any member thereof, touching the business, property, assets or effects of any such person, firm, association or corporation, or the valuation thereof or the income or profits therefrom, shall be ~~guilty of a misdemeanor, and, upon conviction,~~

~~shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment in the jail of the county where such offense shall have been committed for not more than one (1) year, or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Commission shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

Any person, or member of any firm or association, or any official, agent or employee of any corporation, who shall knowingly make false answer to any question which may be put to him by the Commission, or any member thereof, touching the business, property, assets or effects of any such person, firm, association or corporation, or the valuation thereof or the income or profits therefrom; or who shall make or present any false affidavit concerning any list, schedule, statement, report or return, or for any other purpose, filed with the Commission or required to be filed by this Code or by any other law of the state, shall be ~~guilty of perjury, and, upon conviction, shall be punished as provided by law~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 808. AMENDATORY 68 O.S. 1991, Section 205, as last amended by Section 1, Chapter 385, O.S.L. 1994 (68 O.S. Supp. 1994, Section 205), is amended to read as follows:

Section 205. A. The records and files of the Tax Commission concerning the administration of this article or of any state tax law shall be considered confidential and privileged, except as otherwise provided for by law, and neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody of any such records or files nor any person who may have secured information from the Tax Commission shall disclose any information obtained from said records or files or from

any examination or inspection of the premises or property of any person.

B. Neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody of any such records or files shall be required by any court of this state to produce any of the records or files for the inspection of any person or for use in any action or proceeding, except when the records or files or the facts shown thereby are directly involved in an action or proceeding pursuant to the provisions of this article or of the state tax law, or when the determination of the action or proceeding will affect the validity or the amount of the claim of the state pursuant to any state tax law, or when the information contained in the records or files constitutes evidence of violation of the provisions of this article or of any state tax law.

C. The provisions of this section shall not prevent the Tax Commission from disclosing the following information and no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission in the disclosure of such information:

1. The delivery to a taxpayer or his duly authorized representative of a copy of any report or any other paper filed by him pursuant to the provisions of this article or of any state tax law;

2. The Oklahoma Tax Commission from entering into reciprocal agreements with other state agencies or agencies of the federal government to exchange any information that is not protected by the federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.;

3. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

4. The examination of said records and files by the State Auditor and Inspector or his duly authorized agents;

5. The disclosing of information or evidence to the Attorney General or any district attorney when said information or evidence is to be used by said officials to prosecute violations of the criminal provisions of this article or of any state tax law. Said information disclosed to the Attorney General or any district attorney shall be kept confidential by them and not be disclosed except when presented to a court in a prosecution for violation of the tax laws of this state~~, and a~~. Any violation by the Attorney General or district attorney by otherwise releasing the information shall be ~~a felony~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes;

6. The use by any division of the Tax Commission of any information or evidence in the possession of or contained in any report or return filed with any other division of the Tax Commission;

7. The furnishing, at the discretion of the Tax Commission, of any information disclosed by said records or files to any official person or body of this state, any other state or of the United States who is concerned with the administration or assessment of any similar tax in this state, any other state or the United States;

8. The furnishing of information to other state agencies for the limited purpose of aiding in the collection of debts owed by individuals to said requesting agencies;

9. The furnishing of information requested by any member of the general public and stated in the sworn lists or schedules of taxable property of public service corporations organized, existing, or doing business in this state which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2454 of this title and Section 21 of Article X of the Oklahoma Constitution, provided such information would be a public record if filed pursuant to Sections 2433 and 2434 of this title on behalf of a corporation other than a public service corporation;

10. The furnishing of information requested by any member of the general public and stated in the findings of the Oklahoma Tax Commission as to the adjustment and equalization of the valuation of real and personal property of the counties of the state, which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2462 of this title and Section 21 of Article X of the Oklahoma Constitution;

11. The furnishing of information to an Oklahoma wholesaler of nonintoxicating beverages, licensed under the provisions of Section 163.1 et seq. of Title 37 of the Oklahoma Statutes, of the licensed retailers authorized by law to purchase nonintoxicating beverages in this state or the furnishing of information to a licensed Oklahoma wholesaler of shipments by licensed manufacturers into this state;

12. The furnishing of information as to the issuance or revocation of any tax permit or license by the Tax Commission as provided for by law. Such information shall be limited to the name of the person issued said permit or license, the name of the business entity authorized to engage in business pursuant to said permit or license, the address of said business entity, and the grounds for said revocation;

13. The posting of notice of revocation of any tax permit or license upon the premises of the place of business of any business entity which has had any tax permit or license revoked by the Tax Commission as provided for by law. Such notice shall be limited to the name of the person issued said permit or license, the name of the business entity authorized to engage in business pursuant to said permit or license, the address of said business entity, and the grounds for said revocation;

14. The furnishing of information upon written request by any member of the general public as to the outstanding and unpaid amount due and owing by any taxpayer of this state for any delinquent tax,

together with penalty and interest, for which a tax warrant or a certificate of indebtedness has been filed pursuant to law;

15. After the filing of a tax warrant pursuant to law, the furnishing of information upon written request by any member of the general public as to any agreement entered into by the Tax Commission concerning a compromise of tax liability for an amount less than the amount of tax liability stated on such warrant;

16. The disclosure of information necessary to complete the performance of any contract authorized by Sections 255 and 262 of this title to any person with whom the Oklahoma Tax Commission has contracted;

17. The disclosure of information to any person for a purpose as authorized by the taxpayer pursuant to a waiver of confidentiality. The waiver shall be in writing and shall be made upon such form as the Commission may prescribe;

18. The disclosure of information required in order to comply with the provisions of Section 2369 of this title;

19. The disclosure to an employer, as defined in Sections 2385.1 and 2385.3 of this title, of information required in order to collect the tax imposed by Section 2385.2 of this title;

20. The disclosure to a plaintiff of a corporation's last-known address shown on the records of the Franchise Tax Division of the Commission in order for such plaintiff to comply with the requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

21. The disclosure to any person as determined by the Commission to be necessary if, pursuant to the provisions of Section 510 of this title, a distributor of motor fuel and diesel fuel is required to sell such fuel on a tax-paid basis;

22. The disclosure of information directly involved in the resolution of the protest by a taxpayer to an assessment of tax or additional tax or the resolution of a claim for refund filed by a taxpayer, including the disclosure of the pendency of an

administrative proceeding involving such protest or claim, to a person called by the Tax Commission as an expert witness or as a witness whose area of knowledge or expertise specifically addresses the issue addressed in the protest or claim for refund. Said disclosure to a witness shall be limited to information pertaining to the specific knowledge of that witness as to the transaction or relationship between taxpayer and witness;

23. The disclosure of information necessary to implement an agreement authorized by Section 2702 of this title when such information is directly involved in the resolution of issues arising out of the enforcement of a municipal sales tax ordinance. Said disclosure shall be to the governing body or to the municipal attorney, if so designated by the governing body;

24. The furnishing of information regarding incentive payments made pursuant to the provisions of Sections 3601 through 3609 of this title or incentive payments made pursuant to the provisions of Sections 3501 through 3508 of this title; or

25. The furnishing to a prospective purchaser of any business, or his authorized representative, of information relating to any liabilities, delinquencies, assessments or warrants of the prospective seller of the business which have not been filed of record, established, or become final and which relate solely to the seller's business. Any disclosure under this paragraph shall only be allowed upon the presentment by the prospective buyer, or his authorized representative, of the purchase contract and a written authorization between the parties.

D. The Tax Commission shall cause to be prepared and made available for public inspection in the office of the Tax Commission in such manner as it may determine an annual list containing the name and post office address of each person, whether individual, corporate, or otherwise, making and filing an income tax return with the Tax Commission.

It is specifically provided that no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission of any name or address in the preparation and publication of said list.

E. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Tax Commission relating to income tax or to any other taxes.

F. Unless otherwise provided for in this section, any violation of the provisions of this section shall ~~constitute a misdemeanor and shall be punishable by the imposition of~~ be a civil infraction and subject to a fine of not ~~exceeding~~ more than One Thousand Dollars ($1,000.00) ~~or by imprisonment in the county jail for a term not exceeding one (1) year, or by both said fine and imprisonment~~, and the offender shall be removed or dismissed from office.

G. Offenses described in Section 2376 of this title shall be reported to the appropriate district attorney of this state by the Tax Commission as soon as said offenses are discovered by the Tax Commission or its agents or employees. The Tax Commission shall make available to the appropriate district attorney or to the authorized agent of said district attorney its records and files pertinent to said prosecutions, and said records and files shall be fully admissible as evidence for the purpose of said prosecutions.

SECTION 809. AMENDATORY 68 O.S. 1991, Section 205.1, is amended to read as follows:

Section 205.1 A. To determine the actual municipal sales tax liability of any person engaged in any business upon which the Oklahoma excise tax is levied, the Oklahoma Tax Commission, not withstanding the provisions of Section 205 of this title, shall mail not less than quarterly to the governing body of each city or town that levies a municipal sales tax, a notice that the governing body

may request the following report from the Commission. Said report shall contain only the following information:

1. A full and complete list of the names and addresses of persons who report doing business during the preceding calendar year within the boundary of the city or town and who have a sales tax permit; and

2. A full and complete list of such persons specified in paragraph 1 of this subsection who are more than sixty (60) days delinquent in remitting sales tax levied pursuant to the provisions of the Oklahoma Sales Tax Code.

B. Upon request by the governing body of a city or town that levies a municipal sales tax, the Oklahoma Tax Commission, notwithstanding the provisions of Section 205 of this title, shall release to such governing body such information or evidence necessary to be used by such body to prosecute violations of municipal sales tax ordinances. Such information or evidence shall include, but is not limited to, the following:

1. Certified copies of sales tax permit applications;

2. Certified copies of sales tax permits;

3. Certified copies of sales tax reports; and

4. Names of Tax Commission employees who may be potential witnesses for municipal prosecution purposes.

C. Except in reporting to the members of the governing body of the city or town, no city or town official or employee shall divulge any information gained from the Oklahoma Tax Commission except that the municipal prosecutor and other municipal enforcement personnel may receive all information necessary to enforce municipal sales tax ordinances. <u>Any person who violates this subsection shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes and shall be removed or dismissed from office in the manner provided by law.</u>

D. Any city or town official or employee found in ~~violation~~ breach of this section shall be removed or dismissed from office in the manner provided by law. ~~In addition, any violation of~~ Any person violating the provisions of this section, other than subsection C, shall ~~constitute a misdemeanor and shall be punishable by the imposition of a fine not exceeding~~ be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) ~~or by imprisonment in the county jail for a term not exceeding one (1) year, or by both said fine and imprisonment~~. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 810. AMENDATORY 68 O.S. 1991, Section 205.2, as last amended by Section 1, Chapter 29, O.S.L. 1994 (68 O.S. Supp. 1994, Section 205.2), is amended to read as follows:

Section 205.2 A. A state agency or a district court seeking to collect a debt of at least Fifty Dollars ($50.00) from an individual who has filed a state income tax return may file a claim with the Oklahoma Tax Commission requesting that the amount owed to the agency or a district court be deducted from any state income tax refund due to that individual. The claim shall be in a form prescribed by the Oklahoma Tax Commission and shall contain information necessary to identify the person owing the debt, including the full name and Social Security number of the debtor.

1. Upon receiving a claim from a state agency or a district court, the Tax Commission shall notify the agency or the district court whether there are funds available to pay the claim. Provided the Tax Commission need not report available funds of less than Fifty Dollars ($50.00).

2. The state agency or the district court shall send notice to the debtor by certified mail, return receipt requested at the last-known address of the debtor as shown by the records of the Tax

Commission. The notice shall be signed for by the addressee or his agent at said address. The notice shall state:

a. that a claim has been filed, and

b. the basis for the claim, and

c. that such state agency or district court has applied to the Tax Commission for any portion of the tax refund due to the debtor which would satisfy the debt in full or in part, and

d. that the debtor has the right to contest the claim by sending a written request to the state agency or the district court for a hearing to protest the claim and if the debtor fails to apply for a hearing within thirty (30) days after the receipt of the notice, he shall be deemed to have waived his opportunity to contest the claim, and

e. that a collection expense of five percent (5%) of the gross proceeds owed to the state agency or district court shall be charged to the debtor and withheld from the refund upon final determination of the debt at the hearing or upon failure of the debtor to request a hearing, and

f. if the taxpayer settles the outstanding debt with the agency or district court before the thirty (30) days expire, the agency or the district court shall notify the Tax Commission in writing or by electronic media that said claim has been released.

3. In the case of a joint return, the notice shall state:

a. the name of any taxpayer named in the return against whom no debt is claimed, and

b. the fact that a debt is not claimed against said taxpayer, and

c. the fact that said taxpayer is entitled to receive a refund if it is due regardless of the debt asserted against the debtor, and

d. that in order to obtain the refund due, said taxpayer must apply, in writing, for a hearing with the district court or the agency named in the notice within thirty (30) days after the date of the mailing of the notice, and

e. if said taxpayer against whom no debt is claimed fails to apply in writing for a hearing within thirty (30) days after the mailing of said notice, said taxpayer shall have waived his right to a refund.

B. If the district court or agency asserting the claim receives a written request from the debtor or taxpayer against whom no debt is claimed requesting a hearing, the agency or the district court shall grant a hearing according to the provisions of the Administrative Procedures Act, Sections 250 et seq. of Title 75 of the Oklahoma Statutes. It shall be determined at the hearing whether the claimed sum is correct or whether an adjustment to the claim shall be made. Pending final determination at the hearing of the validity of the debt asserted by the district court or the agency, no action shall be taken in furtherance of the collection of the debt. Appeals from actions taken at the hearing shall be in accordance with the provisions of the Administrative Procedures Act.

C. Upon final determination at a hearing, as provided for in subsection B of this section, of the amount of the debt or upon failure of the debtor or taxpayer against whom no debt is claimed to request such a hearing, the district court or the agency shall submit in the manner prescribed by the Tax Commission notification of the action taken on the claim and a request that the amount owed including the collection expense be deducted from the tax refund due to the debtor and transferred to the district court or the agency.

However, if the tax refund due is inadequate to pay the collection expense and debt, the balance due the state agency or the district court shall be a continuing debt until paid in full.

D. Upon receipt of notification provided in subsection C of this section, the Tax Commission shall:

1. Deduct from the refund five percent (5%) of the gross proceeds owed to the state agency or district court and distribute it by retaining two percent (2%) and transferring three percent (3%) to the district court or the state agency as an expense of collection. The two percent (2%) retained by the Tax Commission shall be deposited in the Oklahoma Tax Commission Fund; and

2. Transfer the amount of debt or so much thereof as is available to the state agency or the district court; and

3. Notify the debtor in writing as to how the refund was applied; and

4. Refund to the debtor any balance remaining after deducting the collection expense and debt.

E. The Tax Commission shall deduct from any state tax refund due to a taxpayer the amount of delinquent state tax, and penalty and interest thereon, which such taxpayer owes pursuant to any state tax law prior to payment of such refund.

F. The Tax Commission shall have first priority over all other agencies or district courts when the Tax Commission is collecting a debt pursuant to the provisions of this section. Priority in multiple claims by other agencies or district courts pursuant to the provisions of this section shall be in the order in time, in which the Tax Commission receives the claim from the agencies and district courts required by the provisions of subsection A of this section.

G. The Tax Commission shall prescribe or approve forms and promulgate rules and regulations for implementing the provisions of this section.

H. The information obtained by an agency or by the district court from the Tax Commission pursuant to the provisions of this section shall be used only to aid in collection of the debt owed to the agency or a district court. Disclosure of the information for any other purpose shall ~~constitute a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. ~~Any agency or court employee or person convicted of violating this provision shall be subject to a fine not exceeding One Thousand Dollars ($1,000.00) or imprisonment in the county jail for a term not exceeding one (1) year, or both said fine and imprisonment and, if~~ If the person is still employed by the agency or the courts, the person shall be dismissed from employment.

I. The Oklahoma Tax Commission may employ the procedures provided by this section in order to collect a debt owed to the Internal Revenue Service if the Internal Revenue Service requires such procedure as a condition to providing information to the Commission concerning federal income tax.

SECTION 811. AMENDATORY 68 O.S. 1991, Section 206, is amended to read as follows:

Section 206. (a) In the administration of this article or any state tax law, the Tax Commission may make, or cause to be made by its employees or agents, an examination or investigation of the place of business, the tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of any taxpayer. It shall be the duty of every taxpayer and of every director, officer, agent, or employee of every taxpayer to exhibit to the Tax Commission, or to the employees or agents of such Tax Commission, the place of business, the tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of such taxpayer, and to facilitate any such examination or investigation so far as it may be in his or her power so to do.

(b) When books, records, papers, vouchers, accounts or documents of a taxpayer are in the possession of any person, firm or corporation other than the taxpayer, any member of the Tax Commission may compel by subpoena the production of such books, records, papers, vouchers, accounts or documents by the party in possession for inspection by employees or agents of the Tax Commission. Failure to obey such a subpoena issued pursuant to this subsection shall ~~be punishable in the same manner as provided for in Section 243 of this title~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Commission shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

(c) It shall be lawful for the Tax Commission, or for any employee or agent of the Tax Commission by it designated, to take the oath of any person signing any application, deposition, statement, report or return required by the Tax Commission in the administration of this article or of any state tax law.

SECTION 812. AMENDATORY 68 O.S. 1991, Section 238, is amended to read as follows:

Section 238. Any person, association, or corporation required to obtain a license or permit by any state tax law, or by other law which the Tax Commission is required to enforce, who shall, without obtaining such license or permit, conduct the business or carry on the activities required to be licensed, shall be ~~guilty, upon conviction, of a misdemeanor and shall be punished by the imposition of~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00)~~, or shall be punished by imprisonment in the county jail for not more than one (1) year~~; and, upon complaint of the Tax Commission shall be enjoined from further operating or conducting such business until such license or permit has been procured.

The venue for prosecutions arising pursuant to the provisions of this section shall be in the district court of any county in which such business activities are transacted.

SECTION 813. AMENDATORY 68 O.S. 1991, Section 239, is amended to read as follows:

Section 239. Any person, association, or corporation who, after the forfeiture by the Tax Commission of any bond posted by him, shall continue or attempt to continue in the business or operations made taxable by any state tax law pursuant to which the bond was required to be posted, without having said bond reinstated or without making a new bond, shall be ~~guilty, upon conviction, of a misdemeanor and shall be punished by the imposition of~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00)~~, or shall be imprisoned in the county jail for not more than one (1) year~~; and, upon complaint of the Tax Commission, shall be enjoined from further operating or conducting such business until such bond has been reinstated or a new bond has been approved. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

The venue for prosecutions arising pursuant to the provisions of this section shall be in the district court of any county in which such business activities are transacted.

SECTION 814. AMENDATORY 68 O.S. 1991, Section 243, is amended to read as follows:

Section 243. (a) Any person, or any member of any firm or association, or any official, agent, or employee of any corporation, who shall fail or refuse:

(1) to testify, or

(2) to produce any books, records, or papers which the Tax Commission shall require, or

(3) to permit the examination of the same, or

(4) to furnish any other evidence or information which the Tax Commission may require, or

(5) to answer any questions which may be put to him by the Tax Commission touching the business, property, assets, or effects of any such person, firm, association, or corporation, or the valuation thereof, or the income or profits therefrom, shall be ~~guilty, upon conviction, of a misdemeanor and shall be punished by a fine of not more than Five Thousand Dollars ($5,000.00), or by imprisonment for not more than one (1) year in the county jail, or by both said fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Commission shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

(b) The venue of prosecutions arising pursuant to the provisions of this section shall be in the district court of either the county in which the person resides or maintains his place of business or in the county in which the hearing is held.

SECTION 815. AMENDATORY 68 O.S. 1991, Section 244, is amended to read as follows:

Section 244. Any person, or member of any firm or association, or any official, agent, or employee of any corporation, who shall knowingly make false answer to any question which may be put to him by the Tax Commission, touching the business, property, assets, or effects of any such person, firm, association, or corporation, or the valuation thereof, or the income or profits therefrom, or who shall make or present any false affidavit concerning any list, schedule, statement, report or return, or for any other purpose, filed with said Tax Commission or required to be filed by this title or by any state tax law, shall be ~~guilty of perjury, and, upon conviction, shall be punished as provided for in Section 246 of this~~

~~title~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 816. AMENDATORY 68 O.S. 1991, Section 246, is amended to read as follows:

Section 246. Any person who shall knowingly verify, by oath, affirmation, or declaration, any false report or false return or other matter which is false, which by statute is required to be verified by oath, affirmation, or declaration and filed with the Tax Commission, shall be ~~guilty, upon conviction, of perjury and shall be punished by the imposition of a fine of not less than Five Hundred Dollars ($500.00) or more than Five Thousand Dollars ($5,000.00), or by imprisonment in the county jail for not less than ninety (90) days or more than one (1) year or by imprisonment in a state correctional institution for not less than ninety (90) days, or more than ten (10) years~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 817. AMENDATORY 68 O.S. 1991, Section 309, as amended by Section 15, Chapter 339, O.S.L. 1992 (68 O.S. Supp. 1994, Section 309), is amended to read as follows:

Section 309. (a) The right of a common carrier in this state to carry unstamped cigarettes, as defined in this article, shall not be affected by this article; provided that common carriers delivering unstamped cigarettes to any person in this state for the purpose of selling or consuming unstamped cigarettes in this state in violation of Section 301 et seq. of this title or this act shall be subject to seizure of the shipments and forfeiture of the inventory pursuant to the provisions of Section 305 of this title. Should any common carrier sell cigarettes to its passengers while being carried in this state, the sale shall be subject to the stamp tax and other provisions of this article, and to the rules and regulations of the Tax Commission.

(b) Common carriers transporting cigarettes to a point within the state, or a bonded warehouseman or bailee having possession of cigarettes, are required, under this article and the rules and regulations to be prescribed by the Commission, to transmit to the Commission a statement of such consignment of cigarettes, showing the date, point of origin, point of delivery, and to whom delivered, and such other information as the Commission may require. All common carriers, bailees or warehousemen shall permit an examination by the Commission, or its agents or legally authorized representatives, of their records relating to the shipment or receipt of cigarettes. Any person who fails or refuses to transmit to the Commission the statements above provided for~~, or whoever~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Whoever refuses to permit the examination of the records by the Commission~~,~~ shall be ~~guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Commission shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

SECTION 818. AMENDATORY 68 O.S. 1991, Section 315, is amended to read as follows:

Section 315. For the purpose of enabling the Oklahoma Tax Commission to determine the tax liability of a distributor, wholesale dealer, retail dealer, distributing agent or any other person dealing in cigarettes, or to determine whether a tax liability has been incurred, it shall have the right to inspect any premises where cigarettes are manufactured, produced, made, stored, transported, sold, or offered for sale or exchange, and to examine all of the records required herein to be kept or any other records that may be kept incident to the conduct of the cigarette business of such distributor, wholesale dealer, retail dealer, distributing

agent, or any other person dealing in cigarettes. The authorized agent of the Oklahoma Tax Commission shall also have the right, as an incident, to determine the said tax liability, or whether a tax liability has been incurred, to examine all stocks of cigarette stamps, and for the foregoing purpose such authorized agent shall also have the right to remain upon the premises for such length of time as may be necessary to fully determine such tax liability, or whether a tax liability has been incurred~~; and it shall be unlawful for any of the foregoing persons to~~. Any person who shall fail to produce upon demand by the Tax Commission, or any of its authorized agents, any records herein required to be kept, or to hinder or prevent in any manner the inspection of said records, or the examination of said premises shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Commission shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

SECTION 819. AMENDATORY 68 O.S. 1991, Section 316, is amended to read as follows:

Section 316. (a) Any person, as defined in this article, who shall:

(1) Sell, offer for sale or present as a prize or gift cigarettes without a stamp being then and there affixed to each individual package;

(2) Sell cigarettes in quantities less than an individual package;

(3) ~~knowingly consume, use or smoke any cigarettes upon which a tax is required to be paid without a stamp being affixed upon each individual package;~~

~~(4)~~ Knowingly cancel or mutilate any stamp affixed to any individual package of cigarettes for the purpose of concealing any violation of this article or with any other fraudulent intent;

(4) Use any artful device or deceptive practice to conceal any violation of this article; or

~~(6)~~ (5) Refuse to surrender to the Tax Commission upon demand any cigarettes possessed in violation of any provision of this article;

~~(7) make a first sale of cigarettes without a stamp being then and there affixed to each individual package; shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Two Hundred Dollars ($200.00), where specific penalties are not otherwise provided~~

shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

(b) Any person who shall consume, use or smoke any cigarettes upon which a tax is required to be paid without a stamp being affixed upon each individual package shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

(c) Any distributor, wholesale dealer, retail dealer or distributing agent who shall:

(1) commit any of the acts specifically enumerated in subdivision (a) of this section, where such acts are applicable to such person;

(2) sell any cigarettes upon which tax is required to be paid by this article without at the time of making such sale having a valid license;

(3) make a first sale of cigarettes without at the time of said first sale having a license posted so as to be easily seen by the public; or

(4) fail to deliver an invoice required by law to a purchaser of cigarettes;

shall be ~~guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than Two Hundred Dollars~~

~~($200.00), where specific penalties are not otherwise provided~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

~~(c)~~ (d) Any distributing agent, as defined in this article, who shall:

(1) commit any of the acts specifically enumerated in subdivisions (a) and ~~(b)~~ (c) of this section where such provisions are applicable to such distributing agent; or

(2) store any unstamped cigarettes in the state or deliver or distribute any unstamped cigarettes within this state, without at the time of said storage or delivery having a valid license posted so as to be easily seen by the public;

shall be ~~guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than Two Hundred Dollars ($200.00)~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 820. AMENDATORY 68 O.S. 1991, Section 317, is amended to read as follows:

Section 317. ~~(a) Any person who shall, without the authorization of the Tax Commission, make or manufacture, or who shall falsely or fraudulently forge, counterfeit, reproduce, or possess any stamps, impression, copy, facsimile, or other evidence for the purpose of indicating the payment of the tax levied by the Cigarette Stamp Tax Law, Sections 301 through 325, Title 68 of the Oklahoma Statutes, prescribed for use in the administration of this article, or who shall knowingly or by any deceptive act use or pass, or tender as true, or affix, impress or imprint, by use of any device, rubber stamp or by any other means, on any package containing cigarettes, any unauthorized, false, altered, forged, counterfeit or previously used stamps, impressions, copies,~~

~~facsimiles or other evidence of cigarette tax payment, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary for a term of not more than twenty (20) years, or by a fine of not more than Ten Thousand Dollars ($10,000.00), or by both such imprisonment and fine.~~

~~(b)~~ Each person ~~violating~~ breaching any ~~other~~ provision of this article shall be ~~guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a period of not more than twelve (12) months, or by a fine of not more than Five Hundred Dollars ($500.00), or by both such imprisonment and fine~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 821. AMENDATORY 68 O.S. 1991, Section 328, is amended to read as follows:

Section 328. a. It shall be unlawful for any retailer or wholesaler~~, with intent to injure competitors or destroy or substantially lessen competition,~~ to advertise, offer to sell, or sell, at retail or wholesale, cigarettes and tobacco products at less than cost to such retailer or wholesaler, as the case may be. Any retailer or wholesaler who ~~violates~~ breaches the provisions of this section shall be ~~guilty of a misdemeanor and be punishable by fine of not more than Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

b. Evidence of advertisement, offering to sell, or sale of cigarettes and tobacco products by any retailer or wholesaler at less than cost to him as defined in this act shall be prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

SECTION 822. AMENDATORY 68 O.S. 1991, Section 349, as amended by Section 4, Chapter 339, O.S.L. 1992 (68 O.S. Supp. 1994, Section 349), is amended to read as follows:

Section 349. A. There is hereby levied upon the sale of cigarettes at a tribally owned or licensed store a tax in the amount of seventy-five percent (75%) of the cigarette excise taxes imposed by Section 301 et seq. of Title 68 of the Oklahoma Statutes, which tax shall be in lieu of all sales and excise taxes on such cigarettes.

B. A federally recognized Indian tribe or nation may receive a refund for a portion of the tax imposed pursuant to the provisions of this section if it can provide sufficient documentation that sales of cigarettes to its tribal members exceed twenty-five percent (25%) of its total sales of cigarettes. The amount of the refund shall be the amount of tax paid which is attributable to sales of cigarettes made to tribal members which is in excess of twenty-five percent (25%) of the tribe's or nation's total sales of cigarettes. Refunds shall be paid quarterly. The Tax Commission shall promulgate rules and regulations to administer the provisions of this subsection.

C. All cigarettes which are sold or held for sale at a tribally owned or licensed store shall have affixed thereto a stamp or stamps evidencing payment of the in lieu tax required by subsection A of this section.

D. It shall be unlawful for any person ~~knowingly~~ to ~~ship, transport,~~ receive, possess, ~~sell, distribute~~ or purchase, for personal or family use, contraband cigarettes. Any person violating this subsection shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any person who engages in ~~shipping,~~ transporting, receiving, possessing, selling, distributing or purchasing contraband cigarettes, for other than personal or family use, shall~~, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars ($1,000.00). Any person convicted of a second or subsequent violation hereof shall be guilty of a felony and shall be punishable~~

~~by a fine of not more than Five Thousand Dollars ($5,000.00), by a term of imprisonment in the State Penitentiary for not more than two (2) years, or by both such fine and imprisonment~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

E. Any person who knowingly engages in shipping, transporting, receiving, possessing, selling, distributing or purchasing contraband cigarettes shall be subject to the forfeiture of property as is provided by Section 305 of Title 68 of the Oklahoma Statutes and assessment of penalty as provided thereby and assessment for any delinquent taxes found to be owing.

SECTION 823. AMENDATORY 68 O.S. 1991, Section 403, is amended to read as follows:

Section 403. (a) The excise taxes levied by this article shall be paid by affixing stamps in the manner and at the time herein set forth. In the case of cigars, including five-pack and other small packs, stogies and cheroots, the stamps shall be affixed to the box, or container, in which or from which normally sold at wholesale. Wholesalers and jobbers shall affix the required stamps within seventy-two (72) hours after such tobacco products are received by them. Any retailer shall have twenty-four (24) hours within which to affix the stamps after such tobacco products are received by him, or them. Provided that the Tax Commission may, in its discretion, where it is practical and reasonable for the enforcement of the collection of taxes provided hereunder, promulgate such rules and regulations as to permit cigars, stogies, cheroots, and tobacco products, to remain unstamped in the hands of the wholesalers and jobbers until the original case or crate is broken, unpacked or sold.

(b) In the case of tobacco products wrapped in packages of two (2) pounds or less, the stamps shall be affixed to the containers in which or from which the individual packages are normally sold at

wholesale and the stamps shall be affixed by wholesalers and jobbers within seventy-two (72) hours after such products are received by them, and by any retailer within the twenty-four (24) hours of receipt by him or them of any such products. Such goods must be stamped before being sold. All retail dealers in manufactured tobacco products, purchasing or receiving such commodities from without the state, whether the same shall have been ordered through a wholesaler or jobber in this state and/or by drop shipment and/or otherwise, shall within five (5) days after receipt of same, mail a duplicate invoice of all such purchases or receipts to the Tax Commission. Failure to furnish duplicate invoices as required shall be ~~deemed a misdemeanor, and, upon conviction, be punishable by a fine of not more than One Hundred Dollars ($100.00)~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each offense~~, or imprisonment in the county jail for a period not exceeding thirty (30) days~~.

(c) It is the intent and purpose of this section to require all manufacturers within this state, wholesale dealers, jobbers, distributors and retail dealers, to affix the stamps provided for in this section to taxable commodities, but when the stamps have been affixed as required herein, no further or other stamp shall be required regardless of how often such articles may be sold or resold within this state.

SECTION 824. AMENDATORY 68 O.S. 1991, Section 407, is amended to read as follows:

Section 407. It shall be provided by regulations of the Tax Commission the methods of breaking packages, forms and kinds of containers, and methods of affixing stamps, that shall be employed by persons subject to the tax levied by this article which will make possible the enforcement of payment by inspection; and any such person engaging in or permitting such practices as are prohibited by this article, or in any other practice which makes it difficult to

enforce the provisions of this article by inspection, and any person or agent thereof who shall upon demand of any officer or agent of the Tax Commission refuse to allow full inspection of the premises or any part thereof, or who shall hinder or in anywise delay or prevent such inspection when demand is made therefor, shall be ~~guilty of a misdemeanor and shall, upon conviction, be fined not more than Two Hundred Dollars ($200.00) for each offense, or imprisonment in the county jail for a period not exceeding sixty (60) days or both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Commission shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

SECTION 825. AMENDATORY 68 O.S. 1991, Section 412, is amended to read as follows:

Section 412. (a) Every wholesaler, jobber, retailer or consumer, who purchases or allows to come into his possession any unstamped merchandise coming under the scope of this article, shall file with the Tax Commission a surety or collateral or cash bond in such amount as the Commission may prescribe but not less than Five Hundred Dollars ($500.00), payable to the State of Oklahoma and conditioned upon compliance with the provisions of this article and the rules and regulations of the Tax Commission.

(b) Any consumer who purchases or brings into this state unstamped cigars or tobacco products whereon the tax would be more than twenty-five cents ($0.25) is subject to the tax thereon. Upon failure to pay the tax levied in this article, the consumer shall be ~~subject to a fine of not more than Five Hundred Dollars ($500.00) or not less than Twenty-five Dollars ($25.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 826. AMENDATORY 68 O.S. 1991, Section 413, as amended by Section 19, Chapter 339, O.S.L. 1992 (68 O.S. Supp. 1994, Section 413), is amended to read as follows:

Section 413. (a) The right of a common carrier in this state to carry unstamped cigars and tobacco products shall not be affected hereby; provided, that common carriers delivering untaxed tobacco products to any person in this state for the purpose of selling or consuming untaxed tobacco products in this state in violation of this article shall be subject to seizure of the shipments and forfeiture of the inventory pursuant to the provisions of Section 417 of this title. Provided further, that should any such carrier sell any cigars and tobacco products in this state, such sale shall be subject to the stamp tax and other provisions of this article and to the rules and regulations of the Tax Commission. The common carrier transporting tobacco products and cigars to a point within this state, or a bonded warehouseman or bailee having in its possession tobacco products and cigars, shall transmit to the Commission a statement of such consignment of tobacco products and cigars, showing the date, point of origin, point of delivery, and to whom delivered. All common carriers or bailees or warehousemen shall permit an examination by the Tax Commission, or its agents or legally authorized representatives, of their records relating to the shipment or receipt of tobacco products and cigars. Any person who fails or refuses to transmit to the Commission the aforesaid statement, or who refuses to permit the examination of his records by the Commission or its legally authorized agents or representatives, shall be ~~guilty of a misdemeanor and shall be subject to a fine of not to exceed Five Hundred Dollars ($500.00) and not less than Twenty-five Dollars ($25.00)~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Commission shall first give an oral or written warning to such

person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

(b) Wholesalers, jobbers, and/or warehousemen shall make a monthly report to the Tax Commission. Such report must be received in the office of the Tax Commission not later than the fifteenth day of each month, showing purchases and invoices of all merchandise coming under this article, for the previous month; and the report shall also show the invoice number, the name and address of the consignee and consignor, the date, and such other information as may be requested by the Tax Commission. Retailers or consumers purchasing tobacco products and cigars in drop shipments shall be required to make monthly reports to the Oklahoma Tax Commission, as are required of wholesale dealers.

SECTION 827. AMENDATORY 68 O.S. 1991, Section 418, is amended to read as follows:

Section 418. A. It shall be unlawful for any person to ~~transport, or~~ have in his possession, for personal or family use, unstamped tobacco products where the tax on such unstamped tobacco products exceeds the sum of One Dollar ($1.00). Any person found ~~guilty of violating~~ in breach of the provisions of this article shall be ~~deemed guilty of a misdemeanor, and shall upon conviction be punished by a fine of not more than Five Hundred Dollars ($500.00) or by confinement in the county jail for not to exceed thirty (30) days, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

B. Any person who sells or gives to another person any unstamped tobacco products or who cancels or mutilates any tobacco product tax stamps shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 828. AMENDATORY 68 O.S. 1991, Section 421, is amended to read as follows:

Section 421. The sale of such tobacco products under the two preceding sections shall be restricted to sales or distribution to inmates of such veterans hospitals, or residents of such state operated domiciliary homes for veterans, as shown by the records thereof, for their own personal use and consumption. Possession of tobacco products taxed under this article, which have been purchased or received from any such veterans hospital or any such home by any person other than an inmate or resident thereof, shall be ~~deemed a misdemeanor and punishable by a fine of Two Hundred Dollars ($200.00)~~ a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) for each offense.

SECTION 829. AMENDATORY Section 10, Chapter 339, O.S.L. 1992 (68 O.S. Supp. 1994, Section 426), is amended to read as follows:

Section 426. A. There is hereby levied upon the sale of tobacco products at a tribally owned or licensed store a tax in the amount of seventy-five percent (75%) of the tobacco products excise taxes imposed by Section 401 et seq. of Title 68 of the Oklahoma Statutes, which tax shall be in lieu of all sales and excise taxes on said tobacco products.

B. A federally recognized Indian tribe or nation may receive a refund for a portion of the tax imposed pursuant to the provisions of this section if it can provide sufficient documentation that sales of tobacco products to its tribal members exceed twenty-five percent (25%) of its total sales of tobacco products. The amount of the refund shall be the amount of tax paid which is attributable to sales of tobacco products made to tribal members which is in excess of twenty-five percent (25%) of the tribe's or nation's total sales of tobacco products. Refunds shall be paid quarterly. The Tax Commission shall promulgate rules and regulations to administer the provisions of this subsection.

C. It shall be unlawful for any person ~~knowingly~~ to ~~ship, transport,~~ receive, possess, ~~sell,~~ distribute or purchase, for personal or family use, contraband tobacco products. Any person violating this subsection shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any person who engages in ~~shipping,~~ transporting, receiving, possessing, selling, distributing or purchasing contraband tobacco products, other than for personal or family use, shall~~, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars ($1,000.00). Any person convicted of a second or subsequent violation hereof shall be guilty of a felony and shall be punishable by a fine of not more than Five Thousand Dollars ($5,000.00), by a term of imprisonment in the State Penitentiary for not more than two (2) years, or by both such fine and imprisonment~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

D. Any person who knowingly engages in shipping, transporting, receiving, possessing, selling, distributing or purchasing contraband tobacco products shall be subject to the forfeiture of property as is provided by Section 417 of Title 68 of the Oklahoma Statutes and assessment of penalty as provided thereby and assessment for any delinquent taxes found to be owing.

SECTION 830. AMENDATORY 68 O.S. 1991, Section 450.8, is amended to read as follows:

Section 450.8 A. Any dealer ~~violating~~ breaching the provisions of this act, except Section ~~9~~ 450.9 of this ~~act~~ title, shall ~~pay a civil penalty~~ be liable for an administrative violation and subject to a fine of one hundred percent (100%) of the amount of the tax levied in Section ~~2~~ 450.2 of this ~~act~~ title in addition to the actual tax levied in said section.

B. ~~Any dealer manufacturing, distributing, producing, shipping, transporting, importing or possessing any controlled dangerous~~

~~substance without affixing the appropriate stamp, upon conviction, is guilty of a felony punishable by imprisonment in the State Penitentiary for not more than five (5) years or by the imposition of a fine of not more than Ten Thousand Dollars ($10,000.00), or by both such imprisonment and fine~~.

~~C.~~ Nothing in this act may in any manner provide immunity for a dealer from criminal prosecution pursuant to Oklahoma law.

SECTION 831. AMENDATORY 68 O.S. 1991, Section 504.1, is amended to read as follows:

Section 504.1 The purpose of Section 501 et seq. of this title is to provide revenue for general governmental functions of state government and for the construction and maintenance of state and county highways and bridges. The tax, including penalties and interest collected under the levy in Section 502.1 of this title, shall be apportioned monthly for use as follows:

1. An amount equal to the revenue, including penalties and interest thereon, accruing from four cents ($0.04) per gallon of the five and one-half cents ($0.055) per gallon collected of the tax levied by Section 502.1 of this title, shall be apportioned monthly and used for the following purposes:

(a) Three percent (3%) shall be paid by the Tax Commission to the State Treasurer and by him placed to the credit of the General Revenue Fund of the State Treasury.

(b) Seventy-two and three-fourths percent (72 3/4%) shall be deposited in the State Treasury to the credit of the State Transportation Fund.

(c) Twenty-four and one-fourth percent (24 1/4%) shall be transmitted by the Tax Commission to various counties of the state, in the percentage which the population and area of each county bears to the population and area of the entire state. The population shall be as shown by the last Federal Census or the most recent

annual estimate provided by the U.S. Bureau of the Census. The funds so transmitted shall be sent to the respective county treasurers, and by them deposited in the county highway fund of their respective counties to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. No part of such fund shall be used for any purpose other than the construction and maintenance of county or township highways and permanent bridges in the county receiving the fund. The said funds received by any county shall not thereafter be diverted to any other county of the state, but such funds shall be expended only under the direction and control of the board of county commissioners in the county to which said funds are apportioned. If any part of said funds is diverted for any purpose other than is provided herein, the county commissioners shall be liable on their bond for double the amount of money so diverted. Provided that where any state or county highway has been laid out over a road already constructed in any county by the use of money raised from county or township bonds issued for the purpose either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided herein, an amount of money equal to the value of any part thereof, of the interest of such county or township or both, in and to such highway or highways, bridge or bridges so constituting a part of the state highway system, which amount of money shall be considered by the excise board in reducing the levy for the purpose

of retiring the bonded indebtedness and interest thereon of the county or township, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

2. An amount equal to the revenue, including penalties and interest thereon, accruing from one cent ($0.01) per gallon of the five and one-half cents ($0.055) per gallon collected of the tax levied by Section 502.1 of this title, shall be apportioned monthly and shall be deposited in the State Treasury to the credit of the State Transportation Fund.

3. An amount equal to the revenue, including penalties and interest thereon, accruing from one-half cent ($0.005) per gallon of the five and one-half cents ($0.055) per gallon collected of the tax levied by Section 502.1 of this title, shall be apportioned monthly and distributed 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 U.S. Bureau of the Census. The funds so transmitted shall be sent to the respective county treasurers and by them deposited in the county highway fund of the respective counties, to be used by the board of county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. In all counties where the county excise board of any county may find it necessary, because of insufficient revenue to maintain city and county government of such

county out of the general fund, after a levy of ten (10) mills has been made for any fiscal year, the county excise board may appropriate out of any funds apportioned to such county under this act, an amount sufficient to pay the salaries of the county commissioners of such county for such fiscal year.

It shall be unlawful for the board of county commissioners to use such funds for any other purpose, and any commissioner ~~violating~~ breaching any of the provisions of this act shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed Five Hundred Dollars ($500.00) and imprisonment in the county jail not to exceed six (6) months~~ liable for a civil infraction and subject to a fine of not more than Two Thousand Dollars ($2,000.00), and said commissioner shall be liable on his official bond for any of said funds expended in ~~violation~~ breach of the provisions of this act. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 832. AMENDATORY 68 O.S. 1991, Section 506, is amended to read as follows:

Section 506. (a) Every licensed distributor, or any other person coming within the meaning of the definition of a distributor, is hereby made an agent of the state for the collection of the excise tax on gasoline or motor fuel or diesel fuel. The consideration for the services of the distributor as such agent is hereby declared to be included in and paid to such agent by the state as a part of the deduction allowed to the distributor by Section 502 of this Code and Sections ~~3~~ 502.1 and ~~5~~ 522.1 of this ~~act~~ title. The acceptance of a distributor license by any distributor or the engaging in the gasoline or motor fuel or diesel fuel business by any person coming within the meaning of the definition of distributor, whether licensed or not, shall constitute an acceptance of such agency of the state by such distributor or person. In the collection of such excise tax by the distributor as

such agent, such distributor or agent shall collect and receive such tax, at the rate required by law, as money, property and funds of and belonging to the state, to be held in trust by such agent as funds and property of the state to be reported and paid over to the state as provided by law.

(b) If any such distributor, as such agent of the state, fails to pay the same over to the state when due and appropriates any of such money or funds to his own use and benefit or the use and benefit of any other person in any manner not in the due and lawful execution of his trust as such distributor and agent, such distributor or person shall be ~~guilty of the crime of embezzlement~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 833. AMENDATORY 68 O.S. 1991, Section 508, is amended to read as follows:

Section 508. (a) Every licensed distributor of motor fuel or diesel fuel within Oklahoma selling, to be used exclusively, or using, motor fuel or diesel fuel in aircraft or in aircraft engines used and operated on test stands for training, testing or research purposes, shall be entitled to sell or use such motor fuel or diesel fuel the same shall not be subject to the excise tax levied by Sections 502, 502.1, 516, ~~and~~ 522 and 522.1 of this ~~Code~~ title ~~and Sections 3 and 5 of this act~~, and the gross receipts from the sale of, and the use of, all chemicals and petroleum products used as fuel to generate power in aircraft engines shall also be exempt from all state and local sales and use taxes levied by the Sales and Use Tax Codes, upon complying with the invoice requirements of this section.

(b) Every distributor shall show on the monthly report required by Section 505 of the Motor Fuel Tax Code the number of gallons of motor fuel or diesel fuel used or sold for which exemption is claimed under this section and such other information as the Tax

Commission requires. An invoice shall be prepared covering each delivery of motor fuel, diesel fuel or other chemicals or petroleum products used as such aircraft fuel, for which exemption is claimed under this section, such invoice to be signed by the seller of the motor fuel, diesel fuel or other such fuels or products, to show the date of sale, the name of the seller, the name and address of the purchaser, the amount of motor fuel, diesel fuel or other such products delivered, and the place of delivery. Each such invoice shall contain a certification by the seller that the purchaser declared that it was his intention to use the motor fuel, diesel fuel or other such fuels or products for one of the purposes described in paragraph (a) of this section. A copy of the invoice shall be delivered to the purchaser or user.

(c) Any distributor selling or using motor fuel or diesel fuel that is exempt from motor fuel or diesel fuel taxes under this section may deduct the number of gallons of such motor fuel or diesel fuel from the total gallonage used, sold or distributed, only if copies of all invoices meeting the requirements of this section, covering sales or use of such motor fuel or diesel fuel are retained by such distributor for a period of three (3) years from date of invoice. The deduction shall be made before computing the amount of motor fuel or diesel fuel excise tax due upon the basis of ninety-seven and one-half percent (97 1/2%) of the net gallonage subject to tax. Such invoices shall be legibly written and shall be void if any corrections or erasures appear on the face thereof. A distributor shall not deduct from his report invoices covering the sale of motor fuel or diesel fuel made by any other distributor. All such invoices and records of the distributor shall be open to inspection and audit by the Tax Commission. The failure of any distributor to file a report within ninety (90) days from the date due as provided in the Oklahoma Motor Fuel Tax Code may cause the

deduction provided by this section to be disallowed by the Tax Commission.

(d) If any person uses any motor fuel, diesel fuel or other products exempt from motor fuel or diesel fuel excise tax or sales and use tax under paragraph (a) of this section that was purchased under an invoice as described in this section in any manner other than for one of the uses set out in paragraphs (a) and (b) of this section such person shall be ~~guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand Dollars ($1,000.00), or shall be imprisoned not more than one (1) year in the county jail~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

(e) If upon investigation it is determined by the Tax Commission that any deduction claimed by any distributor has been supported by any invoice fraudulently or falsely made or altered in any manner by such distributor, the Tax Commission shall disallow the deduction and cancel the distributor license of such person in the manner provided by law. Any distributor or agent of a distributor ~~violating~~ breaching the provisions of this section shall be ~~guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 834. AMENDATORY 68 O.S. 1991, Section 509, as last amended by Section 7, Chapter 258, O.S.L. 1994 (68 O.S. Supp. 1994, Section 509), is amended to read as follows:

Section 509. A. Every person actually engaged in farming in Oklahoma or in a state which borders the State of Oklahoma and buying motor fuel to be used as fuel for farm tractors or stationary engines owned or leased and operated by him and used exclusively for agricultural purposes, who has obtained an agricultural exemption

permit, as provided in this article, may purchase such motor fuel without paying the tax levied by Section 502 of this title and one-half cent ($0.005) per gallon of the tax levied by Section 516 of this title.

Provided, that motor fuel or diesel fuel shall be deemed to be used exclusively for agricultural purposes when used in farm tractors or stationary engines used for any of the hereinafter enumerated purposes or related purposes and the term "agricultural purposes", as herein used, is hereby defined to include: clearing, terracing or otherwise preparing ground on a farm; preparing soil for planting and fertilizing, cultivating, raising and harvesting crops; raising and feeding livestock and poultry and building fences; pumping water for any and all uses on the farm, including irrigation; building roads upon any farm by the owner or person farming same; operating milking machines; sawing wood for use on farm; producing electricity for use on farm; movement of tractors, farm implements and equipment from one field to another and use of farm tractors to move farm products from farm to market. The term "farm tractor", as used herein, shall include all tractor-type, motorized farm implements and equipment but shall not include motor vehicles of the truck-type, pickup truck-type, automobiles, and other motor vehicles required to be registered and licensed each year under the provisions of the motor vehicle license and registration laws.

B. Every person claiming an exemption under the provisions of this section shall first obtain a two-year agricultural exemption permit from the Tax Commission by filing a verified application on a form furnished by the Tax Commission, which application shall contain the name, address and occupation of the applicant and such other information as the Tax Commission requires. Upon approval of the application by the Tax Commission an agricultural exemption permit shall be issued bearing a distinctive number. Subsequent

agricultural exemption permits shall be issued on receipt of a certificate of current assessment provided for in Section 2810 of this title or, if the farming activity does not occur in this state, evidence of compliance with property tax laws of the state in which the activity occurs and a copy of the appropriate schedule from the prior year's federal income tax return which provides documentation of farming activity. Such evidence shall be in such form as required by the Tax Commission. The Tax Commission shall keep a permanent record of all permits issued and a record of the amount of exemptions claimed. All such permits expire on the 30th day of June two (2) years after the year of issuance and no agricultural exemption shall be allowed to the holder thereof after September 30 of that year. Provided, the Tax Commission may exempt such purchases after September 30 upon verifying that the fuel was actually used in accordance with the exemption provisions of this section.

C. Agricultural exemption permit holders shall furnish a copy of the permit to a distributor prior to purchasing motor fuel. Distributors selling to permit holders shall maintain a record of each sale to a permit holder and shall report the total gallons of tax-exempt motor fuel sold during a calendar month on forms prescribed by the Tax Commission. Said forms shall include a listing of the total gallons sold to each permit holder, by name and exemption number. The supplier shall furnish each permit holder a copy of its tax-exempt sales for the calendar month. The distributor and permit holder shall maintain these records for three (3) years.

D. Any distributor selling motor fuel that is exempt under this section may deduct the number of gallons of such motor fuel from the total gallonage required to be reported to the Tax Commission only if the forms required by this section covering sales of such motor fuel are attached to the report in which the exemption is claimed

under this section. The deduction shall be made before computing the amount of tax due upon the basis of ninety-seven and one-half percent (97 1/2%) of the net gallons subject to the tax. A distributor shall not deduct from his report or attach agricultural exemption monthly report forms covering the sale of motor fuel made by any other distributor. All agricultural exemption report forms must be received by the Tax Commission within ninety (90) days following the last day of the calendar month in which sales were made.

E. Tractors or stationary engines used for agricultural purposes must be registered by the owners or lessees thereof with the Tax Commission on forms prescribed and furnished by the Tax Commission before any exemption of the tax shall be allowed for motor fuel used in such tractors or stationary engines.

F. Any person who uses motor fuel that was purchased under an agricultural exemption permit in any manner other than for agricultural purposes shall be liable for the taxes levied under this article. Further, the permit issued shall be subject to cancellation and if so canceled shall not be reissued for a period of at least one (1) year. Such person shall also be ~~guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00), or shall be sentenced to a term of not more than one (1) year in the county jail~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

The Tax Commission shall conduct field audits and investigate the uses for which the holder of an agricultural exemption permit has made of motor fuel acquired by him under his permit. Upon a determination that the permit holder has improperly used the motor fuel or diesel fuel purchased, the Tax Commission shall issue a proposed assessment against the permit holder, in accordance with Section 221 of this title, for the motor fuel and diesel fuel taxes levied under this article.

G. If upon investigation it is determined by the Tax Commission that any deduction claimed by any distributor has been supported by any agricultural exemption report form fraudulently or falsely made or altered in any manner by such distributor, the Tax Commission shall disallow the deduction and shall cancel the distributor license of such person in the manner provided by law. Any distributor or agent of a distributor violating the provisions of this section shall be ~~guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

H. If any person whose agricultural exemption permit has been canceled purchases motor fuel from any distributor and obtains an exemption by representing to the distributor that his agricultural exemption permit is in force or by furnishing the distributor with the number of a permit which has been canceled, such person shall be guilty of a misdemeanor, and shall, upon conviction, be fined not more than Five Hundred Dollars ($500.00), or shall be sentenced to a term of not more than six (6) months in the county jail.

SECTION 835. AMENDATORY Section 18, Chapter 146, O.S.L. 1993 (68 O.S. Supp. 1994, Section 509.2), is amended to read as follows:

Section 509.2 A. The tax levied by this act shall not apply to diesel fuel used exclusively for purposes other than to operate motor vehicles on the public highways of this state. Provided that distributors shall execute on monthly reports, certification that the purchasers represented to the seller that the diesel fuel was to be used exclusively for purposes other than to operate motor vehicles on the public highways.

B. Every person, firm, corporation, partnership or limited liability company claiming an exemption under the provisions of this section shall first obtain an annual fuel tax exemption permit from the Tax Commission by filing a verified application on a form furnished by the Tax Commission. Each fuel tax exemption permit holder must furnish a copy of the permit to a supplier prior to purchasing diesel fuel. Suppliers selling to permit holders must maintain a record of each sale to a permit holder and shall report the total gallons of tax-exempt diesel fuel sold during a calendar month on a form prescribed by the Tax Commission. Said form will include a listing of the total gallons sold to each permit holder, by name and exemption number. The supplier shall furnish each permit holder a copy of its tax-exempt sales for the calendar month. The supplier and permit holder shall maintain these records for three (3) years. Any supplier selling diesel fuel that is exempt under this section may deduct the number of gallons of such diesel fuel from the total gallonage required to be reported to the Tax Commission only if prescribed forms listing the tax-exempt sales are attached to the report required by the Tax Commission. A supplier shall not deduct from the required report the sale of diesel fuel made by any other distributor. All fuel tax exemption permits expire on the 30th day of June of each year and no exemption shall be allowed to the holder thereof after September 30 of that year. Provided, the Tax Commission may exempt such purchases after September 30 upon verifying that the fuel was actually used in accordance with the exemption provisions of this section.

C. Any person who places diesel fuel that was purchased under an exemption permit authorized by this section into the fuel tank of a motor vehicle for use in operating the motor vehicle on the public highways shall be liable for the taxes levied under Sections 502.1, 502.3, 502.5, 502.7 and 522.1 of this title. Further, the permit issued shall be subject to cancellation and if so canceled shall not

be reissued for a period of at least one (1) year. Such person shall ~~also~~ be ~~guilty of a misdemeanor and shall, upon conviction, be fined~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00)~~, or shall be sentenced to a term of not more than one (1) year in the county jail~~. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

The Tax Commission shall conduct field audits and investigate the uses for which the holder of an off-road exemption permit has made of diesel fuel acquired by him under his permit. Upon a determination that the permit holder has improperly used the diesel fuel purchased, the Tax Commission shall issue a proposed assessment against the permit holder, in accordance with Section 221 of this title, for the diesel fuel taxes levied under this article.

D. The tax levied by Sections 502.1 and 522.1 of this title shall not apply to diesel fuel used exclusively in road machinery and equipment built for and being used on location in the construction, repair or maintenance of public highways, roads and bridges by road contractors and by counties, cities and towns of this state. However, this exemption shall not apply to automobiles or truck-type vehicles such as dump trucks, flatbed trucks and pickup trucks.

E. The tax levied by Sections 502.1 and 522.1 of this title shall not apply to diesel fuel used exclusively in passenger motor buses or coaches, having a seating capacity of ten or more persons, when such fuel is purchased by and used exclusively in public transit systems operated by any county, city or town of this state, or by any public trust created under the laws of this state of which a county, city or town of this state is the sole beneficiary thereof. Provided this exemption shall be allowed only when supported by a certificate executed by such city or trust on forms prescribed and furnished by the Oklahoma Tax Commission.

F. The tax levied by Sections 502.1 and 522.1 of this title shall not apply to diesel fuel purchased by any county, city or town for use as fuel to propel motor vehicles on the public roads and highways of this state, when said vehicles are being operated for the sole benefit of said county, city or town; provided that if the diesel fuel is placed directly into the fuel supply tank or tanks of the motor vehicle by the supplier, certification must be made on the invoice and all such sales must be reported by the supplier on forms furnished by the Oklahoma Tax Commission.

SECTION 836. AMENDATORY 68 O.S. 1991, Section 511, is amended to read as follows:

Section 511. (a) Each distributor must make application for and secure a duplicate of his license for each wholesale and retail station operated by him and by each retailer which said distributor supplies with motor fuel or diesel fuel or blending material, except stations the operator of which has been issued a dealer license as provided by this section. The application must be made on a form furnished by the Tax Commission showing the name, address and distributor license number of the applicant, the name of the operator, the location of the station and such other information as the Tax Commission requires. Upon approval of the application, the Tax Commission shall issue a nontransferable duplicate of the distributor license. Every person defined as a dealer by this article must obtain a license by making a verified application on a form furnished by the Tax Commission showing his name and address, location of the station and such other information as the Tax Commission requires. Upon approval of the application, the Tax Commission shall issue to the applicant a nontransferable dealer license for each station operated by him. Each retailer and dealer license shall continue in full force and effect until surrendered by the person that applied for such license or until it is canceled by the Tax Commission. Every person to whom a dealer license has been

issued must keep a record of all purchases or receipts and retail sales of motor fuel, diesel fuel or blending material for a period of at least three (3) years. There shall be displayed in each retail station in a conspicuous place, clearly visible from the driver's seat of a vehicle being serviced, the duplicate retailer or dealer license under which such station is operated. Each retail station must display either a duplicate retailer or dealer license. Any person required to secure any such license who carries on any such business without having obtained a proper license or after the license issued to such person has been canceled shall be ~~guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail not to exceed one (1) year, or by both such fine and imprisonment~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00).

(b) Each person to whom a dealer license has been issued shall file with the Tax Commission on or before the twenty-fifth day of each month, upon a form furnished by the Tax Commission, a verified report for the preceding calendar month showing the beginning and closing inventories, the number of gallons of motor fuel, diesel fuel or blending material received, purchased or sold, by such dealer, the person from whom purchased, the point of origin, the date and invoice number of each purchase, the total gallons sold each day and such other information as the Tax Commission requires.

(c) The operator of any retail station dealing in motor fuel, diesel fuel or blending material shall keep in the station for a period of three (3) years a true and correct record of all motor fuel, diesel fuel or blending material received, together with the invoice or copy thereof covering each purchase, showing the quantity of each delivery, the name of the consignor, the owner or driver of the truck, the point of origin and the date of delivery, and also copies of all sales invoices required by this article, and shall

also keep a record of the total sales of motor fuel, diesel fuel or blending material for each day and also a record of the inventory at the beginning of business on the first day of each month and such other information as the Tax Commission requires.

(d) The Tax Commission may require any retailer to make the same kind of reports that distributors or dealers are required to make by this article.

SECTION 837. AMENDATORY 68 O.S. 1991, Section 519, is amended to read as follows:

Section 519. (a) An amount equal to the revenue, including interest and penalties thereon, accruing from one-half cent ($0.005) per gallon after the exemptions provided for in Sections 508 and 509 of this title have been deducted, of the one and one-half cents ($0.015) per gallon gasoline excise tax levied by Section 516 of this title shall be apportioned monthly and distributed 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 U.S. Bureau of the Census. The funds so transmitted shall be sent to the respective county treasurers and by them deposited in the county highway fund of the respective counties, to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. In all counties where the county excise board of any county may find it necessary, because of insufficient revenue to maintain city and county government of such county out of the general fund, after a levy of ten (10) mills has been made for any

fiscal year, the county excise board may appropriate out of any such funds apportioned to such county an amount sufficient to pay the salaries of the county commissioners of such county for such fiscal year.

(b) It shall be unlawful for the board of county commissioners to use such funds for any other purpose, and any commissioner ~~violating~~ breaching any of the provisions of this section shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed Five Hundred Dollars ($500.00) and imprisoned in the county jail not to exceed six (6) months~~ liable for a civil infraction and subject to a fine of not more than Two Thousand Dollars ($2,000.00); and said commissioner shall be liable on his official bond for any of said funds expended in ~~violation~~ breach of the provisions of this section. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 838. AMENDATORY 68 O.S. 1991, Section 602.1a, is amended to read as follows:

Section 602.1a This act is to provide revenue for general governmental functions of state government and for the construction and maintenance of state and county highways and bridges. The tax, including penalties and interest collected under the levy in Section 603.1 of this title, shall be apportioned monthly for use as follows:

(1) An amount equal to the revenue, including penalties and interest thereon, accruing from four cents ($0.04) per gallon of the five and one-half cents ($0.055) per gallon collected of the tax levied by Section 603.1 of this title, shall be apportioned monthly and used for the following purposes:

(a) Three percent (3%) shall be paid by the Tax Commission to the State Treasurer and by him placed to the credit of the General Revenue Fund of the State Treasury.

(b) Seventy-two and three-fourths percent (72 3/4%) shall be deposited in the State Treasury to the credit of the State Transportation Fund.

(c) Twenty-four and one-fourth percent (24 1/4%) shall be transmitted by the Tax Commission to various counties of the state, in the percentage which the population and area of each county bears to the population and area of the entire state. The funds so transmitted shall be sent to the respective county treasurers, and by them deposited in the county highway fund of their respective counties to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. No part of such fund shall be used for any purpose other than the construction and maintenance of county or township highways and permanent bridges in the county receiving the fund. The said funds received by any county shall not thereafter be diverted to any other county of the state, but such funds shall be expended only under the direction and control of the board of county commissioners in the county to which said funds are apportioned. If any part of said funds is diverted for any purpose other than is provided herein, the county commissioners shall be liable on their bond for double the amount of money so diverted. Provided that where any state or county highway has been laid out over a road already constructed in any county by the use of money raised from county or township bonds issued for the purpose either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided herein, an amount of money equal to the value of any part thereof, of the interest of such county or township or both, in and to such highway or highways, bridge or bridges so constituting a part of the state highway system, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest

thereon of the county or township, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

(2) An amount equal to the revenue, including penalties and interest thereon, accruing from one cent ($0.01) per gallon of the five and one-half cents ($0.055) per gallon collected of the tax levied by Section 603.1 of this title shall be apportioned monthly and shall be deposited in the State Treasury to the credit of the State Transportation Fund.

(3) An amount equal to the revenue, including penalties and interest thereon, accruing from one-half cent ($0.005) per gallon of the five and one-half cents ($0.055) per gallon collected of the tax levied by Section 603.1 of this title shall be apportioned monthly and distributed 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 funds so transmitted shall be sent to the respective county treasurers and by them deposited in the county highway fund of the respective counties, to be used by the board of county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. In all counties where the county excise board of any county may find it necessary, because of insufficient revenue to maintain city and county government of such county out of the general fund, after a levy of ten (10) mills has been made for any fiscal year, the county excise board may appropriate out of any funds apportioned to such county under this

paragraph, an amount sufficient to pay the salaries of the county commissioners of such county for such fiscal year.

It shall be unlawful for the board of county commissioners to use such funds for any other purpose, and any commissioner violating any of the provisions of this section shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed Five Hundred Dollars ($500.00) and imprisonment in the county jail not to exceed six (6) months~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00), and said commissioner shall be liable on his official bond for any of said funds expended in violation of the provisions of this section. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 839. AMENDATORY 68 O.S. 1991, Section 608, is amended to read as follows:

Section 608. (a) Every person operating a motor vehicle on the highways of this state as a Motor Fuel/Diesel Fuel Importer for Use must at all times during such operation have displayed in the cab of such motor vehicle, a photostatic copy of the Motor Fuel/Diesel Fuel Importer for Use License which shall be subject to inspection at all times by representatives of the Tax Commission.

(b) Any person operating a motor vehicle on the highways of this state, the operation of which is subject to the tax levied by this article, without having obtained a Motor Fuel/Diesel Fuel Importer for Use License as required by Section 607 of this title, shall be ~~guilty of a misdemeanor and, upon conviction, punished by~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00)~~, or by imprisonment in the county jail for a period not exceeding one (1) year or both. The venue for prosecutions arising under this section shall be in the district court of any county in which such vehicle is being operated~~.

SECTION 840. AMENDATORY 68 O.S. 1991, Section 610, is amended to read as follows:

Section 610. (a) Each Motor Fuel/Diesel Fuel Importer for Use must maintain and keep for a period of three (3) years such records of motor fuel or diesel fuel used and mileage traveled by each and all motor vehicles on the highways of this state including motor vehicles owned, operated, leased or under any other form of contract, together with inventories, withdrawals, deliveries, purchases supported by invoices, bills of lading and all pertinent records and papers as may be required by the Tax Commission for the administration of this article.

(b) Every retailer or dealer who sells and delivers any motor fuel or diesel fuel into the fuel supply tanks of any motor vehicle of a licensed Motor Fuel/Diesel Fuel Importer for Use must, at the time of the delivery, make and deliver to the person owning or operating such vehicle an invoice covering each such delivery, showing the name of the purchaser, the date, the name and address of the seller printed thereon, the number of gallons delivered, the price per gallon and total sales price, and such other information as the Tax Commission may require. Each invoice must be made in duplicate, be identified by consecutive numbers with at least three digits printed thereon, and each retailer or dealer must furnish said invoices and retain one copy thereof and be able to account for each invoice and each copy thereof.

The invoices required by this section must be demanded by every Motor Fuel/Diesel Fuel Importer for Use covering each purchase.

(c) Any person ~~willfully violating~~ breaching any of the provisions of this section shall be ~~guilty of a misdemeanor and shall, upon conviction thereof, be punished by~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00)~~, or be sentenced to imprisonment in the county jail for not more than one (1) year, or both. Venue for~~

~~prosecution arising under this section shall be in the district court of any county in which such person resides or, if such person is not a resident of this state, any county in which such person uses the highways of this state or maintains an established place of business~~. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 841. AMENDATORY 68 O.S. 1991, Section 613, is amended to read as follows:

Section 613. (a) Whenever any person to whom a Motor Fuel/Diesel Fuel Importer for Use License has been issued ceases doing business or discontinues all operations in Oklahoma subject to the tax levied by this article, such person must notify the Tax Commission in writing of said fact within fifteen (15) days after such discontinuance and surrender such license together with all Motor Fuel/Diesel Fuel Importer for Use Licenses issued. All tax, penalties and interest levied by this article due from such person at the time of such discontinuance, shall become due and payable concurrently with such discontinuance, and such person must make a report and pay all such tax, interest and penalties at the time his license is surrendered.

(b) Any person ~~willfully violating~~ breaching any of the provisions of this section shall be ~~guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars ($1,000.00), or be sentenced to imprisonment in the county jail for not more than one (1) year or both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Venue for prosecution arising under this section shall be in the district court of any county in which such person resides, or, if such person is not a resident of this state, any county in which such person uses the highways of this state or maintains an established place of business.

SECTION 842. AMENDATORY 68 O.S. 1991, Section 704, is amended to read as follows:

Section 704. The purpose of Section 701 et seq. of this title is to provide revenue for general governmental functions of state government and for the construction and maintenance of state and county highways and bridges. The tax, including penalties and interest collected under the levy in Section 703 of this title, shall be apportioned monthly for use as follows:

(1) An amount equal to the revenue, including penalties and interest thereon, accruing from four cents ($0.04) per gallon of the five and one-half cents ($0.055) per gallon collected of the tax levied by Section 703 of this title, shall be apportioned monthly and used for the following purposes:

(a) Three percent (3%) shall be paid by the Tax Commission to the State Treasurer and by him placed to the credit of the General Revenue Fund of the State Treasury.

(b) Seventy-two and three-fourths percent (72 3/4%) shall be deposited in the State Treasury to the credit of the State Transportation Fund.

(c) Twenty-four and one-fourth percent (24 1/4%) shall be transmitted by the Tax Commission to various counties of the state, in the percentage which the population and area of each county bears to the population and area of the entire state. The population shall be as shown by the last Federal Census or the most recent annual estimate provided by the U.S. Bureau of the Census. The funds so transmitted shall be sent to the respective county treasurers, and by them deposited in the county highway fund of their respective counties to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. No part of such fund shall be used for any purpose other than the construction and maintenance of county or township highways and permanent bridges in

the county receiving the fund. The said funds received by any county shall not thereafter be diverted to any other county of the state, but such funds shall be expended only under the direction and control of the board of county commissioners in the county to which said funds are apportioned. If any part of said funds is diverted for any purpose other than is provided herein, the county commissioners shall be liable on their bond for double the amount of money so diverted. Provided that where any state or county highway has been laid out over a road already constructed in any county by the use of money raised from county or township bond issued for the purpose either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided herein, an amount of money equal to the value of any part thereof, of the interest of such county or township or both, in and to such highway or highways, bridge or bridges so constituting a part of the state highway system, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest thereon of the county or township, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

(2) An amount equal to the revenue, including penalties and interest thereon, accruing from one cent ($0.01) per gallon of the five and one-half cents ($0.055) per gallon collected of the tax levied by Section 703 of this title, shall be apportioned monthly and shall be deposited in the State Treasury to the credit of the State Transportation Fund.

(3) An amount equal to the revenue, including penalties and interest thereon, accruing from one-half cent ($0.005) per gallon of the five and one-half cents ($0.055) per gallon collected of the tax levied by Section 703 of this title, shall be apportioned monthly and distributed 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 State 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 U.S. Bureau of the Census. The funds so transmitted shall be sent to the respective county treasurers and by them deposited in the county highway fund of the respective counties, to be used by the board of county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. In all counties where the county excise board of any county may find it necessary, because of insufficient revenue to maintain city and county government of such county out of the general fund, after a levy of ten (10) mills has been made for any fiscal year, the county excise board may appropriate out of any funds apportioned to such county under this act, an amount sufficient to pay the salaries of the county commissioners of such county for such fiscal year.

It shall be unlawful for the board of county commissioners to use such funds for any other purpose, and any commissioner violating any of the provisions of this act shall be ~~deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed Five Hundred Dollars ($500.00) and imprisonment in the county jail not to exceed six (6) months~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00), and said commissioner shall be liable on his official bond for any of said funds expended in violation of the provisions of this act. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 843. AMENDATORY 68 O.S. 1991, Section 1013a, is amended to read as follows:

Section 1013a. A copy of the invoice required to be made by transporters under Section 1013(2) shall be demanded, and retained as therein provided, by every seller and purchaser of the products on which such invoice is required. Failure of any such seller or purchaser to secure and retain such invoice copy shall ~~constitute a misdemeanor as provided in Section 1017 of this Article~~ be an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 844. AMENDATORY 68 O.S. 1991, Section 1017, is amended to read as follows:

Section 1017. Failure on the part of any person, producer, refiner, processor, reclaimer, transporter, or purchaser of oil, petroleum oil, tank bottoms, pit oil, liquid hydrocarbons, natural gas, or casinghead gas, to comply with the provisions of this article shall be ~~deemed a misdemeanor, and upon conviction therefor,~~ an administrative violation and such person, producer, refiner, processor, reclaimer, transporter, or purchaser of oil or gas shall be ~~punished by the imposition of~~ subject to a fine of not to exceed One Thousand Dollars ($1,000.00)~~, or of a jail sentence of not to exceed six (6) months, or by the imposition of both such fine and imprisonment~~. Each day's failure to comply with the provisions of this article within the period of time fixed therein, shall constitute a separate offense.

SECTION 845. AMENDATORY 68 O.S. 1991, Section 1024, as last amended by Section 2, Chapter 392, O.S.L. 1992 (68 O.S. Supp. 1994, Section 1024), is amended to read as follows:

Section 1024. A. The Tax Commission may upon written request, release to any person the volume of production, during any specified available period of time, of any substance taxable pursuant to the provisions of this article from any lease lawfully plugged, pursuant

to the laws of this state after certification of said plugging by the Oklahoma Corporation Commission.

B. The Tax Commission may, upon oral or written request, release the lease name, legal description, Oklahoma Tax Commission assigned production unit number for any lease or unit in this state and the Oklahoma Tax Commission assigned purchaser or producer reporting number and purchaser or producer name to any person.

C. The Tax Commission may, upon written request, release the volume of production, producing formation and well classification, active or inactive, on a lease by lease basis to any person.

D. The Tax Commission shall, upon written request, release information provided in the Reclaimer's and Transporters Monthly Tax Report of Lease Production Stored and Sold, OTC Form 323A-7-81, or any form succeeding this form, to any person.

E. The Tax Commission shall, upon written request, release the following information to any person executing an affidavit, under penalty of perjury, declaring that they are an interest owner in the well, lease or unit for which the information is requested:

1. The gross, exempt and net volumes and values of production, tax reimbursements, additional values and taxes remitted thereon, during any available period of time of any substance taxable pursuant to the provisions of this article or the Petroleum Excise Tax of this state.

2. The lease name, legal description, industry or company well or lease unique number, Oklahoma Tax Commission assigned production unit number for any lease or unit in this state and the Oklahoma Tax Commission assigned purchaser or producer reporting number and purchaser or producer name.

3. The producing formation and well classification, active or inactive, on a lease by lease basis and if available, on a well by well basis, and British Thermal Unit content, NGPA classification, gas code, gravity, tier, category and oil class.

F. It is specifically provided that:

1. The Tax Commission shall establish a schedule of costs for the furnishing of the information in accordance with the provisions of subsections A and B of this section and shall collect said costs;

2. No civil or criminal liability shall attach to any member of the Tax Commission, or to any agents, servants, or employees of the Tax Commission for any error or omission in the preparation and publication of the requested information;

3. No costs shall be charged to the Oklahoma Corporation Commission Oil and Gas Conservation Division or Energy Conservation Services Division or to the Oklahoma Geological Survey for examination of the files and records of the Tax Commission; and

4. All funds collected pursuant to the provisions of this section shall be paid to the State Treasury and deposited to the credit of the Tax Commission Revolving Fund.

G. A duly authorized agent of the Oklahoma Corporation Commission Oil and Gas Conservation Division or Energy Conservation Services Division or of the Oklahoma Geological Survey may examine necessary records and files of the Tax Commission relating to the gross production tax for the purpose of estimating or forecasting reserves or production of oil or gas. Such examination shall be limited to information of volume of production, producing formation and well classification, active or inactive, on a lease by lease basis.

H. A duly authorized agent of the Commissioners of the Land Office may examine necessary records and files of the Tax Commission relating to the gross production tax for the purpose of determining the amount of erroneous payment of gross production tax made to the Oklahoma Tax Commission after January 1, 1978.

I. The provisions of this section shall be exceptions to the provisions of Sections 205 and 205.1 of this title and said sections shall be strictly construed against the disclosure of any other

information contained in the records and files of the Tax Commission except as otherwise provided by law.

J. Any violation of the provisions of this section shall ~~constitute a misdemeanor and shall be punishable as provided for in Section 205 of this title~~ be a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 846. AMENDATORY 68 O.S. 1991, Section 1356, as last amended by Section 14, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 1994, Section 1356), is amended to read as follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

There are hereby specifically exempted from the tax levied by this article:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by this article, except as hereinafter provided;

2. Sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business;

8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the

amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

9. Sales of tangible personal property or services to the Council Organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Girls shall be exempt from sales tax;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education and the Grand River Dam Authority, or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully ~~or erroneously~~ certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be ~~guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of

Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by said institutions and operated for educational purposes.

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this act other than a violation of paragraph 10 or 17 of this section shall be ~~a misdemeanor as set forth in paragraph 10 of this section~~ an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00);

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

13. Sales of tangible personal property made by:

a. a public school,

b. a private school offering instruction for grade levels kindergarten through twelfth grade,

c. a public school district,

d. a public or private school board,

e. a public or private school student group or organization,

f. a parent-teacher association or organization, or

g. public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization.

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:

a. local 4-H clubs,

b. county, regional or state 4-H councils,

c. county, regional or state 4-H committees,

d. 4-H leader associations,

e. county, regional or state 4-H foundations, and

f. authorized 4-H camps and training centers.

The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars ($75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

16. Items or services which are subsequently given away by the Oklahoma Department of Tourism and Recreation as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the

Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully ~~or erroneously~~ certifies that the purchases are for any such fire department ~~or who otherwise violates the provisions of this section~~ shall be ~~deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

19. From the effective date of this act until December 31, 1995, sales of tangible personal property or services, except the service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house or tourist camp, to legislative organizations in connection with national meetings to be held in this state; and

20. The first Fifteen Thousand Dollars ($15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six

(6) days each year to raise such funds in order to receive the exemption granted by this paragraph.

SECTION 847. AMENDATORY 68 O.S. 1991, Section 1357, as last amended by Section 15, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 1994, Section 1357), is amended to read as follows:

Section 1357. Exemptions - General.

There are hereby specifically exempted from the tax levied by this article:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

2. Transportation of persons where the fare of each person does not exceed One Dollar ($1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;

3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in this article. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have an established place of business and a sales tax permit. The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by this article. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is

purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

4. Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television;

5. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that he is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such 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~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes;

6. Sale of natural or artificial gas and electricity when sold exclusively for residential use after December 31, 1980. Provided, nothing herein shall be construed as limiting or prohibiting cities and towns, and counties levying a tax pursuant to the provisions of Section 1370.2 of this title, from levying and collecting taxes on the sale of natural or artificial gas and electricity. Provided further, any sales tax levied by a city or town, or a county levying a tax pursuant to the provisions of Section 1370.2 of this title, on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items;

7. In addition to the exemptions authorized by Section 1357.6 of this title, sales of medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicines or drugs. Provided, this exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

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

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

10. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to 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 of Oklahoma in the federal food stamp program;

11. Sales of food or food products to or by an organization which:

a. 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 provides and delivers prepared meals for home consumption to elderly or homebound persons as part of a program commonly known as "Meals on Wheels" or "Mobile Meals", or

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;

12. 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 which are primarily involved in the collection and distribution of food and other household products to other 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), which facilitate the distribution of such products to the needy, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business;

13. Sales of food, food products, or clothing to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

14. Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars ($5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to

qualify for the exemption provided for by this paragraph, the cost of said items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars ($2,000,000.00);

15. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 13 of this section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;

16. Sales of any interstate telecommunications services which:

a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or

b. entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges; and

17. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings and turnouts.

SECTION 848. AMENDATORY 68 O.S. 1991, Section 1358.1, as amended by Section 2, Chapter 70, O.S.L. 1992 (68 O.S. Supp. 1994, Section 1358.1), is amended to read as follows:

Section 1358.1 Exemptions - Agriculture - Proof of Eligibility.

(A) In order to qualify for any exemption authorized by Section 1358 of this title, at the time of sale, the person to whom the sale is made shall be required to furnish the vendor proof of eligibility for such exemption as required by this section.

(B) All vendors shall honor the proof of eligibility for sales tax exemption as authorized by this section and sales to a person providing such proof shall be exempt from the tax levied by this article.

(C) For persons holding a valid motor fuel tax exemption permit issued pursuant to Section 509 of this title, such permit shall constitute proof of eligibility for a sales tax exemption as provided by Section 1358 of this title. Upon the expiration of any such permit or if an original application for the exemption is made, the holder may apply for the motor fuel tax exemption and, if the application is approved, a new permit shall be issued indicating the nature of the motor fuel tax exemption and such permit shall contain a statement that the holder of the permit is eligible for sales tax exemptions authorized by Section 1358 of this title.

(D) For persons who do not hold a motor fuel tax exemption permit as provided by this section, such person shall obtain an agricultural exemption permit, the size and design of which shall be prescribed by the Oklahoma Tax Commission, which shall constitute proof of eligibility for sales tax exemptions authorized by Section 1358 of this title. Such permit shall be obtained by listing personal property used in farming or ranching by such person with the county assessor each year as provided by law. If the assessor determines that such personal property is correctly listed and assessed for ad valorem taxation, the assessor shall certify the assessment upon a form prescribed by the Oklahoma Tax Commission. One (1) copy shall be retained by the assessor, one (1) copy shall be forwarded to the Oklahoma Tax Commission and one (1) copy shall be given to the person listing the personal property. Upon

verification that the applicant qualifies for the exemptions authorized by Section 1358 of this title, the Commission shall issue a permit as prescribed by this section. The permit shall constitute proof of eligibility for sales tax exemptions as authorized by Section 1358 of this title. The permit shall be renewable annually in the manner provided by this section.

(E) A person who does not otherwise qualify for a permit pursuant to subsection (D) of this section, except as provided in subsection (F) of this section, shall file with the Oklahoma Tax Commission an application for an agricultural exemption permit constituting proof of eligibility for the sales tax exemptions authorized by Section 1358 of this title, setting forth such information as the Tax Commission may require. The application shall be certified by the applicant that such applicant is engaged in custom farming operations or in the business of farming or ranching. If the applicant is a corporation, the application shall be certified by a legally constituted officer thereof.

(F) For a person who is a resident of another state and who is engaged in custom farming operations in this state, such person shall provide the vendor proof of residency, the name, address and telephone number of the person engaging the custom farmer and certification on the face of the invoice, under the penalty of perjury, that the property purchased shall be used in agricultural production as proof of eligibility for the sales tax exemption authorized by Section 1358 of this title.

(G) If an agricultural exemption permit holder purchases tangible personal property from a vendor on a regular basis, the permit holder may furnish the vendor proof of eligibility as provided for in subsections (D) and (E) of this section and the vendor may subsequently make sales of tangible personal property to such permit holder without requiring such proof of eligibility for each subsequent sale. Provided, the permit holder shall notify the

vendor of all purchases which are not exempt from sales tax under the provisions of Section 1358 of this title and remit the applicable amount of tax thereon. If the permit holder fails to notify the vendor of purchases not exempt from sales tax, then sufficient grounds shall exist for the Oklahoma Tax Commission to cancel the agricultural exemption permit of the permit holder who so failed to notify the vendor.

(H) A purchaser who uses an agricultural exemption permit or provides proof of eligibility pursuant to subsection (F) of this section to purchase, exempt from sales tax, items not authorized for such exemption under Section 1358 of this title shall be ~~subject to a penalty in the amount of Five Hundred Dollars ($500.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 849. AMENDATORY 68 O.S. 1991, Section 1361, as amended by Section 41, Chapter 366, O.S.L. 1993 (68 O.S. Supp. 1994, Section 1361), is amended to read as follows:

Section 1361. Consumer to Pay Tax - Vendor to Collect Tax - Penalties for Failure to Collect.

(A) The tax levied by this article shall be paid by the consumer or user to the vendor as trustee for and on account of this state. Each and every vendor in this state shall collect from the consumer or user the full amount of the tax levied by this article, or an amount equal as nearly as possible or practicable to the average equivalent thereof. Every person required to collect any tax imposed by this article, and in the case of a corporation, each principal officer thereof, shall be personally liable for said tax. In the case of a limited liability company, all managers and members under a duty to collect and remit taxes for the limited liability company shall be liable for the tax. If no managers or members have been specified to be under the duty of withholding and remitting taxes, then all managers and members shall be liable for the tax.

However, if the Oklahoma Tax Commission finds that a consumer or user improperly presented a sales tax permit or other certification or used the property purchased exempt from tax in a manner that would not have qualified for exemption, the purchaser shall be liable for the remittance of the tax, interest and penalty due thereon and the Tax Commission may pursue collection thereof from the purchaser in any manner in which sales tax may be collected from a vendor. Upon such determination, the vendor shall be relieved of any liability for any sales tax imposed by the provisions of this section upon such vendor with respect to such sale.

(B) Vendors shall add the tax imposed by this article, or the average equivalent thereof, to the sales price, charge, consideration, gross receipts or gross proceeds of the sale of tangible personal property or services taxed by this article, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

(C) A vendor who ~~willfully or intentionally~~ fails, neglects or refuses to collect the full amount of the tax levied by this article, or ~~willfully or intentionally~~ fails, neglects or refuses to comply with the provisions of this article, or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax levied by this article, or makes in any form of advertising, verbally or otherwise, any statement which implies that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be ~~deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Five Hundred Dollars ($500.00), and upon conviction for a second or other subsequent offense shall be fined~~ <u>liable for an administrative violation and subject to a fine of</u> not more than One Thousand Dollars ($1,000.00)~~, or incarcerated for not more than~~

~~sixty (60) days, or both~~. Provided, sales by vending machines may be made at a stated price which includes state and any municipal sales tax. In addition, any person violating the provisions of this subsection shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

(D) ~~A consumer or user who willfully or intentionally fails, neglects or refuses to pay the full amount of tax levied by this article or willfully or intentionally uses a sales tax permit which is invalid, expired, revoked, canceled or otherwise limited to a specific line of business or willfully or intentionally issues a resale certificate to a vendor to evade the tax levied by this article shall be subject to a penalty in the amount of Five Hundred Dollars ($500.00) per reporting period upon determination thereof, which shall be apportioned as provided for the apportionment of the tax.~~

~~(E)~~ Any sum or sums collected or required to be collected in this article shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the collecting vendor shall have a fiduciary duty to the State of Oklahoma in regards to such sums and shall be subject to the trust laws of this state. Any vendor who ~~willfully or intentionally~~ fails to remit the tax, after the tax levied by this article was collected from the consumer or user, and appropriates the tax held in trust to his own use, or to the use of any person not entitled thereto, without authority of law shall be ~~guilty of embezzlement~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 850. AMENDATORY 68 O.S. 1991, Section 1364, is amended to read as follows:

Section 1364. Permits to do business.

(A) Every person desiring to engage in a business within this state who would be designated as a Group One or Group Three vendor, pursuant to Section 1363 of this title, shall be required to secure

from the Oklahoma Tax Commission every three (3) years a written permit for a fee of Twenty Dollars ($20.00) prior to engaging in such business in this state. Each such person shall file with the Tax Commission an application for a permit to engage in or transact business in this state, setting forth such information as the Tax Commission may require. The application shall be signed by the owner of the business or representative of the business entity and as a natural person, and, in the case of a corporation, as a legally constituted officer thereof.

(B) Upon verification that the applicant is a Group One vendor, the Tax Commission shall issue a permit for the place of business set forth in the application for permit. Upon verification that the applicant is a Group Three vendor, the Tax Commission may require such applicant to furnish a surety bond or other security as the Commission may deem necessary to secure payment of taxes under this article, prior to issuance of a permit for the place of business set forth in the application for permit. Provided, the Tax Commission is hereby authorized to set guidelines, by adoption of regulations, for the issuance of sales tax permits. Pursuant to said guidelines the Tax Commission may refuse to issue permits to any Group Three vendors, or any class of vendors included in the whole classification of Group Three vendors, if the Commission determines that it is likely this state will lose tax revenue due to the difficulty of enforcing this article for any reasons stated in subsection (T) of Section 1354 of this title.

(C) A separate permit for each additional place of business to be operated must be obtained from the Tax Commission for a fee of Ten Dollars ($10.00). Such permit shall be good for a period of three (3) years. The Tax Commission shall grant and issue to each applicant a separate permit for each place of business in this state, upon proper application therefor and verification thereof by the Tax Commission.

(D) A permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. The permit shall at all times be conspicuously displayed at the place of business for which issued in a position where it can be easily seen. Said permit shall be in addition to all other permits required by the Statutes of Oklahoma. Provided, if the location of the business is changed, such person shall file with the Tax Commission an application for a permit to engage in or transact business at the new location. Upon issuance of the permit to the new location of such business, no additional permit fee shall be due until the expiration of the permit issued to the previous location of such business.

(E) It shall be unlawful for any person coming within the class designated as Group One or the class designated as Group Three to engage in or transact a business of reselling tangible personal property or services within this state unless a written permit or permits shall have been issued to him. Any person who engages in a business subject to the provisions of this section without a permit or permits, or after a permit has been suspended, ~~upon conviction, shall be guilty of a misdemeanor punishable by~~ shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any person ~~convicted of~~ committing a second or subsequent violation hereof shall be ~~guilty of a felony and punishable by~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00) ~~or by a term of imprisonment in the State Penitentiary for not more than two (2) years, or both such fine and imprisonment~~.

(F) Any person operating under a permit as provided in this article shall, upon discontinuance of business by sale or otherwise, return such permit to the Tax Commission for cancellation, together with a remittance for any unpaid or accrued taxes. Failure to surrender a permit and pay any and all accrued taxes will be

sufficient cause for the Tax Commission to refuse to issue a permit subsequently to such person to engage in or transact any other business in this state. In the case of a sale of any business, the tax shall be deemed to be due on the sale of the fixtures and equipment, and the Tax Commission shall not issue a permit to continue or conduct said business to the purchaser until all tax claims due the State of Oklahoma have been settled.

(G) All permits issued under the provisions of this article shall expire three (3) years from the date of issuance at the close of business at each place or location of the business within this state. No refund of the fee shall be made if the business is terminated prior to the expiration of the permit.

(H) Whenever a holder of a permit fails to comply with any provisions of this article, the Tax Commission, after giving ten (10) days' notice in writing of the time and place of hearing to show cause why his permit should not be revoked, may revoke or suspend the permit, said permit to be renewed upon removal of cause or causes of revocation or suspension. However, if a holder of a permit becomes delinquent for a period of three (3) months or more in reporting or paying of any tax due under this article, any duly authorized agent of the Tax Commission may remove the permit from the taxpayer's premises and it shall be returned or renewed only upon the filing of proper reports and payment of all taxes due under this article.

(I) Permits are not required of persons coming within the classification designated as Group Two. The Oklahoma Tax Commission shall issue a limited permit to Group Five vendors. The permit shall be in such form as the Commission may prescribe.

(J) Nothing in this article shall be construed to allow a permit holder to purchase, tax exempt, anything for resale that he is not regularly in the business of reselling.

(K) All monies received pursuant to issuance of such permits to do business shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the State Treasury.

(L) Notwithstanding the provisions of Section 205 of this title, the Oklahoma Tax Commission is authorized to release the following information contained in the Master Sales and Use Tax File to vendors:

(1) Permit number;

(2) Name in which permit is issued;

(3) Name of business operation if different from ownership (DBA);

(4) Mailing address;

(5) Business address;

(6) Business class or Standard Industrial Code (SIC); and

(7) Effective date and expiration or cancellation date of permit.

Release of such information shall be limited to tax remitters for the express purpose of determining the validity of sales permits presented as evidence of purchasers' sales tax resale status under this Code.

The provisions of this subsection shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Tax Commission relating to sales tax or to any other taxes.

This information may be provided on a subscription basis, with periodic updates, and sufficient fee charged, not to exceed One Hundred Fifty Dollars ($150.00) per year, to offset the administrative costs of providing the list. All revenue received by the Oklahoma Tax Commission from such fees shall be deposited to the credit of the Oklahoma Tax Commission Revolving Fund. No liability whatsoever, civil or criminal, shall attach to any member of the Tax

Commission or any employee thereof for any error or omission in the disclosure of information pursuant to this subsection.

SECTION 851. AMENDATORY 68 O.S. 1991, Section 1508, is amended to read as follows:

Section 1508. Any owner of a coin-operated device who places such device in operation or in a place available to the public for operation, and any person who permits a coin-operated device to be in operation or accessible to the public for operation in his place of business, without attaching the decal herein provided for, shall be ~~guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding Two Hundred Dollars ($200.00) or by imprisonment in the county jail for a period not exceeding thirty (30) days or by both such fine and imprisonment~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 852. AMENDATORY 68 O.S. 1991, Section 1509.4, is amended to read as follows:

Section 1509.4 A. Failure to obtain a permit under the provisions of this act shall be ~~a misdemeanor, punishable~~ an administrative violation and subject to punishment by a fine in the amount of twice the permit fee required and ineligibility to apply for a permit for two (2) years from date of adjudication of a violation of this act.

B. ~~Purchasing or selling a replay game shall be a felony.~~

~~C.~~ The provisions of this act shall not apply to retail sales to individuals for personal use. The licensing provisions of this act shall not apply to machines installed on federal military bases.

SECTION 853. AMENDATORY 68 O.S. 1991, Section 1625, is amended to read as follows:

Section 1625. The following license fees shall be due and payable on or before March 1 of each and every year beginning March 1, 1981, to the Oklahoma Tax Commission.

(a) A license fee of One Thousand Dollars ($1,000.00) annually shall be charged for the license to do business within this state as a manufacturer. Provided no manufacturer's license shall be issued without: (1) proof of inspection by the State Fire Marshal pursuant to Section 1633 of this title; and (2) without proof of workers' compensation coverage pursuant to the provisions of Title 85 of the Oklahoma Statutes.

(b) A license fee of One Thousand Dollars ($1,000.00) annually shall be charged for the license to do business within this state as a distributor.

(c) A license fee of Five Hundred Dollars ($500.00) annually shall be charged for the license to do business within this state as a wholesaler.

(d) Any person operating a retail location where fireworks are sold directly to the consumer shall be required to purchase a retail fireworks license. The retail license fee shall be Ten Dollars ($10.00) annually and may be purchased from any licensed wholesaler, manufacturer or distributor. These serially numbered licenses shall be made available at any time to the licensed wholesalers, manufacturers or distributors in books of twenty (20) licenses to a book. Retail licenses which are unsold may be exchanged for new licenses. Any person purchasing a retail fireworks license pursuant to this paragraph shall, at the time of purchasing such license, sign an affidavit attesting to the fact that the name, mailing address and telephone number of the purchaser as it appears on such license is correct and that the purchaser operates a retail location where fireworks are sold directly to the consumer. Said affidavit shall be an integral but easily detachable part of the application form for a retail fireworks license. Any person who signs said affidavit as required by this paragraph when such person knows that it is not true~~, upon conviction,~~ shall be ~~guilty of perjury and~~

~~shall be punished as provided for by law~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 854. AMENDATORY 68 O.S. 1991, Section 1627, is amended to read as follows:

Section 1627. (a) No person shall knowingly sell, purchase or deliver, or cause to be sold, purchased or delivered, fireworks for resale to any other person who does not possess a valid license under this act. It shall be unlawful for a distributor, wholesaler or retailer, licensed under this act, to purchase fireworks from any person, unless the distributor, wholesaler or retailer determines that the person holds a valid distributor's, wholesaler's or manufacturer's license under this act. All retail sales outlets shall have a current retail license. The license shall be conspicuously posted in the immediate vicinity of the sales operation and shall be immediately available for examination by the public or any enforcement officer. No license provided for herein shall be transferable nor shall any person be permitted to operate under a license granted to another person.

(b) It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of twelve (12) years, unless accompanied by an adult, or to any intoxicated or irresponsible person. A violation of this subsection shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

(c) It shall be unlawful to explode or ignite fireworks within five hundred (500) feet of any church, hospital, asylum, unharvested, flammable agricultural crop, public school or where fireworks are stored, sold or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle; nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle or at or near any group of people. A violation of this

subsection shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 855. AMENDATORY 68 O.S. 1991, Section 1628, is amended to read as follows:

Section 1628. ~~Violation of any provision of this act is a misdemeanor punishable as follows:~~

(a) ~~Discharging fireworks in violation of this act shall be punishable by a fine not to exceed One Hundred Dollars ($100.00).~~

~~(b) Illegal sale, violation of licensing provision, false labeling, or any other violation of this act shall be punishable by a fine not to exceed One Thousand Dollars ($1,000.00), ninety (90) days' imprisonment in the county jail, or both~~ Any person breaching any provision of Sections 1621 through 1630 of this title other than subsection (b) or (c) of Section 1627 of this title shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). In the event of a second ~~conviction~~ violation the license shall be revoked for a period of eighteen (18) months. Each violation of this act shall constitute a separate offense. No other person shall be granted a license to operate in the same location during the period of a revoked license.

~~(c)~~ (b) The State Fire Marshal, his deputies, or any authorized police or peace officer of this state shall seize as contraband any illegal fireworks as defined under the terms of this act. Fireworks seized in the enforcement of this act shall be held in custody of the county sheriff in which county such fireworks were seized. The party surrendering the fireworks, if aggrieved by the action, may file an appeal in writing to the district court in the county where fireworks were seized. Upon hearing the appeal, the district court may authorize the return of part or all of the confiscated fireworks; otherwise, the court shall authorize and direct that such contraband fireworks be destroyed.

~~(d)~~ (c) The provisions of this act shall be enforced by the State Fire Marshal and local fire marshals, the sheriff, the police or any peace officer licensed or authorized by this state or by their respective deputies.

SECTION 856. AMENDATORY 68 O.S. 1991, Section 1707, is amended to read as follows:

Section 1707. Any contractor who, or which, fails to make and file a bond or to give the notices to the Oklahoma Tax Commission, the Employment Security Commission, the Workers' Compensation Court, and the county assessor of each county involved, as required by Sections 1701 through 1706 of this title, ~~shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00). Any~~ or any contractor who violates the provisions of Section ~~2~~ 1701.1 of this ~~act~~ title shall be ~~guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Thousand Dollars ($1,000.00) nor more than Ten Thousand Dollars ($10,000.00). Venue for such prosecution shall be in Oklahoma County, or in any county where such contract work is performed~~ liable for an administrative violation and subject to a fine of not more than Five Thousand Dollars ($5,000.00).

SECTION 857. AMENDATORY 68 O.S. 1991, Section 1904, as amended by Section 1, Chapter 208, O.S.L. 1992 (68 O.S. Supp. 1994, Section 1904), is amended to read as follows:

Section 1904. (a) The following taxes are hereby levied on real estate mortgages:

A tax of ten cents ($0.10) for each One Hundred Dollars ($100.00) and each remaining fraction thereof where such mortgage is for five (5) years or more; eight cents ($0.08) for each One Hundred Dollars ($100.00) for each mortgage where such mortgage is for four (4) years and less than five (5) years; a tax of six cents ($0.06) for each One Hundred Dollars ($100.00) where such mortgage is for

three (3) years and less than four (4) years; a tax of four cents ($0.04) for each One Hundred Dollars ($100.00) where such mortgage is for two (2) years and less than three (3) years; and a tax of two cents ($0.02) for each One Hundred Dollars ($100.00) where such mortgage is for less than two (2) years. If the principal debt or obligation secured by said mortgage is less than One Hundred Dollars ($100.00), a tax of ten cents ($0.10) is levied on such mortgage and shall be collected and paid as provided for in this article.

(b) In addition to the taxes levied pursuant to the provisions of subsection (a) of this section, the county treasurer shall collect a fee of Five Dollars ($5.00) on each mortgage presented to the county treasurer for certification. The fees collected pursuant to the provisions of this subsection shall be deposited into a cash account to be known as the "County Treasurer's Mortgage Certification Fee Account". Monies from said account shall be expended by the county treasurer in the lawful operation of his office.

(c) Except as otherwise provided for in this subsection, the tax provided for in subsection (a) of this section shall be paid by the mortgagee. With respect to mortgages of public trusts created pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes or mortgages of rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes, such tax may be paid by the mortgagor, the mortgagee or any other interested party. Any mortgagee, agent, representative, or person who shall through any scheme, arrangement, agreement, inducement, or device by an increase of the rate of interest, commission, brokerage, or otherwise, charge to or exact from the mortgagor the payment of such tax~~, upon conviction, shall be deemed guilty of a misdemeanor~~ shall be liable for a civil infraction and subject to a fine of not more than One Thousand

Dollars ($1,000.00). This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 858. AMENDATORY 68 O.S. 1991, Section 2385.3, as amended by Section 47, Chapter 366, O.S.L. 1993 (68 O.S. Supp. 1994, Section 2385.3), is amended to read as follows:

Section 2385.3 (a) Every employer required to deduct and withhold taxes under Section 2385.2 of this title shall, for the quarterly period beginning July 1, 1961, and for each quarterly period thereafter, on or before the fifteenth day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment; and such return shall be in such form as the Tax Commission shall prescribe; except that where the amounts withheld are more than Five Hundred Dollars ($500.00) per quarter, the employer withholding such amounts shall for each monthly period beginning July 1, 1968, and for each monthly period thereafter, on or before the fifteenth day of each succeeding month pay over to the Commission the amounts so withheld, and shall file a return monthly, as hereinabove provided, together with the payment of any balance withheld but not included in the previous payments during that quarter for all quarterly or monthly periods beginning before the effective date of this act, Section 2385.1 et seq. of this title, withholding income tax shall be reported and remitted to the Tax Commission pursuant to the provisions of this section.

(b) Every employer required under Section 2385.2 of this title to deduct and withhold a tax from the wages paid an employee shall, as to the total wages paid to each employee during the calendar year, furnish to such employee, on or before January 31 of the succeeding year, a written statement showing the name of the employer, the name of the employee and his social security account number, if any, the total amount of wages subject to taxation, and the total amount deducted and withheld as tax and such other

information as the Tax Commission may require. If an employee's employment is terminated before the close of a calendar year, said written statement must be furnished within thirty (30) days of the date of which the last payment of wages is made.

(c) If the Tax Commission, in any case, has justifiable reason to believe that the collection of the tax provided for in Section 2385.2 of this title is in jeopardy, the Tax Commission may require the employer to file a return and pay the tax at any time.

(d) Every employer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma. The term "employer" as used in this subsection and in Section 2385.6 of this title includes an officer or employee of a corporation, manager or member of a limited liability company or a member or employee of a partnership, who as an officer or employee of a corporation, or manager or member of a limited liability company or member or employee of a partnership is under a duty to act for a corporation, limited liability company or partnership to withhold and remit withholding taxes in accordance with this section and Section 2385.2 of this title. Any sum or sums withheld in accordance with the provisions of Section 2385.2 of this title shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the employer shall have a fiduciary duty to the State of Oklahoma in regard to such sums and shall be subject to the trust laws of this state. Any employer who fails to pay to the Tax Commission any sums required to be withheld by such employer, after such sums have been withheld from the wages of employees, and appropriates the tax held in trust to his own use, or to the use of any person not entitled thereto, without authority of law shall be ~~guilty of embezzlement~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

(e) If any employer fails to withhold the tax required to be withheld by Section 2385.2 of this title and thereafter the income tax is paid by the employee, the tax so required to be withheld shall not be collected from the employer but such employer shall not be relieved from the liability for penalties or interest otherwise applicable because of such failure to withhold the tax.

(f) Every person making payments of winnings subject to withholding shall, for each monthly period, on or before the fifteenth day of the month following the payment of such winnings pay over to the Commission the amounts so withheld, and shall file a return, in a form as prescribed by the Commission.

(g) Every person making payments of winnings subject to withholding shall furnish to each recipient on or before January 31 of the succeeding year a written statement in a form as prescribed by the Commission. Every person making such reports shall also furnish a copy of such report to the Commission in a manner and at a time as shall be prescribed by the Commission.

SECTION 859. AMENDATORY 68 O.S. 1991, Section 2385.6, is amended to read as follows:

Section 2385.6 (a) If an employer fails to file a return or to pay to the Tax Commission the withholding tax within the time prescribed by this article, ~~there shall be imposed on him a penalty~~ the employer shall be liable for an administrative violation and subject to a fine equal to five percent (5%) of the amount of tax, or five percent (5%) of the amount of the underpayment of tax, if such failure is not corrected on or before the last day of the month when due, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent (25%) in the aggregate. There shall also be imposed on such employer interest at the rate of one and one-quarter percent (1 1/4%) per month during the period such underpayment exists. For the purposes of this paragraph

"underpayment" shall mean the excess of the amount of the tax required to be paid over the amount thereof actually paid on or before the date prescribed therefor. Such penalty and interest shall be added to and become a part of the tax assessed.

(b) Any employer who is required under the provisions of Section 2385.3 of this title to furnish a statement to an employee, but who ~~willfully~~ fails to furnish such employee the statement required by said section, shall be ~~guilty of a misdemeanor and upon conviction shall be punished by a fine of not exceeding One Hundred Dollars ($100.00), or by imprisonment for not more than six (6) months in the county jail, or by both such fine and imprisonment for each such offense~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

(c) The provisions of subsections (a) and (b) of this section shall also apply to every person making payments of winnings subject to withholding.

SECTION 860. AMENDATORY 68 O.S. 1991, Section 2811, is amended to read as follows:

Section 2811. A. Upon locating a manufactured home which is not registered as required pursuant to the provisions of Title 47 of the Oklahoma Statutes or is not listed and assessed for ad valorem taxation pursuant to the provisions of the Ad Valorem Tax Code, the county assessor of the county in which the manufactured home is located shall list and assess the manufactured home, and place said home on the tax rolls as required by law. The county assessor shall cause such manufactured home to be entered on the assessment rolls and tax rolls for the year or years not to exceed three (3) years omitted pursuant to the provisions of Section ~~44~~ 2844 of this ~~act~~ title whether or not such manufactured home had situs in such county on January 1 of the year in which the manufactured home was located. No manufactured home shall be entered upon the assessment roll of any county for an assessment year in which the manufactured home was

previously assessed for ad valorem taxation in such county or any other county of this state.

B. The county assessor of the county in which a manufactured home is located shall require satisfactory proof of registration, payment of ad valorem taxes and excise taxes on a manufactured home. An ad valorem tax receipt for a manufactured home presented as evidence of payment of ad valorem taxes for such home shall be conclusive as to proper payment of ad valorem taxes upon such home for all assessment years preceding the year of the receipt by the county issuing such receipt.

C. Any person owning a manufactured home and refusing to show satisfactory proof of registration of such manufactured home pursuant to the provisions of this section or payment of ad valorem taxes pursuant to the provisions of the Ad Valorem Tax Code upon demand by the county assessor of the county in which the manufactured home is located~~, upon conviction,~~ shall be ~~guilty of a misdemeanor~~ <u>liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00)</u>.

D. A used manufactured home held for resale, on a sales lot, by a licensed manufactured housing dealer on January 1, shall be exempt from ad valorem taxation and said dealer shall be required to obtain a current certificate of title and registration decal for said manufactured home. A purchaser of a used manufactured home held for resale for which a certificate of title and registration decal has been obtained shall provide to the county assessor of the county in which the home is to be located the information specified in subsection E of Section 13 of this act. The manufactured home shall not be subject to ad valorem taxation until the first January 1 date following the date of purchase.

SECTION 861. AMENDATORY 68 O.S. 1991, Section 2861, is amended to read as follows:

Section 2861. A. A county board of equalization is hereby created for each county in the state. Said board shall consist of three (3) members.

B. Members of the county board of equalization shall be appointed as follows:

1. One member shall be appointed by the Oklahoma Tax Commission;

2. One member shall be appointed by the board of county commissioners; and

3. One member shall be appointed by the district judge or a majority of the district judges in all judicial districts where more than one district judge is elected.

C. The tenure of office of each county board of equalization member shall be coterminous with that of the county commissioners.

D. The qualifications of the members of the county board of equalization shall be as follows:

1. The member must be a qualified elector and resident of the county;

2. The member may not hold an elected office of the state, county, school district or municipal subdivision; and

3. The member may not file for any elected office of the state, county, school district or municipal subdivision without first resigning from the county board of equalization.

E. The county clerk shall serve as secretary and clerk of said board without additional compensation.

F. Until January 1, 1992, there is also created for each county in the state an excise board to be composed of the members of the equalization board. The county clerk shall serve as the secretary and clerk of said excise board without additional compensation.

G. If there is a conflict or dispute as to the membership, the eligibility of any appointee for membership, the priority of an appointment or appointments, one as opposed to another, or the right

of any appointee to serve in any county commissioner's district, then, such conflict or dispute shall be resolved by a determination and order of the Oklahoma Tax Commission.

H. ~~Until January 1, 1992, it shall be unlawful for any member of the county excise board to sell or contract to sell, or to lease or contract to lease, or to represent any person, firm, corporation or association in the sale or the lease of any machinery, supplies, equipment, material, or other goods, wares, or merchandise to any county or city or town of the county. It shall also be unlawful for any member of the county excise board to serve as employee, official, or attorney for any county or city, or town of the county, or for any such member to represent any taxpayer before his own board in any manner, or to use his position as a board member to further his own interests. It shall also be unlawful for any taxpayer or interested party to employ any member of the county excise board in any matter coming before the board.~~

~~I. It shall be unlawful for any member of the county board of equalization to sell or contract to sell, or to lease or contract to lease, or to represent any person, firm, corporation or association in the sale or the lease of any machinery, supplies, equipment, material, or other goods, wares, or merchandise to any county or city or town of the county. It shall also be unlawful for any member of the county board of equalization to serve as employee, official, or attorney for any county or city, or town of the county, or for any such member to represent any taxpayer before his own board in any manner, or to use his position as a board member to further his own interests. It shall also be unlawful for any taxpayer or interested party to employ any member of the county board of equalization in any matter coming before the board.~~

~~J. Any person violating any of the provisions of this section shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than Two Hundred Dollars~~

~~($200.00) and not more than One Thousand Dollars ($1,000.00) or by imprisonment in the State Penitentiary for not less than six (6) months or more than two (2) years, or by both such fine and imprisonment.~~

~~K.~~ Any action taken by a county excise board after August 24, 1989, and before the effective date of this section are hereby declared to be official actions of a duly constituted county excise board.

SECTION 862. AMENDATORY 68 O.S. 1991, Section 2945, is amended to read as follows:

Section 2945. A. If any person shall knowingly and willfully make or give under oath or affirmation a false and fraudulent list of his taxable personal property, or a false and fraudulent list of any taxable personal property under his control or required to be listed by him, or shall knowingly and willfully make false answer to any question which may be put to him under oath by any person, board or commission authorized to examine persons under oath in relation to the value or amount of any taxable personal property, such person shall be ~~deemed guilty of perjury, and upon conviction thereof shall be punished therefor as is provided by law for the punishment of perjury~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. If any taxpayer, or any official, employee, or agent of such taxpayer, shall fail or refuse, upon proper request, to permit the inspection of any property or the examination of any books, records and papers by any person authorized by the Ad Valorem Tax Code to do so, or shall fail or refuse to comply with any subpoena duces tecum legally issued under authority of this Code, such taxpayer shall be estopped from questioning or contesting the amount or validity of any assessment placed upon his property.

SECTION 863. AMENDATORY 68 O.S. 1991, Section 3005.1, is amended to read as follows:

Section 3005.1 A. A county excise board is hereby created for each county in the state, to be composed of the members of the county board of equalization as created in Section 2861 of this title. The county clerk shall serve as secretary and clerk of said board without additional compensation.

B. ~~It shall be unlawful for any member of the county excise board to sell or contract to sell, or to lease or contract to lease, or to represent any person, firm, corporation or association in the sale or the lease of any machinery, supplies, equipment, material, or other goods, wares, or merchandise to any county or city or town of the county. It shall also be unlawful for any member of the county excise board to serve as employee, official, or attorney for any county or city, or town of the county, or for any such member to represent any taxpayer before his own board in any manner, or to use his position as a board member to further his own interests. It shall also be unlawful for any taxpayer or interested party to employ any member of the county excise board in any matter coming before the board.~~

~~C.~~ The members of said boards in all counties having an assessed valuation of Fifty Million Dollars ($50,000,000.00) or more shall receive reimbursement for expenses at the rate of Twenty-five Dollars ($25.00) per day in addition to compensation for their services at the rate of Twenty-five Dollars ($25.00) per day. Members of boards in all other counties may receive as compensation an amount not to exceed Fifty Dollars ($50.00) per day, said amount to be established by the boards. All reimbursement for expenses in addition to compensation, upon certificates of the county clerk, shall be paid in like manner as the salaries of other county officials are paid. In addition, the members of said boards residing outside of the county seat shall be reimbursed for each mile of travel to and from their residences to the place of meeting of said board for each session attended at the rate provided for

other county officers. The members of said boards shall be also reimbursed for each mile of necessary travel in the performance of their official duties at the same rate.

The total number of days in each year for which the members of said board may be paid shall be as follows:

In counties having an assessed valuation of Forty Million Dollars ($40,000,000.00) and less, not to exceed sixty (60) days;

In counties having an assessed valuation of more than Forty Million Dollars ($40,000,000.00) and not more than Eighty Million Dollars ($80,000,000.00), not to exceed sixty-five (65) days;

In counties having an assessed valuation of more than Eighty Million Dollars ($80,000,000.00) and not more than Five Hundred Million Dollars ($500,000,000.00), not to exceed one hundred (100) days;

In counties having an assessed valuation of more than Five Hundred Million Dollars ($500,000,000.00), not to exceed two hundred fifty (250) days.

~~D. Any person violating any of the provisions of this section shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than Two Hundred Dollars ($200.00) and not more than One Thousand Dollars ($1,000.00) or by imprisonment in the State Penitentiary for not less than six (6) months or more than two (2) years, or by both such fine and imprisonment.~~

SECTION 864. AMENDATORY 68 O.S. 1991, Section 3206, is amended to read as follows:

Section 3206. A. Any person who shall ~~willfully~~ fail to purchase and affix the exact amount of stamps on any deed, instrument, or writing as required under Section 3201 of this title shall~~, upon conviction,~~ be subject to ~~a fine of not more than One Thousand Dollars ($1,000.00) or to imprisonment of not more than one (1) year, or to both such fine and imprisonment for such offense~~

criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. The ~~willful~~ removal or alteration of the cancellation or defacing marks with intent to use or cause the same to be used after a documentary stamp has already been used shall~~, upon conviction,~~ subject the ~~guilty person to a fine of not more than One Thousand Dollars ($1,000.00) or to imprisonment of not more than one (1) year, or to both such fine and imprisonment for such offense~~ violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

C. Proof of payment of the documentary stamp tax shall be the exhibiting of the conveyance instrument showing the required stamps have been affixed. The failure or refusal of any taxpayer to furnish proof of payment of the documentary stamp tax, upon being so requested to do so by the Oklahoma Tax Commission, within ninety (90) days after being notified by registered or certified mail with return receipt requested shall be prima facie evidence of intent of the taxpayer to defraud the state and evade the payment of such tax. Any taxpayer who intends to defraud the state or evade the payment of the documentary stamp tax, fee, penalty or interest thereon pursuant to the provisions of Section 217 of this title, shall be ~~guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) for each offense~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

D. Should the county clerk become aware that the provisions of the documentary stamp law have or might have been violated, he or she shall immediately report the facts to the Oklahoma Tax Commission.

SECTION 865. AMENDATORY Section 9, Chapter 275, O.S.L. 1993 (68 O.S. Supp. 1994, Section 3609), is amended to read as follows:

Section 3609. Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of this act who willfully in writing makes a false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or abets another in providing any material false or fraudulent information~~, upon conviction, shall be guilty of a felony punishable by the imposition of a fine of not less than One Thousand Dollars ($1,000.00) and not more than Fifty Thousand Dollars ($50,000.00), or imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment~~ shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Any person ~~convicted of a violation of~~ violating this section shall be liable for the repayment of all incentive payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

SECTION 866. AMENDATORY 69 O.S. 1991, Section 308, is amended to read as follows:

Section 308. Each member of the Commission and every employee of the Department shall, before entering upon the duties of his office or employment, take and subscribe to an oath or affirmation to support the Constitution of the United States and of the State of Oklahoma, and to discharge faithfully and honestly the duties of such office or employment. Any officer or employee who shall violate the provisions of this section shall be ~~guilty of a misdemeanor,~~ subject to criminal prosecution as provided in Title 21

of the Oklahoma Statutes and such violation shall be cause for removal.

SECTION 867. AMENDATORY 69 O.S. 1991, Section 309, is amended to read as follows:

Section 309. It shall be unlawful for the Commission or the Director to appoint or employ, or approve the appointment or employment of, any persons related within the third degree by blood or marriage to the Director or any member of the Commission. ~~The Director knowingly appointing or employing any persons in violation of this provision, or any member of the Commission knowingly approving or recommending the appointment or employment of persons in violation of such provision, shall be guilty of a misdemeanor.~~ It also shall be unlawful for the Commission or the Director to approve or enter into any contract with any persons related within the third degree by blood or marriage to the Director or any member of the Commission. ~~The Director knowingly approving or entering into any such contract in violation of such provision, or any member of the Commission knowingly voting to enter into or to approve any such contract, shall be guilty of a misdemeanor.~~ A knowing violation of any provision of this section shall subject the violator to criminal prosecution as provided for in Title 21 of the Oklahoma Statutes.

SECTION 868. AMENDATORY 69 O.S. 1991, Section 601.4, is amended to read as follows:

Section 601.4 A. Except as otherwise provided in this section, the practice of applying waste oil to any street or road in this state is hereby prohibited. Upon authorization of the Corporation Commission and compliance with the provisions of this section, a board of county commissioners of any county in this state may apply waste oil to any street or road in the county.

B. The Corporation Commission may issue authorization for the application of waste oil on any street or road in this state. No

authorization shall be issued except upon proper application and a showing by the county requesting such authorization that the use of waste oil on the street or road is necessary for the care, maintenance, and improvement of the street or road, that such activity is in the public interest, and that the procedure for the application of the waste oil shall be made in such a manner so as to protect any adjoining public or private property from damage and made in such a manner so as to prevent the pollution of surface and subsurface waters.

C. The Corporation Commission shall promulgate rules and regulations which are necessary to protect, from damage, public and private property adjoining any street or road upon which waste oil is to be applied and prevent the pollution of surface and subsurface waters and which are reasonable and necessary to effectuate and enforce the provisions of this section including but not limited to the types of waste oil which may be used in such applications and when the application of the waste oil shall be made. The Corporation Commission shall supervise the application of waste oil to ensure that such application is made in the manner required by the rules and regulations promulgated by the Commission pursuant to this section.

D. Any person who authorizes the application of or applies waste oil to any street or road without authorization of the Corporation Commission or in violation of any rule or regulation of the Corporation Commission promulgated pursuant to this section shall be held personally liable. A proven ~~violation~~ breach of the provisions of this section or of any rules or regulations promulgated thereto shall be ~~punishable~~, in the first instance, ~~by~~ an administrative violation subject to a fine not ~~in excess of~~ more than Two Thousand Five Hundred Dollars ($2,500.00). A second proven ~~violation~~ breach in any calendar year shall result in an administrative violation and be subject to a fine of not ~~in excess~~

~~of~~ more than Five Thousand Dollars ($5,000.00). A third proven ~~violation~~ breach in any calendar year shall result in an administrative violation subject to a fine of not ~~in excess of~~ more than Ten Thousand Dollars ($10,000.00) and suspension of authority for up to thirty (30) days.

E. For the purpose of this section, "waste oil" includes crude petroleum oil or other hydrocarbons produced from or obtained or used in connection with the drilling, development, producing and processing of oil or any residue obtained from any oil storage facility. The term waste oil shall not include any hydrocarbon to which lead has been added.

SECTION 869. AMENDATORY 69 O.S. 1991, Section 635, is amended to read as follows:

Section 635. (a) Any road, county, or other official charged with duties herein who shall ~~violate~~ breach any of the terms or provisions of this article the punishment for which is not prescribed elsewhere in this Code, shall be ~~deemed guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred Dollars ($100.00) for each offense, or imprisoned in the county jail not less than thirty (30) days, or suffer both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

(b) Upon presentation in court of complaint in legal form, alleging violation of any provision of this article, any road official charged with the duties herein shall be, at the option of the court, immediately suspended from office pending final judgment, and upon being found guilty shall forfeit his office in addition to any punishment imposed.

SECTION 870. AMENDATORY 69 O.S. 1991, Section 1211, is amended to read as follows:

Section 1211. (a) Every person who shall construct, maintain, or operate any gasoline pump, driveway canopy, building, sign,

fence, post, or any other thing or structure except such as may be specifically authorized by law upon the right-of-way of any designated state or federal highway, or upon any street designated as a part of any state or federal highway, shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) and each day such ~~violation~~ breach continues shall be a separate offense.

(b) Every person who~~, by threats, physical violence, or~~ in any manner prevents, obstructs or hinders the abatement of any such nuisance by the Commission, its agents, servants or employees shall be ~~guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 871. AMENDATORY 69 O.S. 1991, Section 1213, as amended by Section 4, Chapter 127, O.S.L. 1993 (68 O.S. Supp. 1994, Section 1213), is amended to read as follows:

Section 1213. ~~(a) Any person or persons who shall willfully or knowingly obstruct or damage any public road or highway by obstructing the side or cross drain or ditches thereof, or by turning water upon such road or highway or right-of-way, or by throwing or depositing brush, trees, stumps, logs, or any refuse or debris whatsoever in the road or highway, or on the sides or in the ditches thereof, or by fencing across or upon the right-of-way of the same, or by planting any hedge within the lines established for such road or highway, or by changing the location thereof, or shall obstruct said road, highway or drains in any other manner whatsoever, or, except as provided in subsection (b) of this section, any person or persons who shall willfully or knowingly deface, damage, destroy or remove any traffic-control device, road sign, signboard, guide sign or signpost shall be deemed guilty of a misdemeanor.~~

~~(b) If any person or persons willfully or knowingly defaces, damages, destroys or removes any traffic-control device, road sign,~~

~~signboard, guide sign or signpost and such action results in personal injury to or death of any person, the person or persons responsible for such action shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not more than two (2) years, or by a fine of not more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment. Notice of this provision shall be placed in the manual provided by the Department of Public Safety which manual is issued for purpose of passing driving privilege.~~

~~(c)~~ The governing body who finds any road or highway obstructed ~~as above specified~~ shall notify the person ~~violating the provisions of this section~~ responsible, verbally or in writing, to remove such obstruction forthwith, and if such person does not remove the obstruction within ten (10) days after being notified, he shall ~~pay the sum of Five Dollars ($5.00) for each and every day after the tenth day such obstruction is maintained or permitted to remain, such fine to be recovered by suit brought by the governing body in any court of competent jurisdiction~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The governing body shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

SECTION 872. AMENDATORY 69 O.S. 1991, Section 1254B, is amended to read as follows:

Section 1254B. Any person in ~~violation~~ breach of Section ~~1~~ 1254A of this ~~act~~ title shall be ~~guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred Dollars ($100.00)~~ liable for a civil infraction and subject to a fine of not more than Two Hundred Dollars ($200.00).

SECTION 873. AMENDATORY 69 O.S. 1991, Section 1257, is amended to read as follows:

Section 1257. From and after the effective date of this act, it shall be unlawful for any person, firm or corporation to construct or establish any facility which would be in violation of the terms of this act and such would be a public nuisance, and provided further, that if any such person, firm or corporation did so establish such a facility in violation hereof, no state or federal funds would be used in any manner for the purpose of screening, moving or removing said nuisance. When the Department shall determine that any junkyard or scrap metal processing facility is not fenced or screened as required by this act, the person, firm or corporation operating the junkyard or scrap metal processing facility shall be notified of such violation and the manner in which compliance with this act is required. Such notice shall be in writing and require the person, firm or corporation operating the junkyard or scrap metal processing facility to comply with the provisions of this act within ninety (90) days from the date of such notice. Any person, firm or corporation failing to comply with the provisions of this act after the expiration of ninety (90) days from the date of such notice or the extension of such time authorized by the Department shall be ~~guilty of a misdemeanor and upon conviction thereof shall be fined Ten Dollars ($10.00) for each day such violation continues after the expiration of the ninety-day notice or extension thereof~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Department shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

SECTION 874. AMENDATORY 69 O.S. 1991, Section 1282, is amended to read as follows:

Section 1282. Any person, firm or corporation ~~violating~~ breaching the provisions of this act shall~~, upon conviction, be deemed guilty of a misdemeanor~~ be liable for a civil infraction and

subject to a fine of not more than One Thousand Dollars ($1,000.00), and each day of violation shall be considered a separate offense.

SECTION 875. AMENDATORY 69 O.S. 1991, Section 1403, is amended to read as follows:

Section 1403. (a) The location and removal of all telephone, telegraph, electric light and power transmission lines, poles, wires and conduits, water, sewers and all pipelines erected, constructed or in place upon, across or under any state highway shall be under the control and supervision of the Commission; and the location and removal of any facility placed under rights granted hereunder on county highways shall be under the jurisdiction of the particular board of county commissioners involved insofar as same affects the public travel or interferes with the construction and maintenance of such highway.

(b) Whenever the authority having jurisdiction over a particular highway plans an improvement or construction or reconstruction thereof, and before such work is started, it shall serve a written notice upon the person, firm or corporation owning or maintaining any such facility, which notice shall contain a plan or chart indicating the places on the right-of-way where such facilities may be maintained. The notice shall state the time when the work of improving such highway is proposed to commence, and a reasonable time shall be allowed to the owner of the facility to remove and relocate its property; provided, however, that the effect of any change ordered by the public authority shall not be to exclude the facilities from the right-of-way of highways.

(c) The removal and relocation of all such facilities shall be made at the cost and expense of the owners thereof, unless otherwise provided by law or order of the Commission, and in the event of the failure of such owners to remove the same at the time set out in the notice, they may be removed by such public authority and the cost thereof collected from such owners, and such authority shall not be

liable in any way to any person for the locating or relocating of such facilities at the places prescribed. Any corporation or association, or the officers or agents of such corporation or association, or any other person who shall erect or maintain any such lines, poles, wires, conduits, pipelines, equipment or other facilities within the right-of-way of such highways in a manner not in complete accordance with the orders of the respective public authority shall be ~~deemed guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

(d) The Department may promulgate such rules and regulations as it may deem necessary for the planting of trees and shrubbery and parking along such state highways.

(e) Rural water districts, nonprofit water corporations, and municipal public water systems in municipalities with a population of ten thousand (10,000) or less, according to the latest Federal Decennial Census, or their beneficial trusts shall be exempt from the payment of the costs and expenses for the removal and relocation of water and sewer pipelines and all such facilities constructed or in place in the public right-of-way when the removal and relocation of such facilities is necessary for the improvement, construction or reconstruction of any road or highway which is part of the state highway system or turnpike project as defined in Sections 501 (a) and 1705 of this title. Such costs and expenses, including any unpaid on the effective date of this act, shall be paid by the public authority having jurisdiction over the particular road or highway.

SECTION 876. AMENDATORY 69 O.S. 1991, Section 1705, as last amended by Section 3, Chapter 303, O.S.L. 1993 (69 O.S. Supp. 1994, Section 1705), is amended to read as follows:

Section 1705. The Authority is hereby authorized and empowered:

(a) To adopt bylaws for the regulation of its affairs and conduct of its business.

(b) To adopt an official seal and alter the same at pleasure.

(c) To maintain an office at such place or places within the state as it may designate.

(d) To sue and be sued in contract, reverse condemnation, equity, mandamus and similar actions in its own name, plead and be impleaded; provided, that any and all actions at law or in equity against the Authority shall be brought in the county in which the principal office of the Authority shall be located, or in the county of the residence of the plaintiff, or the county where the cause of action arose. All privileges granted to the Authority and duties enjoined upon the Authority by the provisions of Sections 1701 through 1734 of this title may be enforced in a court of competent jurisdiction in an action in mandamus.

(e) To construct, maintain, repair and operate turnpike projects and highways, with their access and connecting roads, at such locations and on such routes as it shall determine to be feasible and economically sound; provided, that until specifically authorized by the Legislature, the Authority shall be authorized to construct and operate toll turnpikes only at the following locations:

(1) The Turner Turnpike between Oklahoma City and Tulsa.

(2) The Southwestern (H.E. Bailey) Turnpike between Oklahoma City and Wichita Falls, Texas.

(3) The Northeastern (Will Rogers) Turnpike between Tulsa and Joplin, Missouri.

(4) The Eastern (Indian Nation) Turnpike between Tulsa and Paris, Texas, including all or any part thereof between McAlester and the Red River south of Hugo.

(5) The Cimarron Turnpike between Tulsa and Interstate Highway 35 north of Perry, including a connection to Stillwater.

(6) The Muskogee Turnpike between Broken Arrow and Interstate Highway 40 west of Webbers Falls.

(7) All or any part of an extension of the Muskogee Turnpike, beginning at a point on Interstate Highway 40 near the present south terminus of the Muskogee Turnpike, and extending in a southeasterly direction on an alignment near Stigler, Poteau and Heavener to the vicinity of the Arkansas State Line to furnish access to Hot Springs, Texarkana, Shreveport and New Orleans.

(8) A tollgate on the Turner Turnpike in the vicinity of Luther, Oklahoma, and in the vicinity of the intersection of State Highway 33 and Turner Turnpike in Creek County, Oklahoma, or in the vicinity of the intersection of State Highway 33 and Turner Turnpike or U.S. Highway 66 in Creek County, Oklahoma, from any monies available to the Turnpike Authority.

(9) Add on the Will Rogers Turnpike a northbound automatic tollgate onto State Highway 28 and a southbound on-ramp from State Highway 28.

(10) A turnpike or any part or parts thereof beginning in the vicinity of Duncan extending east to the vicinity of the City of Davis, and extending in a northeasterly direction, by way of the vicinity of the City of Ada, to a connection in the vicinity of Henryetta or in the vicinity of the intersection of State Highway 48 and Interstate 40; and a turnpike or any part or parts thereof from the vicinity of Snyder extending north to the vicinity of Woodward.

(11) A turnpike or any part or parts thereof beginning at a point in the vicinity of Ponca City, or at a point on the Kansas-Oklahoma state boundary line east of the Arkansas River and west of the point where Oklahoma State Highway No. 18 intersects said state boundary line, and extending in a southeasterly direction to a connection with the Tulsa Urban Expressway System in the general area of the Port of Catoosa.

(12) All or any part of an Oklahoma City toll expressway system connecting the residential, industrial and State Capitol Complex in the north part of Oklahoma City with the residential, industrial and Will Rogers World Airport Complex in the south and southwest parts of Oklahoma City.

(13) A turnpike (The Industrial Parkway) or any part or parts thereof beginning at a point on the Oklahoma-Kansas state boundary line between the point where U.S. Highway 66 intersects said boundary line and the northeast corner of Oklahoma and ending by means of a connection or connections with Shreveport, Louisiana, and Houston, Texas, in southeastern Oklahoma and at no point to exceed thirty (30) miles west of the Missouri or Arkansas border.

(14) A turnpike or any part or parts thereof beginning in the vicinity of Velma or County Line to a point intersecting with Interstate 35 in the area south of Davis.

(15) A turnpike or any part or parts thereof beginning in the vicinity of Watonga and extending south and/or east to the vicinity of north and/or west Oklahoma City.

(16) A new turnpike or parts thereof from the Kansas State Line south to McAlester, in the vicinity of U.S. Highway 69.

(17) A tollgate on the Will Rogers Turnpike near the intersection of State Highway 137 and the Will Rogers Turnpike, located south of Quapaw.

(18) A tollgate on the Muskogee Turnpike in the vicinity of Porter, Oklahoma, a tollgate on the Will Rogers Turnpike in the vicinity of Adair, Oklahoma, a tollgate on the Turner Turnpike in the vicinity of Luther, Oklahoma, and a tollgate on the H.E. Bailey Turnpike at Elgin, Oklahoma, from any monies available to the Turnpike Authority.

(19) A tollgate on the Turner Turnpike in the vicinity of Wellston, Oklahoma, from any monies available to the Turnpike Authority.

(20) A tollgate on the Muskogee Turnpike in the vicinity of Brushy Mountain, Oklahoma, and in the vicinity of Elm Grove, Oklahoma, from any monies available to the Turnpike Authority.

(21) All or any part of an Oklahoma City Outer Loop expressway system beginning in the vicinity of I-35 and the Turner Turnpike and extending west into Canadian County and then south to I-40; and then south and east to I-35 in the vicinity of Moore and Norman; and then extending east and north to I-40 east of Tinker Field; and then extending north to the Turner Turnpike to complete the Outer Loop.

(22) All or any part of the Tulsa south bypass expressway system beginning in the vicinity of the Turner Turnpike near Sapulpa and extending south and east to U.S. 75 in the vicinity of 96th Street to 121st Street; and then east across the Arkansas River to a connection with the Mingo Valley Expressway; and then south and/or east to a point on the Tulsa-Wagoner County Line near 131st street south in the city of Broken Arrow.

(23) A new turnpike or any part thereof from near the west gate of the Will Rogers Turnpike south to the west end of south Tulsa Turnpike at the Tulsa-Wagoner County Line.

(24) A new turnpike or any parts thereof from the vicinity of the connection between State Highway 33 and U.S. 69 easterly to the Arkansas State Line.

(25) A four-lane extension of the Muskogee Turnpike from Interstate Highway 40 west of Webbers Falls to the Poteau vicinity.

(26) A new turnpike or any part or parts thereof beginning at a point in the vicinity of northwest Tulsa, and extending in a northwesterly direction, by means of a connection or connections with the cities of Pawhuska and Newkirk, to a point intersecting in the vicinity of US Highway No. 77 and the Kansas State Line.

(27) A full access interchange on the Indian Nation Turnpike south of Interstate 40, in the vicinity of Henryetta, Oklahoma, and

in the vicinity of the proposed theme park, from any monies available to the Turnpike Authority.

(28) A new turnpike beginning at a point directly west of the Arkansas line and four-laning Highway 70 from that point to the farthest western reach of Highway 70 creating a southern route through Oklahoma.

(29) A new turnpike and bridge or any parts thereof from a point in the vicinity of the city of Mustang southerly across the South Canadian River to the H.E. Bailey Turnpike in the vicinity of the city of Tuttle; and then easterly across the South Canadian River to a point in the vicinity of the city of Norman.

(30) A new turnpike or any parts thereof beginning at a point in the vicinity of the city of Altus and extending in a northwesterly direction to a point in the vicinity of the city of Sayre.

(31) A new turnpike or any parts thereof beginning at a point in the vicinity of the city of Enid and extending in a westerly direction to a point in the vicinity of the city of Woodward.

All access roads, interchanges, or lead roads connecting such turnpikes with existing highways must be built by funds furnished by the Authority.

The minimum and maximum wages for the construction of the roads, highways and projects provided for in Sections 1701 through 1734 of this title shall be in accordance with the schedules of wages used or adopted by the Commission in construction of state highways.

The Authority is hereby authorized to enter into contracts or agreements with agencies and instrumentalities of other states or the national government for construction, maintenance and operation of interstate turnpikes or highways.

The Authority is hereby required to construct and install automatic tollgates on the Will Rogers Turnpike at State Highway No. 28 near Adair.

(f) To issue turnpike revenue bonds of the Authority, payable solely from revenues, including the revenues accruing to the trust fund created by Sections 1701 through 1734 of this title, for the purpose of paying all or any part of the cost of any one or more turnpike projects. Provided that any bonds issued for the construction of the proposed turnpike referred to in subparagraphs (10), (20), (21) and (22) of paragraph (e) of this section shall be issued as one issue for all four of the proposed turnpikes and shall be financed, constructed and operated under one bond indenture.

(g) To fix and revise from time to time tolls for the use of any turnpike projects.

Any common carrier having authority at the time of opening any turnpike project to operate upon a highway approximately paralleling the turnpike project shall be granted without further showing authority to operate over the turnpike project to all municipalities which such carrier is serving at the time the turnpike project is opened to traffic. But nothing herein shall be construed as granting any new operation rights to any common carriers.

(h) To acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties.

(i) To acquire in the name of the Authority by purchase or otherwise on such terms and conditions and in such manner as it may deem proper, or by exercise of the right of condemnation in manner hereinafter provided, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of Sections 1701 through 1734 of this title; provided, that all public property damaged in carrying out the powers granted by Sections 1701 through 1734 of this title shall be restored or repaired and placed in its original condition as nearly as practicable.

(j) To designate, except as is provided for herein, the location, and establish, limit and control such points of ingress to and egress from each turnpike project as may be necessary or desirable in the judgment of the Authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated.

(k) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation; provided, that all such expenses shall be payable solely from the proceeds of turnpike revenue bonds issued under the provisions of Sections 1701 through 1734 of this title or from revenues; provided, further, no attorney employed by the Authority, nor any member of any law firm of which he may be connected, shall ever be paid any fee or compensation for any special or extraordinary services.

(l) To receive and accept from any federal agency grants for or in aid of the construction of any turnpike project, provided, the acceptance of such grants will not reduce the amount of federal aid for the construction, repair, or maintenance of farm-to-market roads and other highways and bridges in this state; and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

(m) To adopt such rules and regulations, and to do any and all things necessary to comply with rules, regulations, or requirements of the Bureau of Public Roads, Multistate Economic Development Regional Commission, as defined in Sections 1151 through 1153, inclusive, of Title 74 of the Oklahoma Statutes, Ozarka Region

Commission or any other federal agency administering any law enacted by the Congress of the United States to aid or encourage the construction of highways.

(n) To do all things necessary or convenient to carry out the powers expressly granted in Sections 1701 through 1734 of this title. On all turnpike projects alternate bids for paving work shall be taken on asphalt concrete and portland cement concrete and the design standards for such paving shall comply with the design standards of the American Association of State Highway and Transportation Officials as modified by the Oklahoma Department of Transportation. All contracts for construction work on turnpike projects shall be let to the lowest responsible bidder, or bidders, after notice by publication in a newspaper published in the county where the work is to be done in two consecutive weekly issues of the newspaper. In all cases where more than eight (8) miles of construction is let at the same time, such advertisement shall provide for bids on sections of the turnpike not to exceed eight (8) miles. Subject to the following restrictions and limitations: The Authority shall, when contracting for construction work, divide such work into paving projects, bridge projects, including underpasses and overpasses, and earthmoving or miscellaneous projects, according to the type of work to be done and each project shall be let under a separate contract or contracts and no contract or project shall include more than one of such types of construction work. Each contract for construction work shall contain a provision that ninety percent (90%) of all labor employed on the project shall be residents of Oklahoma. Provided, however, that no tie bids shall be accepted, and provided, further, that contracts for bridges may include earthwork and structures for the approaches thereto, and provided, further, that any one bridge or tunnel and the approaches thereto may be included in one contract.

(o) ~~It shall be unlawful for any member, officer or employee of the Authority to transact with the Authority, either directly or indirectly, any business for profit of such member, officer, or employee; and any person, firm, or corporation knowingly participating therein shall be equally liable for violation of this provision.~~

~~The term "business for profit" shall include, but not be limited to, the acceptance or payment of any fee, commission, gift, or consideration to such member, officer, or employee.~~

~~Violation of this provision shall constitute a felony and shall be punishable by a fine of not less than Five Hundred Dollars ($500.00) and not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the State Penitentiary for not more than five (5) years, or by both such fine and imprisonment.~~

~~(p)~~ In the event of a national emergency, the Authority, subject to any vested rights or claims, may enter into contracts with the federal government or any authorized agency thereof to allow the federal government or agency thereof to use such turnpikes partly or exclusively during the existence of such emergency, provided, that the federal government agrees in such contract to pay, during the term of such contract, an amount sufficient, when added to any tolls collected, to meet all operating and maintenance expenses, interest payments, and the minimum sinking fund and reserve requirements of the trust agreement for the turnpike covered by the contract.

~~(q)~~ (p) All meetings of the Authority shall be open public meetings, and all records shall be public records, except when considering personnel or litigation.

SECTION 877. AMENDATORY 69 O.S. 1991, Section 1734, is amended to read as follows:

Section 1734. No officer, consultant, agent, or employee of the Authority and no person acting or purporting to act on behalf

thereof shall, with respect to any contract, require the contractor or any subcontractor to make application to or to obtain or procure any of the surety bonds and any other type of insurance specified in connection with such contract, or specified by any law, from a particular insurance or surety company, agent, or broker. This section shall not, however, prevent the exercise, by such officer or employee, on behalf of the Authority, of the right to approve the form, sufficiency, or manner of execution of the surety bonds or other type of insurance contracts furnished by the insurance or surety company selected by the contractor or subcontractor to underwrite the bonds, or other types of insurance contracts. Any provisions in any invitation for bids, or in any of the contract documents, in conflict herewith are hereby declared to be contrary to the public policy of this state. A ~~violation~~ breach of this section shall ~~constitute a misdemeanor~~ be a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 878. AMENDATORY 69 O.S. 1991, Section 1801, is amended to read as follows:

Section 1801. ~~(a) It is a misdemeanor for any person to violate any of the provisions of this Code unless such violation is by this Code or other law of this state declared to be a felony.~~

~~(b)~~ Every person ~~convicted of a misdemeanor for a violation of~~ who breaches any of the provisions of this Code for which another ~~penalty~~ fine is not provided in this Code shall ~~upon conviction be punished by a fine of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00), or by imprisonment for not more than ten (10) days, or by both such fine and imprisonment~~ be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 879. AMENDATORY 70 O.S. 1991, Section 5-125, is amended to read as follows:

Section 5-125. A. Every member of the board of education or board of county commissioners who shall hereafter vote for the payment of any money or transfer of any property belonging to the school district in settlement of any claim known to such member to be fraudulent or void, or in pursuance of any unauthorized, unlawful or fraudulent contract or agreement made or attempted to be made, for any school district, by any officer or officers thereof, and every person having notice of the facts with whom such unauthorized, unlawful or fraudulent contract shall have been made, or to whom, or for whose benefit such money shall thereafter be paid, or such transfer of property shall be made, shall be liable in damage to all innocent persons in any manner injured thereby and shall be liable to the school district affected for double the amount of all sums of money so paid, and double the value of property so transferred, as a penalty to be recovered by civil suit brought by the board of education of such school district, or by any school district elector thereof, as provided in Section 5-126 of this title.

B. Any member of a board of education of a school district who votes for the payment of any money or transfers any property belonging to the school district in settlement of any claim known to such member to be fraudulent, void or in pursuance of any unauthorized, unlawful or fraudulent contract or agreement made or attempted to be made for any such district shall be ~~guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Every person ~~having notice of the facts~~ with whom any unauthorized, unlawful or fraudulent contract shall have been made or to whom or for whose benefit such money or property shall have been or thereafter will be paid shall be ~~guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. ~~Upon conviction of a misdemeanor~~

~~described in this section, the~~ Any person convicted of a crime in reference to this section shall make full restitution of all monies and/or property misallocated ~~and be punished by a fine of not less than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not to exceed one (1) year, or by both such fine and restitution and imprisonment~~ and if such person is a member of a board of education, shall be removed from office pursuant to Section 1181 et seq. of Title 22 of the Oklahoma Statutes or Section 91 et seq. of Title 51 of the Oklahoma Statutes.

~~C. Such illegal payment of money shall include, but shall not be limited to, salaries or any compensation paid to any person for teaching or performing other services for the district when such person does not have a written contract required by law or does not hold a valid certificate as required by law or by rules and regulations of the State Board of Education for the subjects taught or services performed and which is valid for the entire time for which such person has been paid. Any person receiving an illegal payment knowing or having reasonable cause to believe such payment to be illegal shall be guilty of a misdemeanor and shall be subject to the punishment prescribed in subsection B of this section.~~

SECTION 880. AMENDATORY 70 O.S. 1991, Section 6-115, is amended to read as follows:

Section 6-115. It shall be unlawful and a ~~misdemeanor~~ civil infraction for any teacher to reveal any information concerning any child obtained by him in his capacity as teacher except as may be required in the performance of his contractual duties, except said information may be furnished to the parent or guardian of said child upon request. Any teacher in breach of this section shall be subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 881. AMENDATORY 70 O.S. 1991, Section 9-104, as amended by Section 1, Chapter 138, O.S.L. 1994 (70 O.S. Supp. 1994, Section 9-104), is amended to read as follows:

Section 9-104. A. As used in this title:

1. "Transportation equipment" means any vehicle or conveyance used for transportation of pupils when the cost of rent, lease, purchase, maintenance, or operation of said vehicle or conveyance is defrayed in whole or in part from public school funds, including auxiliary transportation equipment; and

2. "Auxiliary transportation equipment" includes but is not limited to equipment used for transporting students to and from extracurricular activities but does not include transportation equipment used for transporting students from their homes to school and from school to their homes.

B. All transportation equipment shall be of such construction as to provide safe, comfortable and economical transportation of passengers. All such equipment which is used to transport ten or more public school children at one time shall be constructed, maintained and operated in accordance with all requirements of laws of the State of Oklahoma and rules of the State Board of Education. Provided, however, that nothing in this act shall prevent the bidding by and purchase of new or used transportation equipment from out-of-state dealers so long as they comply with Section 561 et seq. of Title 47 of the Oklahoma Statutes regulating and licensing manufacturers, distributors, dealers, salesmen, etc., and who holds a current motor vehicle dealers' license.

C. Notwithstanding any other provision of law, a district board of education may paint or purchase auxiliary transportation equipment in a color or colors other than National School Bus Yellow.

D. Any person violating the provisions of this section shall be ~~guilty of a misdemeanor~~ <u>liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00)</u>.

SECTION 882. AMENDATORY 70 O.S. 1991, Section 10-105, as last amended by Section 2, Chapter 220, O.S.L. 1994 (70 O.S. Supp. 1994, Section 10-105), is amended to read as follows:

Section 10-105. A. It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five (5) years, and under the age of eighteen (18) years, to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education are provided for the full term the schools of the district are in session or the child is excused as provided in this section. One-half (1/2) day of kindergarten shall be required of all children five (5) years of age or older unless the child is excused from kindergarten attendance as provided in this section. A child who is five (5) years of age shall be excused from kindergarten attendance until the next school year after the child is six (6) years of age if a parent, guardian, or other person having custody of the child notifies the superintendent of the district where the child is a resident by certified mail prior to enrollment in kindergarten, or at any time during the first school year that the child is required to attend kindergarten pursuant to this section, of election to withhold the child from kindergarten until the next school year after the child is six (6) years of age. A kindergarten program shall be directed toward developmentally appropriate objectives for such children. The program shall require that any teacher employed on and after January 1, 1993, to teach a kindergarten program within the public school system shall be certified in early childhood education. All teachers hired to teach a kindergarten program within the public school system prior to January 1, 1993, shall be required to obtain certification in early childhood education on or before the 1996-97 school year in order to continue to teach a kindergarten program.

B. It shall be unlawful for any child who is over the age of sixteen (16) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the district are in session.

Provided, that this section shall not apply:

1. If any such child is prevented from attending school by reason of mental or physical disability, to be determined by the board of education of the district upon a certificate of the school physician or public health physician, or, if no such physician is available, a duly licensed and practicing physician;

2. If any such child is excused from attendance at school, due to an emergency, by the principal teacher of the school in which such child is enrolled, at the request of the parent, guardian, custodian or other person having control of such child;

3. If any such child who has attained his or her sixteenth birthday is excused from attending school by written, joint agreement between

a. the school administrator of the school district where the child attends school, and

b. the parent, guardian or custodian of the child.

Provided, further, that no child shall be excused from attending school by such joint agreement between a school administrator and the parent, guardian or custodian of the child unless and until it has been determined that such action is for the best interest of the child and/or the community, and that said child shall thereafter be under the supervision of the parent, guardian or custodian until the child has reached the age of eighteen (18) years; or

4. If any such child is excused pursuant to subsection C of this section.

C. A school district shall excuse a student from attending school for the purpose of observing religious holy days if before the absence, the parent, guardian, or person having custody or control of the student submits a written request for the excused absence. The school district shall excuse a student pursuant to this subsection for the days on which the religious holy days are observed and for the days on which the student must travel to and from the site where the student will observe the holy days.

D. It shall be the duty of the attendance officer to enforce the provisions of this section. Any parent, guardian, custodian, child or other person violating any of the provisions of this section shall be ~~guilty of a misdemeanor, and upon conviction thereof shall be punished by~~ liable for a civil infraction and subject to a fine of not ~~less than Five Dollars ($5.00) nor~~ more than ~~Twenty-five Dollars ($25.00)~~ One Hundred Dollars ($100.00) for the first offense, not ~~less than Ten Dollars ($10.00) nor~~ more than ~~Fifty Dollars ($50.00)~~ Two Hundred Dollars ($200.00) for the second offense, and not ~~less than Twenty-five Dollars ($25.00) nor~~ more than ~~One Hundred Dollars ($100.00)~~ Five Hundred Dollars ($500.00) for each subsequent offense. Each day the child remains out of school after the written warning has been given or the child has been ordered to school by the juvenile court may constitute a separate offense. At the ~~trial of~~ proceeding against any person charged with violating the provisions of this section, the attendance records of the child or ward may be presented in court by any authorized employee of the school district.

SECTION 883. AMENDATORY 70 O.S. 1991, Section 10-106, is amended to read as follows:

Section 10-106. It shall be the duty of the principal or head teacher of each public, private or other school in the State of

Oklahoma to keep a full and complete record of the attendance of all children at such school and to notify the attendance officer of the district in which such school is located of the absence of such children from the school together with the causes thereof, if known; and it shall be the duty of any parent, guardian or other person having charge of any child of compulsory attendance age to notify the child's teacher concerning the cause of any absences of such child. It shall be the duty of the principal or head teacher to notify the parent, guardian or responsible person of the absence of the child for any part of the school day, unless the parent, guardian or other responsible person notifies the principal or head teacher of such absence. Such attendance officer and teacher shall be required to report to the school health officer all absences on account of illness with such information respecting the same as may be available by report or investigation; and after investigation of all facts relating to the absence of any child or children from such school, the attendance officer shall, if justified by the circumstances, promptly give written warning to the parent, guardian or custodian of any child who has not complied with the provisions of this article, that the attendance of such child is required at some public, private or other school as herein provided. If within five (5) days after the warning has been received, the parent, guardian or custodian of such child does not comply with the provisions of this article, then such attendance officer shall make complaint against the parent, guardian or custodian of such child in a court of competent jurisdiction for such ~~violation~~ breach, which ~~violation~~ breach shall be a ~~misdemeanor~~ civil infraction subject to a fine of not more than Five Hundred Dollars ($500.00). If a child is absent without valid excuse four (4) or more days or parts of days within a four-week period, the parents shall be notified. If the child is absent from school for fifteen (15) or more days or parts of days within a four-week period without a valid excuse, the

attendance officer shall immediately report such absences to the district attorney in the county wherein the school is located for juvenile proceedings pursuant to Title 10 of the Oklahoma Statutes.

SECTION 884. AMENDATORY 70 O.S. 1991, Section 16-124, as amended by Section 21, Chapter 229, O.S.L. 1993 (70 O.S. Supp. 1994, Section 16-124), is amended to read as follows:

Section 16-124. Any person, firm or corporation that ~~violates~~ breaches any of the provisions of this article, or any of the rules of the State Board of Education or the State Textbook Committee adopted pursuant to the provisions of this article, ~~the penalty for violation thereof~~ which are not otherwise being provided herein~~, upon conviction,~~ shall be ~~guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not less than ninety (90) days and not more than one (1) year, or by both such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any public official or public employee ~~violating~~ breaching any of the provisions of this article or any of such rules shall be subject to the foregoing ~~penalties~~ fines and in addition thereto shall forfeit the position or office. Any officer or employee of the State Board of Education or of the State Textbook Committee who knowingly or willingly apportions or disburses any money appropriated to carry out the provisions hereof, contrary to the provisions hereof, shall be subject to the foregoing ~~penalties~~ fines and in addition thereto shall forfeit the office or position. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 885. AMENDATORY 70 O.S. 1991, Section 17-110, is amended to read as follows:

Section 17-110. Any person who shall knowingly make any false statement or shall falsify or permit to be falsified, any record or

records of this retirement system in any attempt to defraud such system as a result of such act shall be ~~guilty of a felony, and shall be punished as provided for under the laws of Oklahoma~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Should any charge or error in the records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the Board of Trustees shall correct such error, and so far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid, and to take from the Interest Fund sufficient to reimburse the Fund where an overpayment had already been made, and any such overpayment recovered from the member shall be placed in the Interest Fund.

SECTION 886. AMENDATORY 70 O.S. 1991, Section 18-109.1, is amended to read as follows:

Section 18-109.1 The Legislature hereby declares, for the purpose of financial support to school districts through the State Aid Formula, that greater equalization of State Aid to school districts will be attained by the following procedure:

1. For the 1989-90 school year, the real property portion of the valuations for those school districts in counties having an assessment ratio in excess of twelve percent (12%) shall be computed at a twelve percent (12%) assessment ratio to determine chargeable valuations. Beginning with the 1990-91 school year, the real property portion of the valuations for those school districts in counties having an assessment ratio in excess of eleven percent (11%) shall be computed at an eleven percent (11%) assessment ratio to determine chargeable valuations. Beginning with the 1991-92 school year, the commercial personal and agricultural personal property portion of the valuations for those school districts in counties having an assessment ratio in excess of eleven percent

(11%) shall be computed at an eleven percent (11%) assessment ratio to determine chargeable valuations. The Oklahoma Tax Commission shall supply to the State Department of Education the information necessary to carry out the provisions of this paragraph.

2. The real property portions of the valuations for those school districts in counties having an actual assessment ratio of less than twelve percent (12%) shall be computed at the actual assessment ratio in effect for the county as determined by the Oklahoma Tax Commission in order to determine chargeable valuations for calculating State Aid to such district if such ratio is at least nine percent (9%) and the county is certified by the Oklahoma Tax Commission to have a verifiable revaluation program using property identification cards for the applicable assessment year.

3. The real property portion of the valuations for those school districts in counties which have an actual assessment ratio of less than twelve percent (12%) and which are not certified by the Oklahoma Tax Commission to have a verifiable revaluation program using property identification cards shall be computed at a twelve percent (12%) assessment ratio to determine chargeable valuations. For each school year, the actual assessment ratio shall be the assessment ratio recommended by the Oklahoma Tax Commission and certified by the State Board of Equalization for the applicable assessment year.

4. The Oklahoma Tax Commission shall certify by October 1, for each applicable assessment year, to the State Superintendent of Public Instruction those counties which have revaluation programs using property identification cards. The Oklahoma Tax Commission shall, as soon as practicable, certify to the State Superintendent of Public Instruction and the district attorney for the applicable county the date as of which a county implements a verifiable revaluation program using property identification cards after October 1 of any year.

5. Any county assessor who fails to have an approved revaluation program using property identification cards shall ~~pay a penalty~~ be liable for a civil infraction and subject to a fine in the amount of One Hundred Dollars ($100.00) for each calendar day beyond October 1 of any year that the county does not have a verifiable revaluation program using property identification cards. The ~~penalty~~ fine shall be imposed for each calendar day on and after October 2 of each year until the county implements a verifiable revaluation program using property identification cards; provided, that such ~~penalty~~ fine shall be collected from any county assessor of a county which did not have a verifiable revaluation program using property identification cards as of October 1, 1985, for each day from and after July 1, 1986, that the applicable county does not have a verifiable revaluation program using property identification cards. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

6. Upon receipt of certification by the Oklahoma Tax Commission of the counties having approved revaluation programs, the State Superintendent of Public Instruction shall cause notice to be mailed by return receipt mail to the county assessor, the district attorney, the county treasurer and the superintendent of each school district of any county not included in the certification.

7. ~~The district attorney, upon receipt of the notice provided for in paragraph 6 of this section, shall immediately institute an action to collect the One Hundred Dollar ($100.00) penalty for each day that the county does not have a verifiable revaluation program using property identification cards. The district attorney shall be authorized to institute a single action in district court pursuant to which any amount of penalty may be collected for any day the assessor fails to implement the revaluation program using property identification cards. Any amount of such fine collected shall be deposited in a special account within the county general fund. Such~~

~~amounts shall be apportioned to the school districts of the county on the basis of the preceding year's average daily attendance.~~

~~8. The district attorney shall initiate action for removal of the county assessor from office for malfeasance if the county assessor has not instituted a verifiable revaluation program using property identification cards within thirty (30) days after the district attorney receives notice from the State Superintendent of Public Instruction. Initiation of an action for the removal of the county assessor for malfeasance as required by this section is a mandatory duty of the office of the district attorney. If the district attorney fails to initiate an action within forty (40) days after receipt of the notice from the State Superintendent of Public Instruction, and the county assessor has not implemented a verifiable revaluation program using property identification cards, the district attorney shall pay a penalty of One Hundred Dollars ($100.00) for each day that an action could have been filed for the removal of the county assessor and such action has not been filed or until the county assessor implements the revaluation program using property identification cards. The Attorney General shall initiate an action to collect the penalty from the district attorney pursuant to the authority of Section 18b of Title 74 of the Oklahoma Statutes. All penalties collected pursuant to the provisions of this paragraph shall be deposited in the special account within the county general fund and apportioned to the school districts of the county on the basis of the preceding year's average daily attendance.~~

~~9.~~ The notice to the superintendents of the various school districts from the State Superintendent of Public Instruction shall state that the State Aid formula funds computed for such districts based upon the actual assessment ratio valuations in excess of the amount computed upon twelve percent (12%) assessment ratio valuations shall be withheld from distribution to the school

district until the office of the county assessor has complied with the requirement of a verifiable revaluation program using property identification cards.

SECTION 887. AMENDATORY 70 O.S. 1991, Section 18-116, is amended to read as follows:

Section 18-116. A. Any school district which willfully operates school buses contrary to the rules and regulations prescribed by the State Board of Education shall forfeit its State Aid for the time of noncompliance. All State Aid funds shall be withheld from any school district that does not comply with the standards of the State Board of Education for accrediting.

B. 1. No more than fifty percent (50%) of the funds apportioned to school districts under the provisions of this article shall be paid by the state unless and until there has been filed with the State Board of Education on forms prescribed by such Board an itemized sworn account of the expenditures of the school district during the next preceding fiscal year and a teacher personnel report for the current year.

2. All State Aid paid to a district whose district budget, as filed with the State Auditor and Inspector, shows that the appropriations of the district, plus the State Aid and other cash funds for which the district qualifies, will not enable it to maintain a full term of school as defined by this article, shall be credited against the State Aid of the district or districts to which the first district shall be annexed, if annexation is required. It is intended that the balance of any unexpended State Aid or other revenue originally allocated to an annexed district shall be paid to the receiving district.

C. School districts receiving State Aid shall not spend any of these funds except by regularly issued warrants. The warrants shall be issued against properly approved encumbrances in the manner provided by law. All encumbrances shall be approved by the board of

education of the school district at a regular meeting or a special meeting called for that purpose. All original copies of encumbrances as represented by purchase orders, shall be filed in either numerical or alphabetical order, with the original paid invoice or invoices attached, accompanied by a signed and dated receiving copy verifying receipt of goods or services. It shall be unlawful to register or pay the warrant unless such warrant conforms to the statutes regulating the allowance and issuance thereof. Said treasurer shall purchase, by treasurer's check, all warrants issued.

D. All board of education members, employees, or other officials of school districts required to make reports to the State Board of Education or other agencies under the provisions of this article, and all persons lawfully charged with the duty of making records of original entry, such as teachers' registers, transportation records, and financial records, which form the basis, in whole or in part, of said reports, shall exercise the highest degree of diligence, accuracy, and good faith in making said records and reports reflect the truth. Teachers' registers shall be marked daily in ink, by the teacher or principal in charge of rooms or groups of pupils. Provided, the State Board of Education may authorize alternate systems of accounting for pupils' attendance in districts using data processing methods.

E. The State Board of Education shall revoke the certificate of any teacher, principal, or superintendent who knowingly or willfully violates any of the provisions of this article.

F. Any official involved in the execution of this article who shall fail or refuse to carry out any of the provisions thereof shall be liable on his official bond, if any, for the monetary damages resulting from said failure to act, and in addition thereto shall be subject to removal from office for neglect of duty under the provisions of law relating to the removal of public officials.

G. Any person or firm who shall ~~knowingly or willfully violate~~ breach any of the provisions of this article shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). Any public official or public employee ~~violating~~ breaching any of the provisions of this article shall be subject to ~~the penalties for a misdemeanor~~ a civil infraction and a fine of not more than One Thousand Dollars ($1,000.00) and in addition thereto shall forfeit his position or office. Any officer or employee of the State Board of Education who knowingly or willfully apportions or disburses any monies appropriated by this article contrary to the provisions of this article shall be subject to ~~the penalties for a misdemeanor~~ criminal prosecution as provided in Title 21 of the Oklahoma Statutes and in addition shall forfeit his office or position.

H. The State Board of Education shall prescribe the form of all records, reports and applications for State Aid necessary to the proper administration of this article, and it shall be the duty of all county superintendents, school district superintendents, and boards of education of school districts to make such reports fully and completely at the time and in the manner prescribed by the State Board of Education. The State Board of Education shall also have authority and it shall be its duty to promulgate rules and regulations, not inconsistent with the provisions hereof, relative to the distribution of funds and for the administration of this article. Such regulations and rules shall apply alike to all school districts.

SECTION 888. AMENDATORY 70 O.S. 1991, Section 21-111, is amended to read as follows:

Section 21-111. Any person ~~violating~~ breaching any of the provisions of this act shall be ~~guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or~~

~~by imprisonment for a period of time not to exceed thirty (30) days~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 889. AMENDATORY 70 O.S. 1991, Section 22-110, is amended to read as follows:

Section 22-110. A. In any case where an accountant or partnership of accountants has knowingly issued an audit report, required under the provisions of this article, containing any false or misleading statements the State Board of Education shall report such violation in writing to the board of education of such public school and in the case of Certified Public Accountants or partnerships of Certified Public Accountants, to the Oklahoma State Board of Certified Public Accountancy. The State Board of Education shall revoke their rights to perform such audits in the future.

B. Any member of the governing body of the local board of education or any member, officer, employee or agency of any department, board or commission of the public school who ~~knowingly and willfully~~ furnishes to the auditor or to his employee any false ~~or fraudulent~~ information shall be ~~deemed guilty of malfeasance, and upon conviction, the court shall enter judgment that such person so convicted~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) and shall be removed from office or employment of said public school. It shall be the duty of the court rendering such judgment to cause immediate notice of such removal from office or employment to be given to the proper officer of the school district so that the vacancy thus caused may be filled.

SECTION 890. AMENDATORY 70 O.S. 1991, Section 23-102, is amended to read as follows:

Section 23-102. It shall be unlawful for the Authority to permit any individual, company, corporation, or organization to advertise or otherwise attempt to sell its products or services

through the use of the facilities controlled by the Authority; and it shall also be unlawful for said Authority to permit any individual or organization to in any way sponsor the election of any party or individual for any public office; provided, however, that nothing in this section shall be construed in a manner which would exclude announcements and programs of nonprofit charitable and educational organizations which are for the public good. Information programs sponsored by legally authorized agencies of the state and federal governments for the public good are to be considered proper program material. Provided further, that the influence, direction or attempt to influence or direct the program content or programs shown on public television by an elected official or his representative for the purposes of personal gain or political benefit, direct or indirect, shall be unlawful and that ~~violation~~ breach of this section shall be a ~~misdemeanor punishable by~~ civil infraction and subject to a fine not to exceed One Thousand Dollars ($1,000.00) ~~or imprisonment not to exceed one (1) year, or both~~.

SECTION 891. AMENDATORY 70 O.S. 1991, Section 23-106, is amended to read as follows:

Section 23-106. The Authority is hereby authorized and empowered:

1. To accept, assume and control the television channels assigned by the Federal Communications Commission to the State of Oklahoma for educational purposes;

2. To adopt bylaws for the regulation of its affairs and the conduct of its business;

3. To adopt an official seal and alter the same at pleasure;

4. To maintain an office at such place or places within the state as it may designate;

5. To sue and be sued in its own name, plead and be impleaded; provided, however, that any and all actions, at law or in equity,

against the Authority shall be brought in the county in which the principal office of the Authority shall be located, or in the county of the residence of the plaintiff, or in the county where the cause of action arose;

6. To construct, maintain, repair and operate television facilities which with their access connections are designated ultimately to extend to and include all sections and areas of the State of Oklahoma;

7. To issue revenue bonds of the Authority, payable solely from dedicated revenues, for the purpose of paying all or any part of the cost of needed facilities;

8. To fix and revise from time to time any necessary charges for the use of any facilities;

9. To pay for the annual cost of the operation, maintenance and repair of such facilities;

10. To pay as and when due the principal and interest on the revenue certificates or bonds issued to pay for such facilities;

11. To accumulate and maintain such reserves as are provided for in the resolution or trust indenture under which such bonds are issued or secured;

12. To acquire, hold, or dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

13. To acquire in the name of the Authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in manner hereinafter provided, such public or private lands, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of this article; and it is the intent of the Legislature that all public property damaged in carrying out the powers granted by this article shall be restored or

repaired and placed in its original condition as nearly as practicable;

14. To designate, except as is provided for herein, the locations; and to establish, limit and control such points of ingress to and egress from each facility as may be necessary or desirable in the judgment of the Authority to insure the proper operation and maintenance of such facility;

15. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article, and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

16. To receive appropriations from the State Legislature and accept from any federal agency grants for or in aid of the construction and operation of any project; provided, the acceptance of such grants or appropriations will not reduce the amount of federal aid for other education in this state; and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value;

17. To do any and all things necessary to comply with rules, regulations, or requirements of the Federal Communications Commission or any other federal agency administering any law enacted by the Congress of the United States to aid or encourage education;

18. To do all things necessary or convenient to carry out the powers expressly granted in this article.

~~It shall be unlawful for any member, officer, or employee of the Authority to transact with the Authority, either directly or indirectly, any business for profit of such member, officer, or employee; and any person, firm or corporation knowingly~~

~~participating therein shall be equally liable for violation of this provision.~~

~~The term "business for profit" shall include, but not be limited to, the acceptance or payment of any fee, commission, gift or consideration to such member, officer or employee.~~

~~Any person found guilty of violating any of the provisions of this section shall be guilty of a felony, and shall be punishable by a fine of not less than Five Hundred Dollars ($500.00), and not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the State Penitentiary for not more than five (5) years, or by both such fine and imprisonment.~~

SECTION 892. AMENDATORY 70 O.S. 1991, Section 24-121, is amended to read as follows:

Section 24-121. No vehicle shall be used by any school district within this state for the transportation of school children on or after the beginning of the 1968-69 school year, unless such vehicle be equipped with a safety belt or safety harness for the use of the driver of such vehicle. Such seat belt and safety harness shall conform to such standards as may be prescribed. The Department of Public Safety shall prescribe standards, and each seat belt or safety harness used in such vehicle shall conform thereto. The Department of Public Safety shall provide the State Board of Education with a detailed description of the standards prescribed and the said Board shall furnish a copy of such standards to the board of education of each school district. The driver of every vehicle used by a school district for the transportation of school children shall make use of such seat belts while in operation of the vehicle, and failure to do so shall be ~~deemed to constitute a misdemeanor, and upon conviction therefor~~ a civil infraction and such driver shall be ~~punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00)~~ subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 893. AMENDATORY 70 O.S. 1991, Section 509.2, as last amended by Section 2, Chapter 345, O.S.L. 1994 (70 O.S. Supp. 1994, Section 509.2), is amended to read as follows:

Section 509.2 A. The local board of education shall recognize an employee organization designated by an election of the employees in an appropriate bargaining unit as the exclusive representative of all the employees in such unit. The members of an employee organization shall be employees as defined in paragraphs 1, 2 and 3 of this subsection and Section 1-116 of this title. The recognition of such employee organization shall be made by the local board no later than fourteen (14) days after said election. Any person who desires not to be represented by any organization may so state in writing to his or her board of education. Appropriate bargaining units are defined as follows; however, such definition shall not be construed, of itself, as requiring that bargaining units engage in bargaining or act to disengage from bargaining:

1. Employees who are employed and certified as principals and assistant principals and who have responsibilities for the supervision of classroom teachers shall constitute an appropriate unit;

2. All other employees who are required by the position in which employed to be licensed or certified as teachers or entry year teachers as those terms are defined in Section 1-116 of this title and who do not hold supervisory authority with respect to other teachers in the district shall constitute an appropriate unit;

3. All employees who are not required by their job description to be a principal, licensed or certified teacher, superintendent or other administrator shall constitute a separate bargaining unit. Provided, if employees categorized according to paragraphs 2 and 3 of this subsection were organized for bargaining as a single unit as of April 14, 1986, or are at any time employed in a district having fewer than seventy-five employees in the two categories taken

together, said employees may, for such time as a majority of the employees in each category indicate by secret ballot vote they share a single community of interest, constitute a single appropriate unit. Further provided, any final judgment of the Oklahoma Supreme Court denying such community of interest in any school district shall have the effect of rendering inappropriate all units, in whatever school districts they exist, which include employees of both categories.

B. 1. Within seven (7) business days of receiving a sealed packet containing an employee petition filed by or on behalf of thirty-five percent (35%) or more of the employees in a unit, such petition calling for an election to determine which, if any, employee organization represents the employees in a bargaining unit, the board shall arrange for verification that there are a sufficient number of correct names to constitute at least thirty-five percent (35%) of the employees in the unit. Such arrangements shall include the transmitting of the sealed packet and a list of employees eligible to be included in the bargaining unit to the individual designated pursuant to the provisions of paragraph 2 of this subsection.

2. The petition calling for the secret ballot election shall contain only the names of employees of the bargaining unit who have signed and dated said petition. The sealed packet shall be opened and the petition shall be verified by an individual designated by the election board of the county in which the school district has its main office. Under no circumstances shall the individual so designated reveal the names of employees who signed or did not sign the petition. If an employee has signed more than one petition, the name of the employee shall be removed from each petition.

3. The period of time for signing of a recognition petition shall commence upon receipt of written notification by the local school board from an organization indicating that it intends to

circulate a petition and shall cease thirty (30) days thereafter. Provided, if an organization recognized as representative of a unit for bargaining is being challenged for discontinuation of representation as provided in paragraph 8 of subsection C of this section or is being challenged by another organization seeking recognition, the period for signing shall commence on the first day of February and end on the last day of that same February.

C. 1. Not less than thirty (30) days nor more than forty-five (45) days after receipt of notification that the petition has been verified as sufficient, a secret ballot election shall be held to determine which, if any, employee organization shall represent the unit. No election shall be held for a unit within which a valid election was held in the preceding two (2) years.

The local board shall recognize within ten (10) days an organization which, on the effective date of this act, has obtained signed authorization from a majority of the employees eligible to be included in the unit but has not been recognized. No election shall be held for such unit within two (2) years of recognition. An appropriate election ballot shall be printed for this election, which contains the names of all employee organizations having presented a petition verified as signed by at least thirty-five percent (35%) of the employees eligible to be in the unit to represent or currently recognized as representing the unit; provided, no such organization shall be shown on the ballot unless the organization pays to the local board a filing fee of Two Hundred Fifty Dollars ($250.00). The ballot shall also provide an option whereby any employee of the unit may indicate a preference that the unit not be represented by any organization. Every organization that receives at least fifteen percent (15%) of the vote in the election shall be reimbursed the Two Hundred Fifty Dollars ($250.00) by the local board. The local board shall use any remaining filing

fee money to help offset the cost of the validation process of the petition, if any, as well as any election costs incurred.

2. When none of the choices on the ballot receives a majority of the votes, a runoff election shall be conducted on the fourteenth day following the first election between the two choices which received the largest number of votes in the preceding election.

3. The employee organization or organizations and the local school board shall, by agreement, determine the method by which each election shall be conducted. All costs incurred in an election shall be shared equally by all parties involved.

If no agreement can be reached within fourteen (14) days prior to the election, the local board of education shall notify the county election board of the county in which the board is located of such fact, and the following method for conducting the secret ballot election shall be followed and conducted by the county election board:

a. At the time of such notice, the board of education shall provide to the county election board:

(1) a list of all the polling places for the election, such list to include every middle school or junior high school and the central administration office in the district;

(2) a list of names of all the persons eligible to vote in said election, such list to be in alphabetical order and duplicated in such number that there shall be one for each polling place, plus an additional five copies;

(3) the names of each organization entitled to have its name appear on the ballot; and

(4) the date of the election.

b. Ballots for the election shall be printed by the county election board in the same manner as for other

elections conducted by the county election board, insofar as is possible. The names of organizations shall be listed on the ballot in the order in which said names are furnished to the county election board by the board of education. The option specifying that no organization shall represent the employee bargaining unit shall be listed last on the ballot, in such language as may be specified by the local board.

c. The secretary of the county election board shall appoint an inspector, judge and clerk for each polling place. Said inspector, judge and clerk shall be selected from among the regular precinct officials in the county.

d. Polling places shall be open from 7:00 a.m. to 7:00 p.m. on the day of the election. Any eligible person who appears to vote no later than 7:00 p.m. shall be entitled to vote.

e. Eligible voters may vote after signing their signatures beside their names on the list of names of all the persons eligible to vote in said election. The voter shall place his or her ballot in the ballot box in the presence of the inspector.

f. Each organization entitled to have its name appear on the ballot shall be permitted to appoint one challenger at each polling place. Each such challenger shall be properly identified as such, and shall be limited to inquiring of a prospective voter, said prospective voter's name, address, job classification and work site. The challenger may challenge the right of any prospective voter to vote by so informing the judge. Upon being so challenged, the prospective voter may vote if, after being

informed by the judge of such a challenge, the voter signs his or her signature beside his or her name on the list of names of all the persons eligible to vote in said election. If same occurs, the judge shall write the words "Challenged by _____" beside the voter's signature.

g. The county election board shall certify the results of the election to the board of education on the day following the election.

h. Costs of the election shall be paid to the county election board by the board of education. Said costs shall include the regular salaries of the inspector, judge, clerk, in addition to all other necessary and reasonable costs. Such costs shall include compensation for members of the county election board, including the secretary.

i. Anyone guilty of voting more than one time in said election will be ~~guilty of a misdemeanor and~~ subject to ~~a fine of Two Hundred Dollars ($200.00) or thirty (30) days in the county jail~~ criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

4. No employee shall use regularly scheduled duty time for campaign purposes.

5. A list of the employees eligible to vote in the election including their names, addresses, phone numbers, job classification and work site shall be provided not less than fourteen (14) days before the election to each organization listed on the official ballot.

6. No organization which at the time this act takes effect is representing a bargaining unit as a result of having gained recognition on the basis of signed authorization or secret ballot election and is in the process of collective bargaining for the

1986-87 school year shall be subject to the election provisions of this section until collective bargaining for the 1986-87 school year has ended.

7. Any local board or organization challenging the results of any election held pursuant to the provisions of this section shall post with the district court a bond of One Thousand Dollars ($1,000.00) which shall be forfeited if the court finds that the challenge is in bad faith.

8. In any February more than two (2) years after recognition of an organization pursuant to the provisions of this section and upon the receipt of a petition calling for discontinuation of representation signed by thirty-five percent (35%) of the employees eligible to be included in the unit, a local board shall call an election to determine whether the members of a unit wish to discontinue being represented for bargaining. If a majority of the votes cast are votes to discontinue representation, efforts to gain recognition by any organization shall be prohibited for a period of two (2) years commencing with the expiration of the contract then in force. The ballots used in such election shall, without reference to any organization by name, offer the single choice of continued representation or discontinuation of representation.

SECTION 894. AMENDATORY 70 O.S. 1991, Section 821.66, is amended to read as follows:

Section 821.66 A. A registered athlete agent who violates the provisions of subsections A or B of Section ~~6~~ 821.62 of this ~~act~~ title or the provisions of Section ~~8~~ 821.64 of this ~~act~~ title is subject to:

1. ~~Payment of a civil penalty not to exceed~~ A civil infraction and fine of not more than Ten Thousand Dollars ($10,000.00) to be determined by the seriousness of the violation;

2. Forfeiture of any right of repayment of anything of value either received by an Oklahoma NCAA athlete as an inducement to

enter into any agent contract or received by an athlete before completion of the athlete's last intercollegiate contest;

3. Payment of a refund of any consideration paid to the athlete agent on an athlete's behalf; and

4. Payment of reasonable attorney's fees and court costs incurred by an athlete in suing an athlete agent for a violation of this act.

B. Any agent contract that is negotiated by an athlete agent who has failed to comply with this act is void.

~~C. An athlete agent commits an offense if the agent knowingly or intentionally violates the provisions of subsection A of Section 6 of this act or the provisions of Section 8 of this act. An offense under this subsection is a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment of not to exceed one (1) year, or by both such fine and imprisonment.~~

SECTION 895. AMENDATORY 70 O.S. 1991, Section 1210.35, is amended to read as follows:

Section 1210.35 It shall be unlawful for any person to operate a motor vehicle bearing a "Driver Education Training" tag or "Private Driver Education Training" tag as provided for in Section 1210.34 of this title on any street, road or highway in this state for any purpose other than instructing pupils or used in the instruction of teachers in driver education and training; and ~~upon conviction therefor~~ such person shall be ~~punished by a fine of not more than Fifty Dollars ($50.00)~~ <u>liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00)</u>. Use of a driver education motor vehicle in a manner unauthorized herein shall create no liability of any kind upon a school district or institution of higher learning.

SECTION 896. AMENDATORY 70 O.S. 1991, Section 1210.44, is amended to read as follows:

Section 1210.44 It shall be unlawful for any person to operate a motor vehicle bearing a special license plate as provided for in this act on any street, road or highway in this state for any purpose other than in connection with any training or maintenance or other similar educational program or in administering such program; and ~~upon conviction therefor~~ such person shall be ~~punished by a fine of not more than Fifty Dollars ($50.00)~~ liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00). Use of a motor vehicle in a manner unauthorized herein shall create no liability of any kind upon a vocational and technical school or area school district, or upon the board of education thereof.

SECTION 897. AMENDATORY 70 O.S. 1991, Section 1210.512, as amended by Section 2, Chapter 292, O.S.L. 1992 (70 O.S. Supp. 1994, Section 1210.512), is amended to read as follows:

Section 1210.512 A. Except as otherwise provided for in subsection B of this section, no person shall provide any test materials, including, but not limited to, test booklets and teacher's test administration manuals, administered or intended for administration to any student pursuant to the Oklahoma School Testing Program Act to any teacher employed by any school district in this state or to any other person providing services to a school as a test monitor prior to the date on which the test is administered to the students.

B. Materials furnished by any company providing tests required by the Oklahoma School Testing Program Act, Section 1210.505 et seq. of this title, which are intended to aid teachers, parents or students in the preparation for testing may be provided to students, teachers or any other person providing service to a school as a test monitor.

C. Any person providing any test to a teacher or test monitor in ~~violation~~ breach of subsection A of this section~~, upon~~

~~conviction,~~ shall be ~~guilty of a misdemeanor, punishable by the imposition of a fine not exceeding Two Thousand Five Hundred Dollars ($2,500.00)~~ liable for a civil infraction and subject to a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00).

SECTION 898. AMENDATORY 70 O.S. 1991, Section 3909, as last amended by Section 1, Chapter 317, O.S.L. 1994 (70 O.S. Supp. 1994, Section 3909), is amended to read as follows:

Section 3909. A. In addition to such other audits as may be required of or desired by the various boards of regents responsible for the institutions of The Oklahoma State System of Higher Education, each board shall annually obtain the services of an independent accounting firm or individual holding a permit to practice public accounting in this state to perform a complete financial audit for the preceding fiscal year of each institution for which the board is responsible. The Oklahoma State Regents for Higher Education shall likewise annually obtain the services of an independent accounting firm or individual holding a permit to practice public accounting in this state to perform a complete financial audit of all the offices, operations, and accounts of the State Regents which are not subject to the control of other boards of regents.

B. Each board of regents shall appoint a standing Audit Committee of the board consisting of not fewer than three (3) board members. The Audit Committee shall be responsible for establishing the qualifications of any accounting firm or individual seeking to be hired to perform an audit for the board and shall recommend to the board the firms or individuals whom the board shall invite to submit competitive bids. The full board shall select the auditor from among the competitive bidders. Audit committees shall not recommend any firm or individual unwilling to meet the following specifications. Said specifications shall be among the terms and conditions of any contract awarded:

1. All revolving fund accounts, special accounts, special agency accounts, auxiliary enterprise accounts, and technical area school district accounts, if any, shall be included within the scope of the audit;

2. Where operations of constituent agencies or technical area school districts are relevant to the complete financial audit of the institution, records of those enterprises shall be included within the scope of the audit;

3. To the extent required by subsection (d) of Section 4306 of this title, records of college- or university-related foundations shall be included within the scope of the audit;

4. At the conclusion of the audit, the auditor shall meet with the president of the institution and the Audit Committee to review the audit report to be issued, the management letter or other comments or suggestions to be issued, and any other findings; and

5. Findings of material weaknesses, qualifications of the auditor's report other than those deriving from inadequate plant records, and of defalcations, or a report of lack of such findings, shall be communicated in writing to the board, the State Auditor and Inspector, the Legislative Service Bureau, and the Oklahoma State Regents for Higher Education with or in advance of the filing of the audit report required by Section 452.10 of Title 74 of the Oklahoma Statutes; and such written communications shall include any responses or other comments which the president or the Audit Committee wishes to have included.

C. The State Auditor and Inspector whenever he or she deems it appropriate, or upon receiving a written request to do so by the Governor, Attorney General, President Pro Tempore of the Senate, the Speaker of the House of Representatives, the governing board of an institution of higher education, the Oklahoma State Regents for Higher Education or the president of an institution of higher education, shall conduct a special audit of any institution of

higher education within The Oklahoma State System of Higher Education. The special audit shall include, but not necessarily be limited to, a compliance audit as defined in subsection C of Section 213 of Title 74 of the Oklahoma Statutes. The State Auditor and Inspector shall have the power to take custody of any records necessary to the performance of the audit but shall minimize actual physical removal of or denial of access to such records. At the conclusion of the audit, the State Auditor and Inspector shall meet with the president of the institution and the Audit Committee of the board which governs the component audited to review the audit report to be issued. The report, when issued, shall include any responses to the audit which the president or the Audit Committee wishes to have included and shall be presented to the full board, the Legislative Service Bureau, and the Oklahoma State Regents for Higher Education with or in advance of the filing required by Section 452.10 of Title 74 of the Oklahoma Statutes. The cost of such audit shall be borne by the audited entity and may be defrayed in whole or in part by any federal funds available for that purpose.

D. Each board of regents shall require the employment of a sufficient number of internal auditors to meet the board's fiduciary responsibilities. Internal audits shall be conducted in accordance with the provisions of Sections 228 and 229 of Title 74 of the Oklahoma Statutes. The internal auditors shall submit a report directly and simultaneously to the audit committee of the board and the president of the institution; all members of the board of regents governing the institution, however, shall receive all internal audit reports and the board of regents shall, at least annually, review and prescribe the plan of work to be performed by the internal auditors.

~~E. Any person who alters or destroys records needed for the performance of an audit or causes or directs a subordinate to do such acts shall be guilty of a felony punishable by imprisonment in~~

~~the State Penitentiary for a period of not more than five (5) years or by a fine of not more than Twenty Thousand Dollars ($20,000.00), or by both such fine and imprisonment. Such person shall also be subject to immediate removal from office or employment.~~

SECTION 899. AMENDATORY 70 O.S. 1991, Section 4306, is amended to read as follows:

Section 4306. (a) All state educational institutions are hereby authorized to accept and receive any and all gifts, devises and bequests of money or property, either real or personal, which may be, or which may heretofore have been tendered to them by will or gift, conditionally or unconditionally; and the Board of Regents of said institutions are hereby directed, authorized and empowered to hold such funds or property in trust, or invest or sell them and use either principal or interest or the proceeds of sale for the benefit of such institutions or the students or others for whose benefit such institutions are conducted; all in any manner which is consistent with the terms of the gift as stipulated by the donor and with the provisions of any applicable laws. Money donated to a college- or university-related foundation for student scholarships or grants to students of an institution of The Oklahoma State System of Higher Education shall not be loaned or given to any regent, officer, director, or employee of such foundation or institution or to any relative of such person within the third degree of affinity or consanguinity. The following, however, shall not be prohibited: (1) students in the employ of such foundation or institution may be given scholarships, and (2) scholarships may be awarded to an otherwise disqualified relative of any faculty member, staff employee, foundation or institution officer or maintenance worker of such foundation or institution if such relative is meritoriously qualified.

(b) ~~Any person willfully violating the prohibitions of subsection (a) of this section shall be guilty of a felony~~

~~punishable by imprisonment in the State Penitentiary for a period of not more than five (5) years or by a fine of not more than Twenty Thousand Dollars ($20,000.00), or by both such fine and imprisonment. Any person found guilty of said violations shall also be subject to immediate removal from office or employment where applicable.~~

~~(c)~~ The Oklahoma State Regents for Higher Education, any institution or agency of The Oklahoma State System of Higher Education or the regents or governing board of such institution or agency shall not directly or indirectly transfer any funds to any college- or university-related foundation or render services or provide any thing of value to any such foundation without receiving documented adequate payment or reimbursement therefor according to written contract; provided, nothing herein shall be construed as prohibiting payment by the institution or agency of claims for expenses of fund raising for the benefit of the institution or agency by state employees if such fund raising activities are approved in advance by the governing board of regents responsible for such institution or agency and made a part of the minutes of the meeting of the board.

~~(d)~~ (c) Neither the Oklahoma State Regents for Higher Education nor any institution or agency of The Oklahoma State System of Higher Education shall receive any funds, services, or thing of value from any college- or university-related foundation which has any officers or employees who are officers or employees of any institution or agency of the State System or State Regents unless such foundation makes all its financial records and documents, including work papers, except for names of donors, available to auditors who are performing audits of the institution or agency.

SECTION 900. AMENDATORY 71 O.S. 1991, Section 101, is amended to read as follows:

Section 101. A. It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly

(1) to employ any device, scheme, or artifice to defraud,

(2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading,

(3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

B. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 901. AMENDATORY 71 O.S. 1991, Section 102, as amended by Section 8, Chapter 241, O.S.L. 1992 (71 O.S. Supp. 1994, Section 102), is amended to read as follows:

Section 102. (a) It is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise:

(1) to employ any device, scheme, or artifice to defraud the other person; or

(2) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

(b) It is unlawful for any investment advisor to enter into, extend, or renew any investment advisory contract unless it provides in writing:

(1) that the investment advisor shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

(2) that no assignment of the contract may be made by the investment advisor without the consent of the other party to the contract; and

(3) that the investment advisor, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

Paragraph (1) of this subsection does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date. For persons responsible for management of funds or assets pursuant to the Oklahoma Capital Formation Act, paragraph (1) of this subsection does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date, or in any other manner permitted by the Investment Adviser's Act of 1940, as amended, and the rules and regulations promulgated thereunder. Any investment advisory contract providing for compensation based upon a manner permitted by the Investment Adviser's Act of 1940, as amended, and the rules and regulations promulgated thereunder shall be subject to review and approval of the Oklahoma Department of Securities. "Assignment", as used in paragraph (2) of this subsection, includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment advisor is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment advisor having only a minority interest in the business of the investment advisor, or from the admission to the investment advisor of one or

more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

(c) It is unlawful for any investment advisor to take or have custody of any securities or funds of any client if:

(1) the Administrator by rule prohibits custody; or

(2) in the absence of rule, the investment advisor fails to notify the Administrator that he has or may have custody.

(d) Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 902. AMENDATORY 71 O.S. 1991, Section 103, is amended to read as follows:

Section 103. A. As used in this section:

1. "Financial institution" means any bank, savings institution, trust company, savings and loan association, credit union, industrial loan association, finance company, brokerage firm, thrift or insurance company or similar institution or association organized under the laws of, or authorized to do business in, this state;

2. "Agency of the government" means the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration Board or a comparable agency of the federal government. Such term shall also include any comparable agency of the government of any state, so long as the insurance coverage provided by such state agency is equal to or greater than the amount of coverage provided for accounts insured by the Federal Deposit Insurance Corporation; and

3. "Advertise" and "advertisement" shall include the use of television, radio, print, display or other such advertising media.

B. Except as provided in this subsection and except as to the common or preferred stock of a financial institution as defined in this section, it is unlawful for any financial institution to sell or offer for sale any security issued by or representing an interest

in such financial institution, or to accept a deposit of money in such institution, unless such institution is insured by an agency of the government. The prohibition contained in this subsection shall not apply to the offering for sale or sale of a security issued by or representing an interest in such a financial institution which lacks such insurance or to the acceptance of a deposit of money by such a financial institution which lacks such insurance if the first written communication acknowledging such sale or accepting such deposit of money contains on the face thereof a clear, prominent and conspicuous statement that the security or deposit is not insured by an agency of the government.

C. Except as to the common or preferred stock of a financial institution as defined in this section, it is unlawful for any financial institution to advertise the offering for sale, sale or availability of a security issued by or representing an interest in such financial institution or to advertise the acceptance of deposits of money by such institution unless such institution is insured by an agency of the government. Provided, the prohibition contained in this subsection shall not apply to the advertisement of a security issued by or representing an interest in such a financial institution which lacks such insurance or to the acceptance of deposits of money by such a financial institution which lacks such insurance if the advertisement contains therein a clear, prominent and conspicuous notice that the security or deposit is not insured by an agency of the government.

D. Any person violating the provisions of subsection B. or C. of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 903. AMENDATORY 71 O.S. 1991, Section 201, is amended to read as follows:

Section 201. (a) It is unlawful for any person to transact business in this state as a broker-dealer or agent unless he is so

registered under this act. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

(b) It is unlawful for any broker-dealer or issuer to employ an agent unless the agent is so registered. The registration of an agent is not effective during any period when he is not associated with a particular broker-dealer registered under this act or a particular issuer. When an agent begins or terminates a connection with a broker-dealer or issuer, or begins or terminates those activities which make him an agent, the agent as well as the broker-dealer or issuer shall promptly notify the Administrator.

(c) (1) It is unlawful for any person to transact business in this state as an investment adviser or investment adviser representative unless he is so registered under this act or unless he is exempt from registration as provided in paragraph (2) of this subsection.

(2) Subject to paragraph (3) of this subsection, a person shall be exempt from registration as an investment adviser or investment adviser representative if:

(A) his only clients in this state are investment companies as defined in the Investment Company Act of 1940 or insurance companies;

(B) he has no place of business in this state and:

(i) his only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

(ii) during any period of twelve (12) consecutive months he does not direct business communications into this

state in any manner to more than five (5) clients other than those specified in division (i) of this paragraph, whether or not he or any of the persons to whom the communications are directed is then present in this state; or

(C) he is a full-time employee of this state, any county, municipality or school district of this state; or any other political subdivision of this state; or any agency or corporate or other instrumentality of any such political subdivision; and such person's activities as an investment adviser or investment adviser representative are required as part of such person's employment with such entity.

(3) The exemptions from registration provided by subparagraphs (A) and (B) of paragraph (2) of this subsection shall not be available to any person who acts as an investment adviser or investment adviser representative to this state, any county, municipality or school district of this state, or any other political subdivision of this state; any agency or corporate or other instrumentality of any such entity; or any pension fund for the benefit of employees of any such entity.

(4) The registration of an investment adviser representative is not effective during any period when he is not associated with a particular investment adviser registered under this act. When an investment adviser representative begins or terminates a connection with an investment adviser, or begins or terminates those activities which make him an investment adviser representative, the investment adviser representative as well as the investment adviser shall promptly notify the Administrator.

(d) Every registration expires one (1) year from its effective date unless renewed; provided the Administrator may require by rule or order that all registrations and renewals of registrations expire on December 31 of the year of registration or renewal. For this

purpose the Administrator may prorate registration or renewal fees accordingly.

SECTION 904. AMENDATORY 71 O.S. 1991, Section 301, is amended to read as follows:

Section 301. It is unlawful for any person to offer or sell any security in this state unless (1) it is registered under this act or (2) the security or transaction is exempted under Section 401. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 905. AMENDATORY 71 O.S. 1991, Section 307, is amended to read as follows:

Section 307. (a) In addition to all other applicable registration provisions specified in the Oklahoma Securities Act, investment certificate issuers are subject to the provisions of this section. As used in this section:

(1) "Investment certificate" means thrift certificates, certificates of deposit, savings obligations and similar evidences of indebtedness, issued and sold by an investment certificate issuer as defined in paragraph (2) of this subsection; and

(2) "Investment certificate issuer" means any financial institution or person, other than a federally or state chartered bank, bank holding company, trust company or savings and loan association, or any credit union, which accepts investor funds or deposits in exchange for the issuance of investment certificates; provided, however, the term "investment certificate issuer" shall not include a financial institution or person which, as of the effective date of this act, issued only the following securities:

(i) any security exempt under the provisions of Section 401 of Title 71 of the Oklahoma Statutes,

(ii) any securities which are registered by coordination under Section 303 of Title 71 of the Oklahoma Statutes, and/or

(iii) any other security as to which the Administrator, by rule or order, finds that registration is not necessary or appropriate for the protection of investors.

Nothing contained in this act shall be construed as precluding an investment certificate issuer from qualifying for and relying upon any of the exemptions from the provisions of Sections 301 and 402 of Title 71 of the Oklahoma Statutes as contained in Section 401 of Title 71 of the Oklahoma Statutes.

(b) In addition to other powers conferred by the Oklahoma Securities Act, the Administrator shall have power to require an investment certificate issuer to:

(1) Cause its books to be made available at its offices and to provide to the Department a trial balance within five (5) days of the commencement of any examination. Such books shall be audited at least once each year by an independent certified public accountant in accordance with generally accepted auditing standards, and the report thereof, including financial statements prepared in accordance with generally accepted accounting principles, furnished to the Administrator in such form as he may require;

(2) Observe methods and standards, including classification standards of loans, which the Administrator may prescribe by rule adopted and promulgated pursuant to the Oklahoma Administrative Procedures Act, subsection A of Section 303 of Title 75 of the Oklahoma Statutes, for determining the value of various types of assets;

(3) Maintain its accounting systems and procedures in accordance with such regulations as adopted and promulgated

by the Administrator pursuant to the Oklahoma Administrative Procedures Act, subsection A of Section 303 of Title 75 of the Oklahoma Statutes, provided, the accounting system required shall have due regard to the size of the investment certificate issuer;

(4) Charge off the whole or any part of an asset, the value of which, at the time of the Administrator's action, has deteriorated for reasons set forth by the Administrator by rule adopted and promulgated pursuant to the Oklahoma Administrative Procedures Act, subsection A of Section 303 of Title 75 of the Oklahoma Statutes; and

(5) Write down an asset to market value as prescribed by the Administrator by rule adopted and promulgated pursuant to the Oklahoma Administrative Procedures Act, subsection A of Section 303 of Title 75 of the Oklahoma Statutes.

(c) Every investment certificate issuer shall obtain from the Administrator a written acknowledgment, issued in accordance with procedures adopted and promulgated pursuant to the Oklahoma Administrative Procedures Act, subsection A of Section 303 of Title 75 of the Oklahoma Statutes, that the investment certificate issuer engages in the business of accepting investor funds or deposits in exchange for the issuance of investment certificates. Any investment certificate issuer who obtains such an acknowledgment shall be subject to this section and shall possess all of the rights, powers and privileges and shall be subject to all of the duties, restrictions and limitations contained herein. No company or person who fails to obtain such acknowledgment within ninety (90) days of the effective date of the adoption by the Administrator of procedures governing the issuance of a written acknowledgment shall possess or exercise, unless expressly given and possessed or exercised under other laws, any of the benefits, rights, powers or privileges which are herein conferred on investment certificate

issuers. Any company or person who fails to obtain a written acknowledgment as described herein may not engage in the business of issuing investment certificates.

(d) Any officer, director or employee of an investment certificate issuer found by the Administrator to be dishonest, reckless, unfit to participate in the conduct of the affairs of the institution, or practicing a continuing disregard or violation of laws, rules, regulations or orders which are likely to cause substantial loss to the company or likely to seriously weaken the condition of the company shall be removed immediately from office by the board of directors of the investment certificate issuer of which he is an officer, director or employee, on the written order of the Administrator; provided, that said investment certificate issuer or officer, employee or director may within ten (10) days file a notice of protest for said removal with the Commission, and as soon as possible thereafter, the Commission will review the order of said Administrator and make such findings as it deems proper, and that, pending said time, the said officer, employee or director shall not perform any of the duties of his office.

(e) After the effective date of this act, an investment certificate issuer shall not, without the consent of the Administrator:

(1) Make a loan to any of its stockholders owning twenty-five percent (25%) or more of the stock of the investment certificate issuer, or its officers or directors;

(2) Make a loan to any employee in excess of Ten Thousand Dollars ($10,000.00); or

(3) Make a loan to or other investment in or purchase any asset from any company in which any of its officers, directors or stockholders may have any direct or indirect interest, unless made in an arm's length transaction.

(f) After the effective date of this act, an investment certificate issuer shall not without the consent of the Administrator:

(1) Lend money in excess of ten percent (10%) of its shareholders' equity to any person, association, partnership or corporation liable for such obligations; provided, however, that this limitation does not apply to the purchase of investment securities; or

(2) Engage in, or acquire any interest in, any business prohibited to a bank chartered under the laws of the State of Oklahoma.

(g) The shareholders' equity of an investment certificate issuer shall not be less than ten percent (10%) of the investment certificates outstanding. Provided, an investment certificate issuer lawfully incorporated and operating in this state on or before November 1, 1985, with less than the above specified shareholders' equity shall, at the beginning of each fiscal year thereafter, increase its shareholders' equity by a minimum of one-fourth (1/4) the difference between its shareholders' equity on November 1, 1985, and the above specified amount until such time as its shareholders' equity equals or exceeds the amount specified above. For purposes of computing the shareholders' equity, the reserve against bad debts shall be included.

(h) Every investment certificate issuer shall maintain a reserve against bad debts in an amount required by the Administrator by rule adopted and promulgated pursuant to the Oklahoma Administrative Procedures Act, subsection A of Section 303 of Title 75 of the Oklahoma Statutes, but in no event shall the reserve against bad debts be less than two percent (2%) of the total loans outstanding.

(i) If the Administrator finds the capital of an investment certificate issuer to be impaired according to the standard set forth in subsection (g) of this section, the Administrator may:

(1) Give notice of such impairment to the directors and shareholders of such investment certificate issuer and levy an assessment in a designated amount upon the holders of record of such investment certificate issuer's stock to remedy an impairment of capital. Upon receipt of an order to levy an assessment, the directors shall cause to be sent to all holders of stock, at their addresses as listed on the books of the investment certificate issuer, a notice of the amount of the assessment and a copy of this subsection. If an assessment is not paid within ninety (90) days after the order is mailed, the Administrator, at his discretion, may offer the shares of the defaulting stockholders for sale at public auction at a price which shall not be less than the amount of the assessment and the cost of the sale; or

(2) Apply to the district court of any county where the assets of the investment certificate issuer are located for an order appointing a conservator of, and directing him to rehabilitate, the investment certificate issuer. If all reasonable efforts to rehabilitate the investment certificate issuer fail, the Administrator may apply to the court for an order directing the appointment of a liquidator to dissolve any such issuer and liquidate its assets. All rights and interests of the stockholders in the stock, property and assets of such investment certificate issuer are thereby terminated except the right of stockholders to the balance of the proceeds of liquidation, if any, after all other valid claims, including interest, against the assets of the investment certificate issuer and the proceeds of liquidation have been satisfied. The conservator or liquidator appointed under this subsection shall meet qualifications established by the Administrator by rule adopted and promulgated pursuant to the

Oklahoma Administrative Procedures Act, subsection A of Section 303 of Title 75 of the Oklahoma Statutes.

(j) Whenever the capital or reserve of any investment certificate issuer shall be impaired according to the standards set forth in subsections (g) and (h) of this section, the investment certificate issuer shall make no new loans, renew any investment certificates or sell new investment certificates without the consent of the Administrator.

(k) (1) It shall be unlawful for any investment certificate issuer to issue investment certificates while insolvent. Any person violating the provisions of this subsection shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

(2) Every officer, director, principal stockholder, or every other person who materially participates or aids in the issuance of an investment certificate in violation of this subsection, or who directly or indirectly controls any such person, shall be liable jointly and severally, unless the officer, director, principal stockholder, or any other person who so participates, aids, or controls, sustains the burden of proof that he did not know, and could not have known, of the existence of the facts by reason of which liability is alleged to exist. There shall be contribution as in cases of contract among the several persons so liable.

(3) The rights and remedies provided for in this subsection are in addition to any other rights or remedies provided for in Title 71 of the Oklahoma Statutes, or that may exist at law or in equity.

(l) The Administrator shall, at least every eighteen (18) months or as often as he deems it prudent and necessary for the protection of the public, make or cause to be made examinations of the books, records, papers, assets and liabilities of every kind and character owned by, or relating to, every investment certificate issuer. Any investment certificate issuer so examined shall pay to

the Administrator the charges incurred in such examination as specified in subsection (f) of Section 405 of Title 71 of the Oklahoma Statutes or any rule adopted pursuant thereto.

(m) Every investment certificate issuer shall make and file with the Administrator reports at such times and in such form as the Administrator may prescribe by rule or order. Such reports shall be verified by the oath of either the president, the vice-president, or the secretary and attested by the signature of two or more of the directors. Each such report shall exhibit in detail, as may be required by the Administrator, the resources and liabilities of the investment certificate issuer at the close of business on the day to be specified by the Administrator.

(n) Every investment certificate issuer that is not insured by an agency of the government as defined by Section 103 of Title 71 of the Oklahoma Statutes shall disclose on the face of each investment certificate in ten-point type the following:

"This certificate is not insured by the Federal Deposit Insurance Corporation or any other agency of the government."

SECTION 906. AMENDATORY 71 O.S. 1991, Section 402, is amended to read as follows:

Section 402. It is unlawful to use any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature in any manner in connection with the offer or sale of any security unless it has been filed with and approved by the Administrator. <u>Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.</u> The Administrator may exempt, by rule, any class of sales literature from the provisions of this section. The Administrator shall require the payment of a fee to defray the expenses of the review and approval of each sales literature package, to include any prospectus, pamphlet, circular, form letter, advertisement, or other

sales literature to be used in any manner in connection with the offer or sale of any security.

SECTION 907. AMENDATORY 71 O.S. 1991, Section 403, is amended to read as follows:

Section 403. It is unlawful for any person to make or cause to be made, in any document filed with the Administrator or in any proceeding under this act, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 908. AMENDATORY 71 O.S. 1991, Section 404, is amended to read as follows:

Section 404. (a) Neither (1) the fact that an application for registration under Sections 201 - 204, inclusive, or a registration statement under Sections 301 - 306, inclusive, has been filed nor (2) the fact that a person or security is effectively registered constitutes a finding by the Administrator that any document filed under this act is true, complete, and not misleading. Neither any such fact nor the fact that an exemption or exception is available for a security or a transaction means that the Administrator has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person, security, or transaction.

(b) It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with subsection (a). Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 909. AMENDATORY 71 O.S. 1991, Section 406, is amended to read as follows:

Section 406. (a) If the Administrator reasonably believes, whether or not based upon an investigation conducted under Section 405 of this title, that a person has violated the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act or has engaged in dishonest or unethical practices in the securities business, the Administrator, in addition to any specific power granted by any other section of the Oklahoma Securities Act, may:

(1) issue an order against the person to cease and desist from engaging in such violation or dishonest or unethical practices or doing any act in furtherance thereof; or

(2) censure the person, if the person is a registered broker-dealer, agent, investment adviser, or investment adviser representative; or

(3) bar or suspend the person from association with a broker-dealer or investment adviser subject to the provisions of the Oklahoma Securities Act; or

(4) issue an order against a person who willfully violates the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act, imposing a ~~civil penalty up to a maximum of Five Thousand Dollars ($5,000.00)~~ fine of not more than Ten Thousand Dollars ($10,000.00) for ~~a single~~ an administrative violation ~~or transaction~~ or of ~~Fifty Thousand Dollars ($50,000.00)~~ One Hundred Thousand Dollars ($100,000.00) for multiple ~~violations or transactions in a single~~ breaches which are the subject of an administrative violation proceeding or a series of related proceedings.

(b) Except as provided in subsection (e) of this section or unless the right to notice and hearing is waived by the person against whom the sanction is imposed, the sanctions provided in subsection (a) of this section may be imposed in an administrative proceeding only after notice and hearing as required by the Oklahoma

Administrative Procedures Act. If the person to whom notice is addressed does not request a hearing within fifteen (15) days after the receipt of said notice, a permanent order shall be issued.

(c) Imposition of the sanctions under this section is limited as follows:

(1) If the Administrator revokes the registration of a broker-dealer, agent, investment adviser or investment adviser representative under Section 204 of this title or bars a person from association with a broker-dealer or investment adviser under this section or Section 204 of this title, the imposition of that sanction precludes imposition of the sanction specified in paragraph (4) of subsection (a) of this section; and

(2) The imposition by the Administrator of one or more sanctions under subsection (a) of this section with respect to a specific violation or transaction precludes the Administrator from later imposing any other sanctions under paragraphs (1) through (4) of subsection (a) of this section with respect to the violation or transaction. The Administrator however is not precluded from bringing an action under Section 406.1 of this title in addition to the imposition of one or more sanctions under subsection (a) of this section with respect to the violation or transaction.

(d) For purposes of determining any sanction to be imposed under paragraphs (1) through (4) of subsection (a) of this section, the Administrator shall consider, among other factors, the frequency and persistence of the conduct constituting a violation of the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act or involving dishonest or unethical practices in the securities business, the number of persons adversely affected by the conduct, and the resources of the person committing the violation.

(e) If the Administrator makes written findings of fact to support the conclusion that the public interest will be harmed by

delay in issuing a cease and desist order pursuant to paragraph (1) of subsection (a) of this section, the Administrator may issue a summary order pending the hearing required by subsection (b) of this section. Once the summary order is entered, the Administrator shall promptly notify the person subject to the summary order that the summary order was entered, the reason therefor, that the person subject to the order must make written request for hearing to the Administrator within fifteen (15) days after receipt of the notice, and that within fifteen (15) days after receipt of a written request from said person or at such sooner time during regular business hours of the Department as mutually agreed upon by the Department and said person, a hearing on the matter shall be commenced to determine whether the summary order should be modified, vacated or become a permanent order as provided in paragraph (1) of subsection (a) of this section. The summary order shall remain in effect until the conclusion of the hearing on the summary order unless the Administrator or his designated hearing officer extends the summary order pending a final determination. The summary order shall become a permanent order if the person to whom notice is addressed does not request a hearing within fifteen (15) days after the receipt of notice. If a request for hearing on the summary order is timely made and if said hearing is not commenced by the Administrator within the time limit set forth above, the summary order shall dissolve and a cease and desist order shall not be issued pursuant to paragraph (1) of subsection (a) of this section except upon reasonable notice and opportunity for a hearing.

SECTION 910. AMENDATORY 71 O.S. 1991, Section 406.1, is amended to read as follows:

Section 406.1 (a) Upon a showing by the Administrator that a person has violated or is about to violate the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act or that a person has engaged or is about to engage in

dishonest or unethical practices in the securities business, the Administrator, initially or subsequent to an administrative proceeding, may bring an action in the district court of Oklahoma County or the district court of any other county where service can be obtained on one or more of the defendants and the district court may grant or impose one or more of the following appropriate legal or equitable remedies:

(1) Upon a showing of a violation of the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act or conduct involving dishonest or unethical practices in the securities business:

(i) a temporary restraining order, permanent or temporary prohibitory or mandatory injunction, or a writ of prohibition or mandamus;

(ii) a ~~civil penalty up to a maximum of Five Thousand Dollars ($5,000.00)~~ fine of not more than Ten Thousand Dollars ($10,000.00) for ~~a single~~ an administrative violation or of ~~Fifty Thousand Dollars ($50,000.00)~~ One Hundred Thousand Dollars ($100,000.00) for multiple ~~violations in a single~~ breaches which are the subject of an administrative violation proceeding or a series of related proceedings;

(iii) a declaratory judgment;

(iv) restitution to investors;

(v) the appointment of a receiver or conservator for the defendant or the defendant's assets; and

(vi) other relief the court deems just.

(2) Upon a showing that the defendant is about to violate the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act or that the defendant is about to engage in dishonest or unethical practices in the securities business only:

(i) a temporary restraining order; or

(ii) a temporary or permanent injunction; or

(iii) a writ of prohibition or mandamus.

(b) In determining the appropriate relief under subsection (a) of this section, the court shall consider any enforcement actions taken and/or sanctions that may have been imposed by the Administrator under Section 406 of this title in connection with the subject transactions.

(c) The Administrator shall not be required to post a bond in an action under this section.

(d) Upon a showing by the securities agency or administrator of another state that a person has violated the securities act of that state or a rule or order of the securities agency or administrator of that state, the court, in addition to any other legal or equitable remedies, may impose one or more of the following remedies:

(1) appointment of a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in this state; and

(2) other relief the court considers just.

(e) No costs shall be assessed for or against the Administrator in any proceeding under the Oklahoma Securities Act brought by or against it in any court except as otherwise provided by law.

SECTION 911. AMENDATORY 71 O.S. 1991, Section 407, is amended to read as follows:

Section 407. (a) ~~Any person who willfully violates any provision of this act except Section 403 of this title, or who willfully violates any rule or order under this act, or who willfully violates Section 403 of this title knowing the statement made to be false or misleading in any material respect, shall be guilty of a felony, and shall upon conviction be fined not more than~~

~~Ten Thousand Dollars ($10,000.00) or imprisoned not more than ten (10) years, or both.~~

~~(b)~~ The Administrator may refer such evidence as is available concerning violations of this act or of any rule or order hereunder to the Attorney General of the State of Oklahoma or the district attorney for the county where a violation occurred and the Attorney General or the district attorney as the case may be may institute or cause to be filed an information or indictment for violation of the provisions of this act. The Attorney General or district attorney may designate and appoint one or more lawyers of the Department as special assistants as available for the purpose of assisting in or conducting all criminal prosecutions arising by reason of proceedings under this section.

~~(c)~~ (b) Nothing in this act limits the power of the state to punish any person for any conduct which constitutes a crime by statutes.

SECTION 912. AMENDATORY 71 O.S. 1991, Section 416, is amended to read as follows:

Section 416. No offeror may conclude a multinational corporation take-over bid or pay for any securities prior to the conclusion of the procedures set forth in this act. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 913. AMENDATORY 71 O.S. 1991, Section 417, is amended to read as follows:

Section 417. No offeror shall make a multinational corporation take-over bid which is not made to all holders residing in this state of the equity security that is the subject of such multinational corporation take-over bid, or which is not made to such holders on the same terms as such multinational corporation take-over bid is made to holders of such equity security not

residing in this state. If an offeror makes a tender offer or request or invitation for tenders for less than all the outstanding equity securities of a class, and if a greater number of securities is deposited pursuant thereto within ten (10) days after copies of the offer or request or invitation for tenders are first published or sent or given to security holders that such offeror is bound or willing to take up and pay for, the securities shall be taken up as nearly as may be pro rata, disregarding fractions, according to the number of securities deposited by each offeree. This section shall apply to securities deposited within ten (10) days after notice of an increase in the consideration offered to security holders, as described in this section, is first published or sent or given to security holders. If the terms of a multinational corporation take-over bid are changed before its expiration by increasing the consideration offered to offerees, the offeror shall pay the increased consideration for all equity securities taken up, whether the same are deposited or taken up before or after the change in the terms of the multinational corporation take-over bid. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 914. AMENDATORY 71 O.S. 1991, Section 419, is amended to read as follows:

Section 419. ~~An~~ In addition to the penalties provided in Title 21 of the Oklahoma Statutes, an offeror is subject to the liabilities, penalties and other provisions applicable to a seller and an offeree is entitled to the remedies applicable to a purchaser, as set forth in Sections 402 et seq. of this title.

SECTION 915. AMENDATORY 71 O.S. 1991, Section 454, is amended to read as follows:

Section 454. Copies of all advertisements, circulars, letters or other materials published by the offeror or the target company,

soliciting or requesting the acceptance or rejection of the take-over offer, shall be filed with the Administrator of the Department of Securities and sent to the target company or offeror, respectively, not later than the time copies of such solicitation materials are first published or used or sent to offerees. The Administrator may prohibit the use of any solicitation materials deemed false or misleading. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 916. AMENDATORY 71 O.S. 1991, Section 455, is amended to read as follows:

Section 455. A. It is unlawful for any offeror or target company or any controlling person of an offeror or target company or any broker-dealer acting on behalf of an offeror or target company to engage in any fraudulent, deceptive or manipulative acts or practices in connection with a take-over offer. Fraudulent, deceptive and manipulative acts or practices include without limitation:

1. The publication or use in connection with the offer of any false statement of a material fact or the omission to state a material fact necessary to make the statements made not misleading;

2. The sale by any controlling shareholders of a target company of any or all of their equity securities to the offeror for a consideration greater than that to be paid other shareholders pursuant to the take-over offer or the purchase of any of the securities of a controlling shareholder of the target company by the offeror for a consideration greater than that to be paid other shareholders, the terms of which are not disclosed to the other shareholders;

3. The refusal by a target company to permit an offeror who is a shareholder of record to examine its list of shareholders, and to make extracts therefrom, pursuant to the applicable corporation

statutes, for the purpose of making a take-over offer in compliance with this act, or in lieu thereof, to mail any solicitation materials published by the offeror to its security holders with reasonable promptness after receipt from the offeror of such materials together with the reasonable expenses of postage and handling; and

4. The solicitation of any offeree for acceptance or rejection of a take-over offer or acquisition of any equity security pursuant to a take-over offer before the take-over offer is effective under this act or while the offer is suspended under this act.

B. Any person violating the provisions of paragraphs 2 through 4 of subsection A of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 917. AMENDATORY 71 O.S. 1991, Section 456, is amended to read as follows:

Section 456. A. No offeror may make a take-over offer which is not made to shareholders in this state on substantially the same terms as the offer is made to shareholders outside of this state.

B. An offeror shall provide that any equity securities of a target company deposited or tendered pursuant to a take-over offer may be withdrawn by or on behalf of any offeree at any time within seven (7) days from the date the offer has become effective under this act and after sixty (60) days from the date the offer has become effective under this act, except as the Administrator of the Department of Securities may otherwise prescribe by rule or order for the protection of investors.

C. If an offeror makes a take-over offer for less than all the outstanding equity securities of any class, and if the number of securities deposited or tendered pursuant thereto within ten (10) days after the offer has become effective under this act and copies of the offer, or notice of any increase in the consideration offered, are first published or sent or given to security holders is

greater than the number the offeror has offered to accept and pay for, the securities shall be accepted pro rata, disregarding fractions, according to the number of securities deposited or tendered by each offeree.

D. If an offeror varies the terms of a take-over offer before its expiration date by increasing the consideration offered to security holders, the offeror shall pay the increased consideration for all equity securities accepted, whether such securities have been accepted by the offeror before or after the variation in the terms of the offer.

E. No offeror may make a take-over offer or acquire any equity securities in this state pursuant to the take-over offer, at any time when any injunction or cease and desist order is in effect against the offeror based upon a violation of any provision of this act or the Oklahoma Securities Act.

F. No offeror may acquire, remove or exercise control, directly or indirectly, over any target company assets located in this state pursuant to a take-over offer at any time when any injunction or cease and desist order is in effect against the offeror based upon a violation of any provision of this act or the Oklahoma Securities Act.

G. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 918. AMENDATORY 71 O.S. 1991, Section 460, is amended to read as follows:

Section 460. A. ~~Any person who violates, and a controlling person of an offeror or target company who knowingly violates, any provision of this act or any rule thereunder, or any order of the Administrator of which this person has notice, may be fined not more than Twenty-five Thousand Dollars ($25,000.00) or imprisoned not more than five (5) years or both. Each of the acts specified shall~~

~~constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction for any other offense. No indictment or information may be returned under this act more than two (2) years after the alleged violation.~~

~~B.~~ The Administrator may refer such evidence as is available concerning violations of this act or of any rule or order hereunder to the Attorney General or the district attorney for the appropriate county who may, with or without any reference, institute the appropriate criminal proceedings under this act. If referred to a district attorney, he shall, within ninety (90) days, file with the Administrator a statement concerning any action taken or, if no action is taken, the reasons therefor.

~~C.~~ B. Nothing in this act limits the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

~~D.~~ C. All shares acquired from an Oklahoma resident in violation of any provision of this act or any rule thereunder, or any order of the Administrator of which the person has notice, shall be denied voting rights for one (1) year after acquisition, the shares shall be nontransferable on the books of the target company for one (1) year after acquisition and the target company shall, during this one-year period, have the option to call the shares for redemption either at the price at which the shares were acquired or at book value per share as of the last day of the fiscal quarter ended prior to the date of the call for redemption. Such a redemption shall occur on the date set in the call notice, but not later than sixty (60) days after the call notice is given.

SECTION 919. AMENDATORY 71 O.S. 1991, Section 621, is amended to read as follows:

Section 621. A. It is unlawful for any person to offer or dispose of any interest in subdivided land located in this state or to offer or dispose in this state of any subdivided land located

without this state unless it is registered under this Code or the land or transaction is exempt under Sections 622 or 623 of this Code.

B. It is unlawful for any subdivider or registrant of subdivided lands registered under this Code, or any person in control of, controlled by, or under common control with the subdivider or registrant, or any agent, to offer or dispose of any of the registered subdivided land if the subdivider or registrant is in violation of this Code, or any rule promulgated under this Code, or any order issued under this Code of which he has notice, or if the registration statement relating to the subdivided lands, as of the date of such offer or disposition, is incomplete in any material respect or contains any statement which is false or misleading with respect to any material fact. Any person violating the provisions of this subsection shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 920. AMENDATORY 71 O.S. 1991, Section 626, is amended to read as follows:

Section 626. A. It shall be unlawful for a person to dispose of an interest in subdivided lands, pursuant to a registration under this Code, unless a current public offering statement is delivered to the purchaser at the expense of the subdivider or his agent at least forty-eight (48) hours prior to any sale, contract to sell or option to purchase and unless the purchaser is afforded a reasonable opportunity to examine and is permitted to retain the public offering statement. The subdivider shall obtain and retain a receipt, signed by the purchaser, acknowledging receipt of a copy of the public offering statement prior to the execution by the purchaser of any contract or agreement for the disposition of any lot in a subdivision, which receipt shall be kept in the files of the subdivider and be subject to inspection by the Administrator for a period of three (3) years from the date the receipt is taken.

B. A public offering statement shall disclose fully and accurately all material circumstances or features which affect the subdivided lands or which would be a material consideration in making the purchasing decision. The proposed public offering statement shall be submitted to the Administrator as required by paragraph 20 of Section 625 of this Code and shall be in such form and contain such information as the Administrator by rule requires, including:

1. The name, principal address and telephone number of the subdivider, his offices and agents in this state;

2. A general description of the subdivided lands including a statement of the total number of lots to be offered;

3. A statement as to whether the subdivider holds any option to purchase adjacent properties and, if so, a description of such option and the location and zoning of the adjacent properties;

4. The assistance, if any, that the subdivider, his agents or affiliates will provide to the purchaser in the resale of the property and the extent to which the subdivider, his agents or affiliates will be in competition in the event of resale;

5. The material terms of any encumbrances, easements, liens and restrictions including zoning and other regulations affecting the subdivided lands and each unit or lot, the efforts to remove such liens or encumbrances, the results of the success or failure thereof, and all existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands;

6. The use for which the property is to be offered;

7. Information concerning existing or proposed improvements including, but not limited to, streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal systems and customary utilities and the estimated cost, date of completion and responsibility for construction and maintenance of existing and proposed improvements which are referred to in

connection with the offering or disposition of any lot in subdivided lands;

8. Such financial statements of the subdivider as the Administrator may require;

9. The topographic and climatic characteristics of the subdivided lands and adjacent area;

10. A statement of the existing provisions for access of the subdivision to community fire protection, the location of primary and secondary schools, the proximity to municipalities and the population thereof, the improvements installed or to be installed, including off-site and on-site community and recreational facilities, by whom they were or are to be installed, maintained or paid for, and an estimate of completion thereof; and

11. Such additional information as may be required by the Administrator including any of the information contained in the application for registration.

C. The public offering statement shall not be used for any promotional purpose before registration of the subdivided lands and afterwards it shall be used only in its entirety. It shall be unlawful for any person to advertise or represent that the Administrator has approved or recommended the subdivided lands or a disposition thereof. Any person violating the provisions of this subsection shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. No portion of the public offering statement may be underscored, italicized or printed in larger or heavier or different colored type than the remainder of the statement unless required or approved by the Administrator.

D. The Administrator may require the subdivider or his agent to alter or amend the proposed public offering statement in order to provide full and fair disclosure to prospective purchasers.

SECTION 921. AMENDATORY 71 O.S. 1991, Section 641, is amended to read as follows:

Section 641. A. It is unlawful for any subdivider, agent, or affiliate of either, in connection with the offer or disposition in this state of any subdivided land, directly or indirectly, to:

1. Employ any device, scheme or artifice to defraud;

2. Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

3. Engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

B. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 922. AMENDATORY 71 O.S. 1991, Section 653, is amended to read as follows:

Section 653. A. It is unlawful for any person, in connection with the offer or disposition of subdivided land, to publish, circulate or use any advertising concerning the subdivided land which contains:

1. Any untrue statement, omission or pictorial representation of a material fact which under the circumstances makes the statement, omission or pictorial representation misleading; or

2. Any statement which differs materially from the information contained in a registration application or public offering statement.

B. All advertising except advertising relating to subdivided land or transactions exempt pursuant to Sections 622 and 623 shall be filed with the Administrator not later than ten (10) days prior to its use and shall not be used until a copy thereof has been approved for use by the Administrator, except advertising which the Administrator exempts by rule or order. Any person violating the provisions of this subsection shall be subject to criminal

prosecution as provided in Title 21 of the Oklahoma Statutes. Any advertising filed with the Administrator pursuant to this section shall be accompanied by the filing fee specified in Section 652 of this title.

SECTION 923. AMENDATORY 71 O.S. 1991, Section 654, is amended to read as follows:

Section 654. It is unlawful for any person to make or cause to be made, in any document filed under this Code or in any proceeding under this Code, any false or misleading statement in any material respect or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 924. AMENDATORY 71 O.S. 1991, Section 658, is amended to read as follows:

Section 658. A. ~~Any person who willfully violates any provision of this Code except Section 654 of this title, or any rule under this Code, or any order of which he has notice, or who violates Section 654 of this title, knowing or having reasonable cause to believe that the statement made was false or misleading in any material respect, may be fined not more than Twenty-five Thousand Dollars ($25,000.00) or imprisoned not more than three (3) years, or both.~~

~~B.~~ The Administrator may refer such evidence as is available concerning violations of this Code or any rule or order hereunder to the Attorney General or the district attorney of the appropriate district, who may, with or without any reference, institute the appropriate criminal proceedings. The Attorney General or district attorney may designate and appoint one or more lawyers of the Department of Securities as special assistants as available for the

purpose of assisting in or conducting all criminal prosecutions arising by reason of proceedings under this section.

~~C.~~ B. Nothing in this Code limits the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

SECTION 925. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 704 of Title 71, unless there is created a duplication in numbering, reads as follows:

Any person breaching any provision of this act which is not a crime shall be liable for an administrative violation and subject to a fine of not more than Twenty Five Thousand Dollars ($25,000.00).

SECTION 926. AMENDATORY 71 O.S. 1991, Section 806, is amended to read as follows:

Section 806. It is unlawful for any person to offer or sell any business opportunity, as defined in Section 2 of the Oklahoma Business Opportunity Sales Act, in this state unless the business opportunity is registered under the provisions of the Oklahoma Business Opportunity Sales Act or is exempt under Section 3 of the Oklahoma Business Opportunity Sales Act. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 927. AMENDATORY 71 O.S. 1991, Section 808, as amended by Section 3, Chapter 169, O.S.L. 1992 (71 O.S. Supp. 1994, Section 808), is amended to read as follows:

Section 808. A. It shall be unlawful for any person to offer or sell any business opportunity required to be registered pursuant to the Oklahoma Business Opportunity Sales Act unless a written disclosure document as filed pursuant to Section 807 of this title is delivered to each purchaser at least ten (10) business days prior to the execution by a purchaser of any contract or agreement imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or

sale of the business opportunity. Any person violating the provisions of this subsection shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. The disclosure document shall have a cover sheet which is entitled, in at least ten-point bold type, "DISCLOSURE REQUIRED BY THE STATE OF OKLAHOMA". Under the title shall appear the statement in at least ten-point type that "THE REGISTRATION OF THIS BUSINESS OPPORTUNITY DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE STATE OF OKLAHOMA. THE INFORMATION CONTAINED IN THIS DISCLOSURE DOCUMENT HAS NOT BEEN VERIFIED BY THIS STATE. IF YOU HAVE ANY QUESTIONS OR CONCERNS ABOUT THIS INVESTMENT, SEEK PROFESSIONAL ADVICE BEFORE YOU SIGN A CONTRACT OR MAKE ANY PAYMENT. YOU ARE TO BE PROVIDED TEN (10) BUSINESS DAYS TO REVIEW THIS DOCUMENT BEFORE SIGNING ANY CONTRACT OR AGREEMENT OR MAKING ANY PAYMENT TO THE SELLER OR THE SELLER'S REPRESENTATIVE". The seller's name and principal business address, along with the date of the disclosure document shall also be provided on the cover sheet. No other information shall appear on the cover sheet. The disclosure document shall contain the following information unless the seller uses a disclosure document as provided in Section 807 of this title:

1. The names and residential addresses of those salespersons who will engage in the offer or sale of the business opportunity in this state;

2. The name of the seller; whether the seller is doing business as an individual, partnership or corporation; the names under which the seller has done, is doing or intends to do business; and the name of any parent or affiliated company that will engage in business transactions with purchasers or which will take responsibility for statements made by the seller;

3. The names, addresses and titles of the seller's officers, directors, trustees, general managers, principal executives, agents and any other persons charged with responsibility for the seller's

business activities relating to the sale of the business opportunity;

4. Prior business experience of the seller relating to business opportunities including:

a. the name, address and a description of any business opportunity previously offered by the seller,

b. the length of time the seller has offered each such business opportunity, and

c. the length of time the seller has conducted the business opportunity currently being offered to the purchaser;

5. With respect to persons identified in paragraph 3 of subsection B of this section:

a. a description of the persons' business experience for the ten-year period preceding filing date of the disclosure document. The description of business experience shall list principal occupations and employers, and

b. a listing of the persons' educational and professional backgrounds, including the names of schools attended and degrees received, and any other information that will demonstrate sufficient knowledge and experience to perform the services proposed;

6. Whether the seller or any person identified in paragraph 3 of subsection B of this section:

a. has been convicted of any felony, has pleaded nolo contendere to a felony charge or has been the subject of any criminal, civil or administrative proceedings alleging: The violation of any business opportunity law, securities law, commodities law, franchise law, fraud or deceit, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices,

misappropriation of property or comparable allegations; or

b. has filed in bankruptcy, been adjudged bankrupt, been reorganized due to insolvency, or was an owner, principal officer or general partner of any other person that has so filed or was so adjudged or reorganized during or within seven (7) years of the date of the disclosure document;

7. The name(s) of the person(s) identified in paragraph 6 of subsection B of this section, nature of and parties to the action or proceeding, court or other forum, date of the institution of the action, docket reference to the action, current status of the action or proceeding, terms and conditions or any order or decree, the penalties or damages assessed and terms of settlement;

8. The initial payment required, or when the exact amount cannot be determined, a detailed estimate of the amount of the initial payment to be made to the seller;

9. A detailed description of the actual services the seller agrees to perform for the purchaser;

10. A detailed description of any training the seller agrees to provide for the purchaser;

11. A detailed description of services the seller agrees to perform in connection with the placement of equipment, products or supplies at a location, as well as any agreement necessary in order to locate or operate equipment, products or supplies on a premises neither owned nor leased by the purchaser or seller;

12. A detailed description of any license(s) or permit(s) that will be necessary in order for the purchaser to engage in or operate the business opportunity;

13. Any representations made by the seller to the purchaser concerning sales or earnings that may be made from the business opportunity, including, but not limited to:

a. the bases or assumptions for any actual, average, projected or forecasted sales, profits, income or earnings,

b. the total number of purchasers who, within a period of three (3) years of the date of the disclosure document, purchased a business opportunity involving the product, equipment, supplies or services being offered to the purchaser, and

c. the total number of purchasers who, within three (3) years of the date of the disclosure document, purchased a business opportunity involving the product, equipment, supplies or services being offered to the purchaser who, to the seller's knowledge, have actually received earnings in the amount or range specified;

14. A detailed description of the elements of a guarantee made by a seller to a purchaser. Such description shall include, but shall not be limited to, the duration, terms, scope, conditions and limitations of the guarantee;

15. A statement describing any contractual restrictions, prohibitions or limitations on the purchaser's conduct. The seller shall attach a copy of all business opportunity and other contracts or agreements proposed for use or in use in this state including, without limitation, all lease agreements, option agreements and purchase agreements;

16. The rights and obligations of the seller and the purchaser regarding termination of the business opportunity contract or agreement;

17. A statement accurately describing the grounds upon which the purchaser may initiate legal action to terminate the business opportunity contract or agreement;

18. A copy of the most recent audited financial statements of the seller. If the seller's audited financial statements are dated more than four (4) months prior to the filing of the disclosure document, the seller shall submit unaudited financial statements for the interim period;

19. A list of the states in which the business opportunity is registered;

20. A list of the states in which the disclosure document is on file;

21. A list of the states which have denied, suspended or revoked the registration of the business opportunity;

22. A section entitled "Risk Factors" containing a series of short concise statements summarizing the principal factors which make the business opportunity a high risk or one of a speculative nature. Each statement shall include a cross-reference to the page on which further information regarding that risk factor can be found in the disclosure document; and

23. Any additional information as the Administrator may require by rule or order.

SECTION 928. AMENDATORY 71 O.S. 1991, Section 809, is amended to read as follows:

Section 809. A. It is unlawful for any person to offer or sell any business opportunity, as defined in Section 2 of the Oklahoma Business Opportunity Sales Act, unless the business opportunity contract or agreement is in writing and a copy of the contract or agreement is given to the purchaser at the time the purchaser signs the contract or agreement. Any person violating the provisions of this subsection shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. Contracts or agreements shall set forth in at least ten-point type the following:

1. The terms and conditions of any and all payments due to the seller;

2. The seller's principal business address and the name and address of the seller's agent in this state authorized to receive service of process;

3. The business form of the seller, whether corporate, partnership or otherwise;

4. The delivery date or, when the contract provides for a periodic delivery of items to the purchaser, the approximate delivery date of the product, equipment or supplies the seller is to deliver to the purchaser to enable the purchaser to start his or her business; and

5. Whether the product, equipment or supplies are to be delivered to the purchaser's home or business address or are to be placed or caused to be placed by the seller at locations owned or managed by persons other than the purchaser.

SECTION 929. AMENDATORY 71 O.S. 1991, Section 814, as amended by Section 5, Chapter 169, O.S.L. 1992 (71 O.S. Supp. 1994, Section 814), is amended to read as follows:

Section 814. A. Whenever it appears to the Administrator that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of the Oklahoma Business Opportunity Sales Act or any rule or order hereunder, the Administrator may:

1. Issue an order directing the person to cease and desist from continuing the act or practice and/or issue an order imposing a ~~civil penalty up to a maximum of Five Thousand Dollars ($5,000.00)~~ fine of not more than Ten Thousand Dollars ($10,000.00) for ~~a single~~ an administrative violation ~~or transaction~~ or of ~~Fifty Thousand Dollars ($50,000.00)~~ One Hundred Thousand Dollars ($100,000.00) for multiple ~~violations or transactions in a single~~ breaches which are

the subject of an administrative violation proceeding or a series of related proceedings; or

2. Initially or subsequent to an administrative proceeding pursuant to paragraph 1 of this subsection, bring an action in the district court of Oklahoma County or the district court in any other county where service can be obtained on one or more of the defendants to enjoin the acts or practices and to enforce compliance with the Oklahoma Business Opportunity Sales Act or any rule or order hereunder. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets or the court may order rescission, which shall include restitution plus the legal interest rate, for any sales of business opportunities determined to be unlawful pursuant to the Oklahoma Business Opportunity Sales Act or any rule or order hereunder. The court shall not require the Administrator to post a bond.

B. Except as provided in subsection D of this section or unless the right to notice and hearing is waived by the person against whom the sanction is imposed, the sanctions provided in paragraph 1 of subsection A of this section may be imposed in an administrative proceeding only after notice and hearing as required by Article II of the Administrative Procedures Act, Section ~~309~~ 308a et seq. of Title 75 of the Oklahoma Statutes. If the person to whom notice is addressed does not request a hearing within fifteen (15) days after the receipt of said notice, a permanent order shall be issued.

C. For purposes of determining any sanction to be imposed under subsection A of this section, the Administrator shall consider, among other factors, the frequency and persistence of the conduct constituting a violation of the Oklahoma Business Opportunity Sales Act or a rule or order of the Administrator under the Oklahoma Business Opportunity Sales Act, the number of persons adversely

affected by the conduct, and the resources of the person committing the violation.

D. 1. If the Administrator makes written findings of fact to support the conclusion that the public interest will be harmed by delay in issuing a cease and desist order pursuant to paragraph 1 of subsection A of this section, the Administrator may issue a summary order pending the hearing required by subsection B of this section.

Once the summary order is entered, the Administrator shall promptly notify the person subject to the summary order that:

a. the summary order has been entered and the reason therefor,

b. the person subject to the order, if desiring a hearing, must make written request for such hearing to the Administrator within fifteen (15) days after receipt of the notice, and

c. within fifteen (15) days after receipt of a written request for a hearing from said person or at such earlier time during regular business hours of the Department as mutually agreed upon by the Department and said person, a hearing on the matter shall be commenced to determine whether the summary order should be modified, vacated or become a permanent order as provided in paragraph 1 of subsection A of this section.

2. The summary order shall remain in effect until the conclusion of the hearing on the summary order unless the Administrator or his designated hearing officer extends the summary order pending a final determination. The summary order shall become a permanent order if the person to whom notice is addressed does not request a hearing within fifteen (15) days after the receipt of notice. If a request for hearing on the summary order is timely made and if said hearing is not commenced by the Administrator

within the time limit set forth above, the summary order shall dissolve and a cease and desist order shall not be issued pursuant to paragraph 1 of subsection A of this section except upon reasonable notice and opportunity for a hearing as provided in subsection B of this section.

SECTION 930. AMENDATORY 71 O.S. 1991, Section 819, is amended to read as follows:

Section 819. A. It is unlawful for any person, in connection with the offer or sale of any business opportunity in this state, directly or indirectly:

1. To employ any device, scheme or artifice to defraud;

2. To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

3. To engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

B. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 931. AMENDATORY 71 O.S. 1991, Section 820, is amended to read as follows:

Section 820. It is unlawful for any person to make or cause to be made, in any document filed with the Administrator or in any proceeding pursuant to the Oklahoma Business Opportunity Sales Act any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading. Any person violating the provisions of this section

shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 932. AMENDATORY 71 O.S. 1991, Section 821, is amended to read as follows:

Section 821. Neither the fact that an application for registration has been filed nor the fact that a business opportunity is effectively registered constitutes a finding by the Administrator that any document filed pursuant to the Oklahoma Business Opportunity Sales Act is true, complete and not misleading. Neither any such fact nor the fact that an exemption or exception is available for a business opportunity means that the Administrator has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person or business opportunity. It is unlawful to make, or cause to be made, to any purchaser or prospective purchaser any representation inconsistent with the provisions of this section. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 933. AMENDATORY 71 O.S. 1991, Section 822, is amended to read as follows:

Section 822. It is unlawful for any person, in connection with the offer or sale of any business opportunity in this state, to publish, circulate or use any advertising which contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading. Any person violating the provisions of this section shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 934. AMENDATORY 71 O.S. 1991, Section 823, is amended to read as follows:

Section 823. A. ~~Any person who willfully violates Section 6, subsection A of Section 8, subsection A of Section 9, Sections 11, 19, 21 or 22 of the Oklahoma Business Opportunity Sales Act or who willfully violates any rule under the act or who willfully violates any order of which the person has notice, or who violates Section 20 of the Oklahoma Business Opportunity Sales Act knowing that the statement made was false or misleading in any material respect, shall be guilty of a felony and may upon conviction be fined not more than Ten Thousand Dollars ($10,000.00) or imprisoned not more than ten (10) years or both for each offense. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction for any other offense.~~

~~B.~~ The Administrator may refer such evidence as may be available concerning violations of the Oklahoma Business Opportunity Sales Act or any rule or order hereunder to the Attorney General of the State of Oklahoma or the district attorney for the county where a violation occurred, who may, with or without such a reference, institute the appropriate criminal proceedings under the act. The Attorney General or district attorney may designate and appoint one or more lawyers of the Department as special assistants available for the purpose of assisting in or conducting all criminal prosecutions arising by reason of proceedings under this section.

~~C.~~ B. Nothing in the Oklahoma Business Opportunity Sales Act limits the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

SECTION 935. AMENDATORY 72 O.S. 1991, Section 6, is amended to read as follows:

Section 6. The privileges granted by this act shall not be assignable or transferable to or used by any other person or persons except those persons to whom certificates have been issued as herein provided. Any person who ~~violates~~ breaches any provision of this

act shall be ~~guilty of a misdemeanor and shall, upon conviction, be fined not less than Twenty Dollars ($20.00) nor more than Two Hundred Dollars ($200.00)~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 936. AMENDATORY 72 O.S. 1991, Section 22, is amended to read as follows:

Section 22. All recording of said discharges shall be done by the clerical force in the county clerk's office, without charge and shall also furnish certified copies of said discharges without charge, and any clerk or other person who makes any charge for such service shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 937. AMENDATORY 73 O.S. 1991, Section 83.14, is amended to read as follows:

Section 83.14 A. Any person who ~~violates~~ breaches any of the provisions of Sections 82.1 through 83.12 of ~~Title 73 of the Oklahoma Statutes~~ this title or who ~~violates~~ breaches any order or determination of the Commission promulgated pursuant to Section ~~1~~ 83.13 of this ~~act~~ title shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) and in addition thereto may be enjoined from continuing such ~~violation~~ breach. Each day upon which such ~~violation~~ breach occurs shall constitute a separate ~~violation~~ breach.

B. The Attorney General, on the request of the Commission, shall bring an action against any person violating any of the provisions of Sections 82.1 through 83.12 of ~~Title 73 of the Oklahoma Statutes~~ this title or violating any order or determination of the Board.

SECTION 938. AMENDATORY 73 O.S. 1991, Section 97, is amended to read as follows:

Section 97. Complaints for the ~~violation~~ breach of any of said regulations promulgated by the Director of Public Affairs shall be filed with the municipal court of the City of Oklahoma City, and said court shall exercise jurisdiction over the same. Any person found ~~guilty by said court of violating~~ in breach of any of said regulations shall be ~~punished by~~ liable for a civil infraction and subject to a fine ~~in a sum not exceeding Twenty Dollars ($20.00)~~ of not more than Two Hundred Dollars ($200.00), inclusive of costs. Each violation shall constitute a separate and distinct offense. Appeals may be taken in the same manner as appeals from said court in cases involving violations of city ordinances. In such cases the City of Oklahoma City shall receive One Dollar ($1.00) as costs, and one-half (1/2) of the fine collected. The remaining one-half (1/2) of the fine shall be paid to the State Treasurer and shall be placed in a fund which shall be used by the Office of Public Affairs in the maintenance and upkeep of the capitol grounds.

SECTION 939. AMENDATORY 74 O.S. 1991, Section 85.4, as amended by Section 13, Chapter 327, O.S.L. 1993 (74 O.S. Supp. 1994, Section 85.4), is amended to read as follows:

Section 85.4 A. Except as provided in Section 85.12 of this title, every state agency shall acquire all contractual services, supplies, equipment, or materials used, consumed or spent by such agency in the performance of its official functions by the presentation of requisitions for such services, supplies, materials, or equipment to the Purchasing Division established in Section 85.3 of this title and no such items or service shall be acquired by any state agency for such use or consumption except by the presentation of such requisition and receipt of the items or service requisitioned through the Purchasing Division. The provisions of the Oklahoma Central Purchasing Act shall not preclude the

acceptance of gifts and donations in the manner now authorized by law or the purchase of any equipment, materials, supplies, or services by any state agency acting for itself and without presentation of a requisition when such acquisition is authorized in writing by the State Purchasing Director. Subject to the provisions of this section, every state agency shall have the authority to determine its own quantitative needs for services, supplies, equipment, and materials, insofar as it has such authority under existing law and shall have the authority to determine the general class or nature of supplies, equipment, materials, or services, subject to the provisions of Section 85.5 of this title.

B. The Director of Central Services shall prescribe standardized contract forms and all other forms requisite or deemed necessary by the Director of Central Services to effectuate the provisions of this section and the Oklahoma Central Purchasing Act.

C. 1. Each requisition required by this section for the acquisition of any product shall be accompanied by a statement signed by the chief administrative officer of the state agency or the chief administrative officer of the requisitioning unit of the agency certifying:

a. the product requested is necessary to the agency's responsibilities,

b. the amount of the product requested is not excessive, and

c. the justification for the purchase of such products;

2. Each requisition required by this section for nonprofessional services or professional services whether or not such services are exempt from the competitive bidding requirements shall be accompanied by a statement signed by the chief administrative officer of the state agency or the chief administrative officer of the requisitioning unit of the agency certifying that:

a. no employee of the agency is able and available to perform the services called for by the contract,

b. the agency shall receive, review and accept a detailed work plan from the contractor for performance under the contract if requested by the Department of Central Services,

c. the agency has developed, and fully intends to implement, a written plan providing for the assignment of specific agency personnel to:

(1) a monitoring and auditing function,

(2) the periodic review of interim reports, or other indications of past performance, and

(3) the ultimate utilization of the final product of the services if requested by the Department of Central Services,

d. the work to be performed under the contract is necessary to the agency's responsibilities, and there is statutory authority to enter into the contract,

e. the contract will not establish an employment relationship between the state or the agency and any persons performing under the contract,

f. no current state employee will engage in the performance of the contract, unless specifically approved by the Department of Central Services; and

g. the purchase of such services is justified.

D. Any person certifying the information required by subsection C of this section who knows such information to be false~~, upon conviction,~~ shall be ~~deemed guilty of a misdemeanor and shall be punished by fine or imprisonment or both fine and imprisonment pursuant to the provisions of Section 85.15 of this title~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes and civilly liable for the amount of the contract.

E. The State Purchasing Director may request any additional information necessary to adequately review the requisitions and the statements required pursuant to subsection C of this section and compliance with the Oklahoma Central Purchasing Act.

F. Upon a determination that an item or product or service is not necessary, is excessive or is not justified, the State Purchasing Director shall deny the requisition.

G. 1. No state agency shall enter into a lease-purchase agreement if title is acquired to tangible property of any class or nature by making lease, rental, or any other type payments, except as specifically authorized by law or by a governing board of regents as to institutions within The Oklahoma State System of Higher Education and except insofar as data processing equipment or other equipment is concerned; provided, however, the lease-purchase of data processing or other equipment by any state agency, whether or not such agency is subject to the provisions of the Oklahoma Central Purchasing Act, shall be processed by competitive bids through the Purchasing Division of the Department of Central Services.

2. The Executive Bond Oversight Commission and the Legislative Bond Oversight Commission shall have the authority to determine the most cost-effective method for obtaining financing for lease-purchase agreements, which may be financed by either negotiated sale or competitive bid. If the Executive Bond Oversight Commission and the Legislative Bond Oversight Commission determine that the lease-purchase of personal or real property should be financed through negotiated sale, the financing shall be subject to the provisions of the Oklahoma Bond Oversight and Reform Act, 62 O.S. 1991, Section 695.1 et seq. Unless said Commissions determine that the sale should be executed on a negotiated basis, such financing shall be processed by competitive bids through the Purchasing Division of the Department of Central Services.

3. Regardless of the method of financing, the acquisition price of personal property subject to a lease-purchase agreement shall be processed by competitive bids through the Purchasing Division of the Department of Central Services.

H. No state agency shall enter into a lease-purchase contract between the state agency as lessee and a private party as lessor if the contract is not capable of complete performance within the current fiscal year in which the contract was entered into unless a valid nonappropriation clause is included in the contract. Such contracts shall contain the following or substantially similar language:

Lessee shall have the right to terminate this lease, in whole but not in part, at the end of any fiscal year of lessee, if the Legislature fails to allocate sufficient funds to lessee for the rental payments required under this lease.

I. 1. No change order or addendum can be made to a lease-purchase agreement which extends the term or life of the original bid contract. Any lease-purchase agreement requiring such extensions or refinancing shall be readvertised and processed in accordance with the provisions of this act.

2. All agencies, whether or not such agency is subject to the provisions of the Oklahoma Central Purchasing Act, shall prepare a list of all tangible personal property which it is acquiring by a lease-purchase method and, prior to the renewal of a lease-purchase agreement, shall evaluate the rate being paid under the current lease-purchase agreement against rates currently being received by the Purchasing Division of the Department of Central Services on a competitive bid basis to determine whether or not refinancing of the property will benefit the state. Any agency which elects not to submit a requisition for a possible refinancing when the existing rates are at least one percent (1%) above rates being currently bid, and when the total sum to be paid for the property including

principal and interest will be reduced, must submit a written justification to the Purchasing Director stating the reasons for not attempting to refinance the property. The Purchasing Director shall forward all such justifications to the Chairman of the Senate Appropriations Committee and the Chairman of the House Committee on Appropriations and Budget no later than February 1 of each year.

3. Unless otherwise provided by law, no state agency shall enter into a lease-purchase agreement for real or personal property costing less than Fifty Thousand Dollars ($50,000.00). Institutions within the Higher Education system shall be exempt from this provision.

4. a. Unless otherwise provided by law, the maximum term of a state agency lease-purchase agreement shall be the lesser of the useful life of real or personal property subject to a lease-purchase agreement as determined by the Purchasing Director within the Department of Central Services, or three (3) years for personal property and ten (10) years for real property, respectively. Institutions within the Higher Education system shall be exempt from this provision.

b. The Executive Bond Oversight Commission and the Legislative Bond Oversight Commission shall have the authority to extend the term of a lease-purchase agreement beyond three (3) years for personal property and ten (10) years for real property if the Purchasing Director of the Department of Central Services determines that the useful life of the property exceeds said terms and the Bond Advisor recommends the extension as being in the best interests of the State of Oklahoma.

5. Unless otherwise provided by law, state agency real property acquisitions subject to lease-purchase agreements shall be

explicitly authorized by the Legislature. Acquisitions of real property authorized by the Legislature, unless otherwise exempted by the Legislature, shall be subject to the competitive bid provisions of the Central Purchasing Act. If an agency is authorized to enter into a lease-purchase agreement for real property, the financing of such acquisition, including goods and services deemed desirable for executing a lease-purchase, certificate of participation, or similar agreement or obligation, shall be obtained in accordance with the provisions of this act. The Director of Purchasing within the Department of Central Services shall consult with the Oklahoma State Bond Advisor on the preparation, evaluation, and negotiation of such financing. Legislative authorization shall constitute legal authorization for this state or its agencies to enter into such lease-purchase agreements. Institutions within the Higher Education system shall be exempt from this provision.

J. The Purchasing Division of the Department of Central Services may permit leasing of products by state agencies if such leasing is determined by the Purchasing Division of the Department of Central Services to be in the best interest of the state, provided that such leasing must be processed by competitive bids through the Purchasing Division of the Department of Central Services except as to those acquisitions exempt under Section 85.12 of this title.

K. 1. In no event shall a state agency enter into a lease-purchase agreement unless that agreement contains the following or similar language:

The State of Oklahoma reserves the right to approve any reoffering of this obligation to another investor either through private placement, issuance of certificates of participation, or any other mechanism. Such approval must be obtained in advance, in writing, from the State Bond Advisor prior to any remarketing.

2. In the event that a remarketing of a lease-purchase agreement is proposed that includes the remarketing of securities or obligations to more than a single investor, any disclosure language prepared in connection with such marketing that describes the state's liability under the lease-purchase agreement must be approved in advance, in writing, by the Oklahoma State Bond Advisor.

SECTION 940. AMENDATORY 74 O.S. 1991, Section 85.7, as last amended by Section 2, Chapter 233, O.S.L. 1994 (74 O.S. Supp. 1994, Section 85.7), is amended to read as follows:

Section 85.7 A. No acquisition or contract shall be made without the submission of competitive bids by the State Purchasing Director, except as provided in this section.

1. Any acquisition or contract for an amount of Two Thousand Five Hundred Dollars ($2,500.00) or less shall be exempted from competitive bidding procedures. Separate contracts or acquisitions for the individual components of a total project or service or split purchasing for the purpose of evading the requirement of competitive bidding shall ~~be deemed a felony~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The State Purchasing Director may waive or increase the two-thousand-five-hundred-dollar limit up to, but not to exceed, a contract or purchase price of ten percent (10%) above the open market limit to perfect an otherwise valid acquisition or contract inadvertently exceeding the two-thousand-five-hundred-dollar limit due to administrative error or unforeseeable circumstances. Requests for such waiver or increase shall be promptly submitted upon the discovery of such error or circumstance to the State Purchasing Director in a form prescribed by said Director setting forth the facts. All requests for such waiver or increase in amount, whether granted or denied, shall be reported monthly to the offices of the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives.

2. Contracts for master custodian banks or trust companies, investment managers and investment consultants for state retirement systems, the State Insurance Fund, and the State and Education Employees Group Insurance Board, the pension fund management consultants of the Oklahoma State Pension Commission and actuarial, architectural, engineering, legal or other professional services as such term is defined in Section 803 of Title 18 of the Oklahoma Statutes shall be exempt from competitive bidding procedures. The Department of Central Services shall send a copy of such contracts or a list of such contracts to any member of the House or Senate Appropriations Committee, if requested by such member.

3. Competitive bids shall not be required for any emergency acquisitions or contracts involving Five Thousand Dollars ($5,000.00) or less, when upon written request of the State Purchasing Director specifying the facts and circumstances giving rise thereto, the Governor may certify in writing the existence of an emergency authorizing the acquisition or contract.

4. Competitive bids for services to alleviate a serious environmental emergency shall not be required if, upon the request of the Chairman of the Corporation Commission, the Governor having examined the facts and circumstances of the case, certifies in writing the existence of a serious environmental emergency. A serious environmental emergency for the purpose of this section means a situation within the jurisdiction of the Commission:

a. in which serious damage to the environment will quickly occur if immediate action is not taken, and the damage will be so significant that the urgent need for action outweighs the public policy strongly favoring competitive bids, or

b. a situation in which human life or safety is in imminent danger or significant property interests are threatened with imminent destruction.

5. Purchases or acquisitions for repairs of equipment and machinery in emergencies, or of livestock through a market agency, dealer, commission house or livestock auction market bonded or licensed under federal or state law shall not be subject to the competitive bid requirements of this section or any other provisions of the Oklahoma Central Purchasing Act.

6. Purchases or acquisitions of human organs and internal prostheses for the Oklahoma Medical Center, shall not be subject to the competitive bid requirements of this section or any other provisions of the Oklahoma Central Purchasing Act.

7. Any contract for the restoration of historical sites and museums shall not be subject to the competitive bid requirements of this section or any other provision of the Oklahoma Central Purchasing Act. The procedures will be followed except contractor and bid selection will be the prerogative of the Oklahoma Historical Society Board and selection will be based on contractors' documented qualifications and experience.

8. Purchases of postage by state agencies shall be made in accordance with the provisions of Sections 90.1 through 90.4 of this title.

9. Any sole source contract shall not be subject to competitive bidding procedures. Any agency requesting products or services pursuant to a sole source contract shall comply with Section 89 of this title.

10. Contracts for the design, development, communication or implementation of the state employees flexible benefits plan shall not be subject to the requirements of this section, provided that the Flexible Benefits Advisory Council shall use procedures consistent with the competitive bid requirements of the Oklahoma Central Purchasing Act.

11. a. Any contract for a service for which the Department of Central Services has approved as qualifying for a

fixed and uniform rate shall not be subject to competitive bid procedures.

b. The Department of Central Services shall establish criteria and guidelines for those services which may be qualified for a fixed and uniform rate.

c. The exception to competitive bid procedures authorized by this paragraph shall be limited to contracts for those services furnished to persons directly benefiting from such services and shall not be used by any agency to employ consultants or to purchase products.

d. Any agency desiring to have a service qualified for a fixed and uniform rate shall make a request for such qualification to the Department of Central Services and shall submit any documentation necessary to support such request. The Department of Central Services shall either approve or deny the request. If the Department of Central Services qualifies such services for a fixed and uniform rate, the agency requesting such qualification shall establish a fixed and uniform rate for such service, provided no contracts shall be entered into by the agency until such rate has been approved by the agency in a public hearing. Prior to approval, the proposed rate shall be clearly and separately identified in the agenda of the agency for the hearing and shall be openly and separately discussed during such hearing. In addition, the agency shall notify the Director of the Department of Central Services of its pending consideration of the proposed rate at least thirty (30) days before the agency is to meet on the proposed rate. Along with such notice, the agency shall

deliver to the Department of Central Services a copy of the agenda items concerning the proposed rate with all supporting documentation and materials. The Director of the Department of Central Services shall communicate any observation, reservation, criticism or recommendation to the agency, either in person at the time of the hearing or in writing delivered to the agency before or at the time of the hearing. The Director of the Department of Central Services shall specifically note in such written communications if the Director of the Department of Central Services has determined the rate to be excessive. Any such written communication presented in the absence of the Director of the Department of Central Services shall be presented orally during the public hearing. Whether made in person or in writing any comment made by the Director of the Department of Central Services shall be made a part of the minutes of the hearing in full.

e. Within two (2) weeks after the convening of the Legislature, the administrative officer of each state agency shall furnish to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to any member of the House or Senate, if requested by such member, a complete list of all of the types of services paid for by uniform fixed rates, the amount of the rate last approved by the agency for the service, and the number of contracts then in existence for each type of service. Any rate which has been determined to be excessive by the Director of the Department of Central Services shall be specifically identified in such list.

f. At any time, the Director of the Department of Central Services is authorized to review, suspend, or terminate a contract entered into pursuant to the provisions of this paragraph if the Director of the Department of Central Services determines the contract is not necessary, is excessive, or is not justified.

12. Purchases of or contracts for specifically prescribed nonmedical adaptive technology-related items for individuals with disabilities who are clients of the Department of Rehabilitation Services and which item is prescribed by a physician, rehabilitation engineer, qualified rehabilitation technician or qualified sensory aids specialist shall not be subject to the competitive bid requirements of this section. The Commission for Rehabilitation Services shall develop standards for the acquisition of such nonmedical adaptive technology-related items and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to assure appropriate competition and economical and efficient purchasing and shall be approved by the Director of Central Purchasing.

13. Purchases of or contracts for specifically prescribed nonmedical assistive technology-related items not exceeding Two Thousand Five Hundred Dollars ($2,500.00) for individuals under sixteen (16) years of age who are recipients of Supplemental Security Income and which are prescribed by a physician, qualified sensory aids specialists or qualified special education instructors shall not be subject to the competitive bid requirements. The Department of Human Services shall develop standards for the acquisition of such nonmedical assistive technology-related items and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to assure

appropriate competition and economical and efficient purchasing and shall be approved by the Director of Central Purchasing.

B. Acquisitions or contracts shall be awarded to the lowest and best bidder therefor at a specified time and place, which shall be open to the public, with such preference between bidders offering substantially the same products or services at substantially the same prices, as may be set under the authority of Section 85.5 of this title.

C. Bids for professional service contracts shall be evaluated by the State Purchasing Director and the agency contracting for such service. Both cost and technical expertise shall be considered in determining the lowest and best bid. Further, such agency shall present its evaluation and recommendation to the State Purchasing Director. A documented evaluation report containing the evaluations of the State Purchasing Director and the agency contracting for such service shall be completed prior to the awarding of a professional service contract and such report shall be a matter of public record.

D. When requested by the governing body of a state retirement system, the State Insurance Fund or the State and Education Employees Group Insurance Board which are authorized to hire investment managers, the Department of Central Services shall assist the governing body of a state retirement system, the Fund or the Board in the process of selecting investment managers. When requested by the Flexible Benefits Advisory Council, the Department of Central Services shall assist the Council in the process of selecting contracts for the design, development, communication or implementation of the state employees flexible benefits plan.

SECTION 941. AMENDATORY 74 O.S. 1991, Section 85.13, is amended to read as follows:

Section 85.13 It shall be unlawful for the State Purchasing Director or any buyer or any officer of the Office of Public Affairs, or any member of their immediate family, under the Oklahoma

Central Purchasing Act to accept any gift, donation, or gratuity for himself or any member of his immediate family from any seller or prospective seller of any property covered by the Oklahoma Central Purchasing Act; and it shall further be unlawful for any seller or any prospective seller to give or donate anything of value to the State Purchasing Director or any buyer or officer of the Office of Public Affairs or any buyer under the Oklahoma Central Purchasing Act or any member of the immediate family of the State Purchasing Director or buyer or officer of the Office of Public Affairs.

The ~~violation~~ breach of any provision of this section shall ~~constitute a misdemeanor~~ subject the violator to liability for a civil infraction and a fine of not more than One Thousand Dollars ($1,000.00) and in the event the State Purchasing Director or any buyer or any officer of the Office of Public Affairs is convicted for the violation of this section he shall forfeit his position immediately in addition to the penalty provided in this section.

SECTION 942. AMENDATORY 74 O.S. 1991, Section 85.15, is amended to read as follows:

Section 85.15 All persons, agents, officers and employees of the state included within the provisions of this act are required to conform strictly to the provisions of this act, and any such persons, agents, officers or employees violating ~~any provision~~ the purchasing provisions of this act, shall be ~~deemed guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes unless herein otherwise provided~~, and upon conviction shall be fined not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) or be imprisoned in the county jail not to exceed six (6) months or by both such fine and imprisonment~~.

SECTION 943. AMENDATORY 74 O.S. 1991, Section 85.45h, is amended to read as follows:

Section 85.45h A. It shall be unlawful for a person to:

1. ~~Knowingly and with intent to defraud, fraudulently~~ Fraudulently obtain, retain, ~~attempt to obtain or retain,~~ or aid another in fraudulently obtaining or retaining ~~or attempting to obtain or retain,~~ certification as a minority business enterprise for the purposes of this act.

2. ~~Knowingly and willfully make~~ Make a false statement ~~with the intent to defraud~~, whether by affidavit, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a minority business enterprise.

3. ~~Knowingly and willfully obstruct, impede, or attempt to obstruct~~ Obstruct or impede any state official or employee who is investigating the qualifications of a business entity which has requested certification as a minority business enterprise.

4. ~~Knowingly and willfully with intent to defraud, fraudulently~~ Fraudulently obtain~~, attempt to obtain,~~ or aid another person in fraudulently obtaining ~~or attempting to obtain,~~ public monies to which the person is not entitled under this act.

5. ~~Knowingly and willfully assign~~ Assign any contract awarded pursuant to the Oklahoma Minority Business Enterprise Assistance Act to any other business enterprise without prior written approval of the State Purchasing Director pursuant to Section ~~9~~ 85.45g of this ~~act~~ title. Any violation of this subsection shall subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. Any person ~~convicted of~~ violating any provision of the Oklahoma Minority Business Enterprise Assistance Act shall be ~~guilty of a felony, punishable by imprisonment in the State Penitentiary for not more than five (5) years, or a fine of not more than Ten Thousand Dollars ($10,000.00), or by both such imprisonment and fine~~ punished as provided in various provisions of Title 21.

C. If a contractor, subcontractor, supplier, subsidiary, principal or affiliate thereof, has been found to have violated this act and that violation occurred within three (3) years of another violation of this act, the Office of Public Affairs shall prohibit that contractor, subcontractor, supplier, subsidiary, or affiliate thereof, from entering into a state project or state contract and from further bidding to a state entity, and from being a subcontractor to a contractor for a state entity and from being a supplier to a state entity.

SECTION 944. AMENDATORY 74 O.S. 1991, Section 87.1, is amended to read as follows:

Section 87.1 It shall be unlawful for the superintendent or business manager of any state agency or institution or any person with authority to purchase supplies, materials or equipment for such state agency or institution, or the spouse or child of either of them, to furnish such supplies, materials or equipment, or be interested by stock ownership or other profit sharing arrangements, in any business entity which is engaged in the furnishing of such supplies, materials or equipment to such agency, department or institution of the State of Oklahoma. Any violation of this section shall subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 945. AMENDATORY 74 O.S. 1991, Section 88.2, is amended to read as follows:

Section 88.2 In the event the inventory required by this act reveals that such items deviate substantially from the specifications as ordered, such facts shall be reported by the Chief Administrative Office of the Institution to the Purchasing Director of the State of Oklahoma, and failure to make such report shall ~~constitute a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 946. AMENDATORY 74 O.S. 1991, Section 90.7, is amended to read as follows:

Section 90.7 Any person ~~knowingly and willfully violating~~ breaching this act shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00). This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 947. AMENDATORY 74 O.S. 1991, Section 130.10, is amended to read as follows:

Section 130.10 Any person ~~convicted of violating~~ breaching the provisions of the Oklahoma Alternative Fuels Conversion Act shall be ~~guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by confinement in the county jail not to exceed thirty (30) days, or by both fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.000).

SECTION 948. AMENDATORY 74 O.S. 1991, Section 130.24, is amended to read as follows:

Section 130.24 A. Any person who has been determined by the Alternative Fuels Technician Hearing Board to have violated any provision of the Alternative Fuels Technician Certification Act or any rule or order issued pursuant to the provisions of the Alternative Fuels Technician Certification Act may be liable for ~~a civil penalty~~ an administrative violation and subject to a fine of not more than One Hundred Dollars ($100.00) for each day that said violation occurs. The maximum civil penalty shall not exceed Ten Thousand Dollars ($10,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Board pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Board shall include but not be limited to, consideration of the nature, circumstances, and gravity of the violation and, with

respect to the person found to have committed the violation, the degree of culpability, and any show of good faith in attempting to achieve compliance with the provisions of the Alternative Fuels Technician Certification Act. All monies collected from such civil penalties shall be deposited with the State Treasurer of Oklahoma and placed in the Alternative Fuels Technician Certification Revolving Fund.

C. Any certificate holder may elect to surrender his certificate in lieu of said fine but shall be forever barred from obtaining a reissuance of said certificate.

SECTION 949. AMENDATORY 74 O.S. 1991, Section 150.4, is amended to read as follows:

Section 150.4 The Commission shall have the following powers and duties and responsibilities:

1. To appoint the Director of the Oklahoma State Bureau of Investigation, whose compensation shall be determined by the Legislature.

2. To hear any complaint against the Bureau or any of its employees according to the following procedure:

a. Only those complaints which have been submitted in writing and are signed will be acted upon by the Commission.

b. All hearings on complaints shall be conducted in executive sessions, and shall not be open to the public.

c. The Commission shall have limited access to pertinent investigative files when investigating a complaint. The Director shall provide a procedure whereby the identification of all persons named in any investigative file except the subject of the complaint and the complaining witness shall not be revealed to the members of the Commission. Any consideration of

files shall be in executive session not open to the public. No information or evidence received in connection with the hearings shall be revealed to any person or agency. Any violation hereof shall be grounds for removal from the Commission, and shall ~~constitute a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

3. To make recommendations to the Director of any needed disciplinary action necessary as a result of an investigation conducted upon a complaint received.

4. To establish general procedures with regard to assisting law enforcement officers and district attorneys.

5. To establish a program of training for agents utilizing such courses as the National Police Academy conducted by the Federal Bureau of Investigation.

6. To require the Director to advise the Commission on the progress of pending investigations. All discussions of pending investigations shall be conducted in executive session not open to the public and no minutes of such sessions shall be kept. The Director shall not reveal the identity of any witnesses interviewed or the substance of their statements. No information received by the Commission shall be revealed to any person or agency by any Commission member. Any violation of this paragraph by a Commission member shall be grounds for removal from the Commission and shall ~~constitute a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 950. AMENDATORY 74 O.S. 1991, Section 150.5, as amended by Section 5, Chapter 227, O.S.L. 1994 (74 O.S. Supp. 1994, Section 150.5), is amended to read as follows:

Section 150.5 A. Oklahoma State Bureau of Investigation investigations not covered under Section 150.2 of this title shall be initiated at the request of the following persons:

1. The Governor;

2. The Attorney General;

3. The Council on Judicial Complaints upon a vote by a majority of said Council; or

4. The chairman of any Legislative Investigating Committee which has been granted subpoena powers by resolution, upon authorization by a vote of the majority of said Committee.

Such requests for investigations shall be submitted in writing and shall contain specific allegations of wrongdoing under the laws of the State of Oklahoma.

B. The Governor may initiate special background investigations with the written consent of the person who is the subject of the investigation.

C. The chairman of any Senate committee which is fulfilling the statutory responsibility for approving nominations made by the Governor may, upon a vote by a majority of the committee and with the written consent of the person who is to be the subject of the investigation, initiate a special background investigation of any nominee for the Oklahoma Horse Racing Commission as established by Provision No. 1, State Question No. 553, Initiative Petition No. 315 (3A O.S. Supp. 1982, Section 201). The Bureau shall submit a report to the committee within thirty (30) days of the receipt of the request. Any consideration by the committee of a report from the Bureau shall be for the exclusive use of the committee and shall be considered only in executive session.

D. All records relating to any investigation being conducted by the Bureau shall be confidential and shall not be open to the public or to the Commission except as provided in Section 150.4 of this title; provided, however, officers and agents of the Bureau may

disclose, at the discretion of the Director, such investigative information to officers and agents of federal, state, county, or municipal law enforcement agencies and to district attorneys, in the furtherance of criminal investigations within their respective jurisdictions. Any unauthorized disclosure of any information contained in the confidential files of the Bureau shall ~~be a misdemeanor~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The person or entity authorized to initiate investigations in this section shall receive a report of the results of the requested investigation. The person or entity requesting the investigation may give that information only to the appropriate prosecutorial officer or agency having statutory authority in the matter if that action appears proper from the information contained in the report, and shall not reveal or give such information to any other person or agency. Violation hereof shall be ~~deemed willful neglect of duty and shall be~~ grounds for removal from office.

E. The State Treasurer must initiate a complete background investigation of the positions with the written consent of the persons who are the subject of the investigation pursuant to subsection I of Section 71.1 of Title 62 of the Oklahoma Statutes. The Bureau shall advise the State Treasurer and the Cash Management and Investment Oversight Commission in writing of the results of the investigation.

SECTION 951. AMENDATORY 74 O.S. 1991, Section 150.7f, is amended to read as follows:

Section 150.7f It is unlawful for any insurer or agent authorized by the insurer to act on its behalf to ~~violate~~ breach any provision of Sections ~~1~~ 150.7b through ~~4~~ 150.7e of this ~~act~~ title. Any person ~~convicted of such violation~~ determined to have breached this section shall be ~~guilty of a misdemeanor punishable by the imposition of~~ liable for a civil infraction and subject to a fine of

not more than ~~Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment~~ One Thousand Dollars ($1,000.00). Furthermore, upon such ~~conviction~~ determination, the license and/or authorization to transact insurance business in this state may be revoked by the Insurance Commissioner.

SECTION 952. AMENDATORY 74 O.S. 1991, Section 213, as last amended by Section 4, Chapter 317, O.S.L. 1994 (74 O.S. Supp. 1994, Section 213), is amended to read as follows:

Section 213. A. It shall be the duty of the State Auditor and Inspector to examine and report upon the books and financial accounts of the several public, educational, charitable, penal and reformatory institutions belonging to the state; to prescribe and enforce correct methods of keeping financial accounts of the state institutions and instruct the proper officers thereof in the performance of their duties concerning the same; to examine the books and accounts of all public institutions under the control of the state at least once each year. Any officer of such public, educational, charitable, penal and reformatory institutions who shall refuse or ~~willfully~~ neglect to comply with such direction of the State Auditor and Inspector within a reasonable time shall be ~~guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. If requested in accordance with subsection C of 70 O.S. 3909, the State Auditor and Inspector shall perform a quality control review of the internal audit functions required by each board of regents of institutions of higher education at least once every three (3) years. This review shall be in accordance with the "Quality Assurance Review Manual for Internal Auditing" developed by the Institute of Internal Auditors or any successor organization thereto.

C. No later than July 1, 1997, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall appoint a special joint interim committee, the sole purpose of which shall be to review and evaluate the effectiveness of the quality control reviews specified in subsection B of this section for the fiscal years ending on June 30, 1995, 1996, and 1997. A copy of the final report of the interim committee, including any recommendations for modification of the Oklahoma Statutes, shall be distributed to each member of the Legislature no later than December 1, 1997.

D. The State Auditor and Inspector shall perform a special audit on common school districts and area vocational-technical districts upon receiving a written request to do so by any of the following: the Governor, Attorney General, President Pro Tempore of the Senate or Speaker of the House of Representatives. The State Auditor and Inspector shall perform a special audit on any institution of higher education within The Oklahoma State System of Higher Education whenever the State Auditor and Inspector deems it appropriate or upon receiving a written request to do so by any of the following: the Governor, the Attorney General, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the governing board of the institution of higher education, or the president of the institution of higher education. The special audit shall include, but not necessarily be limited to, a compliance audit. The special audit shall be conducted according to the American Institute of Certified Public Accountants' "Statements on Auditing Standards". Such audits shall be designed to review items for management's compliance with statutes, regulations, policies and internal control procedures or other items applicable to each entity. The costs of any such audit shall be borne by the audited entity and may be defrayed, in whole or in part, by any federal funds available for that purpose.

SECTION 953. AMENDATORY 74 O.S. 1991, Section 215, is amended to read as follows:

Section 215. All officers of the state and counties of the state and all officers and employees of other institutions mentioned in this article, must afford reasonable facilities for the investigation provided for in this article, and all such officers, manager and employees must make written exhibits to the Auditor and Inspector under oath in such form and in such manner as he may prescribe, and each and every person so required who shall refuse and neglect to make such written exhibit, or to make or to give such information as may be required by said State Auditor and Inspector, shall be ~~deemed guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes; and if any person in making such exhibit or giving such information or affording any statement required under this article, on his oath, shall ~~knowingly~~ swear falsely concerning the same, he shall be ~~deemed guilty of perjury and punished accordingly~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The State Auditor and Inspector shall have full power and authority for the various purposes named to examine books, papers, accounts, bills, vouchers and any other documents, or property of any or all of the aforesaid state institutions, all state officers and custodians of any county or state funds, also to examine under oath, county or state officers and custodians of county and state funds aforesaid. The State Auditor and Inspector is empowered to issue subpoenas and administer oath in the performance of his duty, and any persons refusing access to said examiner to any such books or papers, or any officer, clerk, employee, or other persons aforesaid, who shall obstruct access and refuse to search for any required information, or who shall in any manner hinder the examination required by this article of the records, and books of the officers of public institutions or pertaining to the county and

state officers aforesaid, shall be ~~deemed guilty of a misdemeanor and shall be liable on conviction to a fine of not more than One Thousand Dollars ($1,000.00) or imprisonment in the county jail for a period of not more than one (1) year or by both such fine and imprisonment in the discretion of the court~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Auditor shall first give an oral or written notice to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

SECTION 954. AMENDATORY 74 O.S. 1991, Section 227.20, is amended to read as follows:

Section 227.20 All abstractors shall furnish abstracts or copies as desired, to the persons applying therefor, in the order of application, without unnecessary delay, and for reasonable compensation pursuant to the requirements of the Oklahoma Abstractors Law. All persons so engaged, whose business is hereby declared to stand upon a like footing with that of common carriers, who shall refuse so to do, if tender of payment is made to them of the amount due for such abstract or copy, not exceeding the said legal fees, as soon as such amount is ascertained, or of a sum adequate to cover said amount before the ascertainment, ~~upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor~~ shall be liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00) in any court of competent jurisdiction, and shall also be liable in any action for damages, loss or injury which any person may suffer or incur by reason of failure to furnish such abstract or copy pursuant to the provisions of this section. The provisions of this section shall not apply to orders for abstracts on oil, gas, and other minerals.

SECTION 955. AMENDATORY 74 O.S. 1991, Section 316, is amended to read as follows:

Section 316. The State Fire Marshal and the Assistant Fire Marshal shall each have power in any county in the State of Oklahoma to summons and compel the attendance of witnesses before them, or either of them, to testify in relation to any matter which by any of the provisions of this act is a subject of inquiry and investigation and may require the production of any books, papers or documents deemed pertinent thereto by them, or either of them. Said State Fire Marshal, Assistant Fire Marshal are each hereby authorized and empowered to administer oaths or affirmations to any person appearing as witness before them ~~and false swearing~~. Any person who shall swear falsely in any matter or proceedings aforesaid shall ~~be deemed perjury and shall be punished as such~~ subject the violator to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. Any witness who refuses to be sworn or refuses to testify or who disobeys any lawful order of the said State Fire Marshal, Assistant State Fire Marshal, or who fails or refuses, to produce any book, paper or document, touching on any matter under examination, or who is guilty of any contemptuous conduct after being summoned by them or either of them, to appear before them, or either of them, to give testimony in relation to any matter or subject under investigation as aforesaid, shall be ~~deemed guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The State Fire Marshal or Assistant Fire Marshal shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt, and it shall be the duty of the State Fire Marshal, Assistant State Fire Marshal, or either of them to make complaint against said person or persons so refusing to comply with the summons or order of the said State Fire Marshal, Assistant State Marshal, before any justice of the peace, police magistrate, or any court of record in the county in which said investigation is being had, and upon the filing of such

complaint such court shall proceed in the same manner as other criminal cases and upon ~~conviction~~ determination of any such person ~~guilty of violation~~ being in breach of the provisions of this act, ~~shall be fined in a sum of not exceeding Twenty-five Dollars ($25.00) and imprisonment until such fine is paid; provided, however, that any person so convicted shall have the right of appeal~~ such person shall be guilty of an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00). Said State Fire Marshal and his subordinates or either of them shall have the authority at all times of day or night in the performance of the duties imposed by the provisions of this act, to enter upon and examine any building or premises where any fire has occurred and other buildings adjoining or near the same. All investigations held by or under the direction of the said State Fire Marshal, may, in his discretion be private, and persons other than those required to be present by the provisions of this act, may be excluded from the place where such investigation is held and witnesses may be kept separate and apart from each other and not be allowed to communicate with each other until they have been examined.

SECTION 956. AMENDATORY 74 O.S. 1991, Section 317, as amended by Section 10, Chapter 397, O.S.L. 1992 (74 O.S. Supp. 1994, Section 317), is amended to read as follows:

Section 317. The State Fire Marshal, his assistants, the chief of the fire department of all the cities and towns where a fire department is established, the mayor of the cities and towns where no fire department exists, the chief of a fire protection district created pursuant to Sections 901.1 et seq. of Title 19 of the Oklahoma Statutes and the sheriff of all counties, upon the complaint of any person having an interest in any building or property adjacent, and without any complaint, shall have the right at all reasonable hours for the purpose of an examination to enter into and upon all buildings and premises within their jurisdiction.

The State Fire Marshal shall, at least once each year, make a fire inspection of all correctional facilities under the jurisdiction and control of any state agency, county, city or town. Said correctional facilities shall include, but not be limited to, institutions within the Department of Corrections as defined by Section 502 of Title 57 of the Oklahoma Statutes, juvenile institutions under the jurisdiction and control of the Department of Institutions, Social and Rehabilitative Services, as listed in Section 1401 of Title 10 of the Oklahoma Statutes, and jails. The State Fire Marshal shall issue a report containing findings of his inspection as to each facility under the jurisdiction and control of a state agency, to the director of such agency. As to any other correctional facility, the State Fire Marshal shall issue his report to the person immediately responsible for the administration of the facility inspected. Whenever any of said officers shall find any building or other structure which for the want of proper repair, or by reason of age and dilapidated condition, or for any cause is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that a fire would endanger persons and property therein, such officers shall order such building or buildings to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied. If such officer finds in a building or upon any premises any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable conditions of any kind, dangerous to the safety of buildings or property, he shall order such materials removed or conditions remedied. Such order shall be made against the owner, lessee, agent or occupant of such buildings or premises and, thereupon, such order shall be complied with by the owner, lessee, agent or occupant, and within the time fixed in said order. If the owner, lessee, agent or occupant deems himself aggrieved by an order of any of said officers, and desires a hearing, he may complain or

appeal in writing to the State Fire Marshal within ten (10) days from the service of the order, and the State Fire Marshal shall at once investigate said complaint, and he shall fix a time in the county where such property is located, when and where said complaint will be heard by the State Fire Marshal. The State Fire Marshal may affirm, modify, revoke or vacate said order at said hearing, and unless such order is revoked or vacated by the State Fire Marshal, it shall remain in force and be complied with by such owner, lessee, agent or occupant within the time fixed in said order, or within such time as may be fixed by the State Fire Marshal at said hearing. If a person is aggrieved by the final order of the State Fire Marshal as made at the hearing aforesaid, such person may, within ten (10) days thereafter, appeal to the district court of the county in which the property is situated notifying the State Fire Marshal in writing, of such appeal, within three (3) days thereafter, which notice shall be in writing and delivered personally to the State Fire Marshal or by registered mail to the office of the State Fire Marshal at Oklahoma City, Oklahoma. The party so appealing shall, within three (3) days thereafter, file with the clerk of the district court in which such appeal is made, a bond in an amount to be fixed by the court but in no case less than One Hundred Dollars ($100.00), with at least sufficient sureties to be approved by the court, conditioned to pay all costs on the appeal in case the appellant failed to sustain the same or the appeal be dismissed for any cause. The district court shall hear and determine said appeal de novo, in the same manner as other issues of law and fact are heard and tried in such courts, and the State Fire Marshal shall be plaintiff in said action. The district court shall hear and determine the appeal at the next regular term of district court in the county where the said order was issued, and may sustain, modify or annul the order of the State Fire Marshal, and the decision of the district court shall be final. The State Fire Marshal shall

execute the final order of the district court, and if said order is adverse to said appellant, the State Fire Marshal is empowered to cause such building or premises to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied, as the case may be, at the expense of such appellant. If said appellant fails, refuses or neglects to comply with said order, or pay the expense incurred by the State Fire Marshal in executing the same within thirty (30) days thereafter, the said expense shall be certified by the State Fire Marshal to the county assessor of the county in which said property is situated and the said county assessor shall enter said expense on the tax list of said county as a special charge against the real estate on which said building is or was situated, and the same shall be collected as other taxes and, when collected, shall be paid to the county treasurer and credited to the general fund of the county in which the property is located. Any person being the owner, occupant, lessee or agent of buildings or premises, who ~~willfully~~ fails, neglects or refuses to comply with any order of any officer named in this section shall be ~~guilty of a misdemeanor and shall be fined not more than Fifty Dollars ($50.00) nor less than Ten Dollars ($10.00)~~ liable for a civil infraction and subject to a fine of not more than Two Hundred Fifty Dollars ($250.00) for each day's neglect.

SECTION 957. AMENDATORY 74 O.S. 1991, Section 324.11a, as amended by Section 5, Chapter 295, O.S.L. 1993 (74 O.S. Supp. 1994, Section 324.11a), is amended to read as follows:

Section 324.11a A. Any person, partnership, corporation, organization, the state, or city, town, county, or other subdivision of this state, owning a building or structure used as a hospital, church, theater, hotel, motel, apartment house, rooming house, dormitory, rest home, nursing home, day nursery, convalescent home, auditorium, or child care institution, existing or constructed in the State of Oklahoma, shall install in such building or structure a

smoke detector or detectors in accordance with the nationally recognized codes, standards, or practices adopted by the State Fire Marshal Commission to safeguard life and property from the hazards of smoke and fire.

B. For the purpose of this section, the term smoke detector means a device which is:

1. Designed to detect visible or invisible products of combustion;

2. Designed with an alarm audible to the rooms it serves;

3. Powered by either battery, alternating current, or other power source; and

4. Tested and listed for use as a smoke detector by a recognized testing laboratory.

C. Any person, partnership, corporation, state, municipality, county, or other subdivision of this state who is a lessor of a residential rental property shall explain to the lessee or tenant the method of testing the smoke detector to ensure that it is in working order. The responsibility for checking a smoke detector to find out whether such detector is in working order is with the tenant or lessee leasing or renting a one- or two-family dwelling, including an apartment in each apartment house, and not with the person, partnership, corporation, state, municipality, county, or other subdivision of this state who is a lessor of the residential rental property to the lessee or tenant.

D. Any person who violates any provision of subsection A of this section or any person who tampers with, removes, destroys, disconnects or removes power from any installed smoke detector <u>in a building or structure as specified in subsection A</u>, except in the course of inspection, maintenance or replacement of the detector, ~~upon conviction, is guilty of a misdemeanor and may be fined not less than Fifty Dollars ($50.00) nor more than One Hundred Dollars~~

~~($100.00)~~ shall be liable for a civil infraction and a fine of not more than Five Hundred Dollars ($500.00).

E. Nothing in this section shall be construed to allow any political subdivision in this state to enact laws imposing upon owners of any dwelling described in subsection A of this section a greater duty with regard to the installation, testing, repair and replacement of smoke detectors than is required by this section.

F. The State Fire Marshal Commission shall prescribe, adopt, and promulgate the rules necessary to effectuate the provisions of this section which shall include a practical time table for compliance with the provisions of this act.

G. Municipalities may enact ordinances in order to enforce the rules of the State Fire Marshal Commission as provided by this section.

SECTION 958. AMENDATORY 74 O.S. 1991, Section 324.19, is amended to read as follows:

Section 324.19 Any person, firm or corporation who fails to comply with the provisions of Section ~~1~~ 324.18 of this ~~act~~ title shall be liable for an administrative violation and subject to ~~payment of~~ a fine of not more than One Thousand Dollars ($1,000.00) for each day's failure to comply with this act.

SECTION 959. AMENDATORY 74 O.S. 1991, Section 500.55, as amended by Section 1, Chapter 219, O.S.L. 1992 (74 O.S. Supp. 1994, Section 500.55), is amended to read as follows:

Section 500.55 A. No state agency shall move the household goods or manufactured home of any employee except in compliance with the provisions of this act.

B. Any person authorizing a violation of this section shall be ~~guilty of a misdemeanor and upon conviction thereof shall be penalized by a fine not to exceed One Thousand Dollars ($1,000.00) or imprisonment in the county jail for not to exceed ninety (90) days or by both such fine and imprisonment~~ subject to criminal

prosecution as provided in Title 21 of the Oklahoma Statutes and any employment of such person in any position or capacity by the State of Oklahoma shall be terminated immediately upon such ~~conviction whether or not any fine or confinement is imposed by the court~~ a finding.

SECTION 960. AMENDATORY 74 O.S. 1991, Section 841.13B, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-6.4), is amended to read as follows:

Section 840-6.4 A. A pretermination hearing shall be held before the appointing authority or its designee for any permanent classified state employee, as defined in Section 840.3 of this title, before such employee shall be terminated from state service unless the termination is part of a reduction-in-force as provided in Section 841.14 of this title.

B. The procedures for a pretermination hearing shall be:

1. Notice of a pretermination hearing shall be served by actual delivery or by certified or registered mail service at least seven (7) calendar days prior to the scheduled pretermination hearing;

2. Said notice of the pretermination hearing shall state all grounds for termination and shall include a general summary of evidence or physical evidence to support each of the stated grounds for termination;

3. The appointing authority shall file in the employee's official personnel file at least seventy-two (72) hours before each pretermination hearing, a certificate to be included in the record stating what disciplinary actions have been taken to comply with progressive disciplines prior to the pretermination hearing and proposed termination and further certifying that all mandatory progressive discipline actions as required by statute or rule have been taken before pretermination hearing; provided, said certificate shall not be required where grounds for proposed termination are for

commission of a criminal offense and/or acts involving moral turpitude;

4. The employee shall be advised of his or her rights of representation by legal counsel or a representative of choice;

5. Any pretermination hearing shall be recorded in its entirety by an audible electronic tape recording, and a copy of the tape shall be provided to the employee at no cost if the employee appeals to the Oklahoma Merit Protection Commission;

6. The pretermination hearing need not be a full evidentiary hearing. Formal rules of evidence shall not apply. The hearing shall be conducted so as to provide the appointing authority with information from which it may determine whether reasonable grounds exist to believe that the charges against the employee are true, and whether the grounds support the proposed action.

7. Following the pretermination hearing, if recommendation for termination is made, recordings of the pretermination hearing and all evidence in support thereof, shall be reviewed for legal sufficiency by the appointing agency director or his or her designee before termination is final;

8. Following review by said director the appointing authority shall notify the terminated employee of the final decision in the manner aforesaid within ten (10) working days after the pretermination hearing;

9. Such notice shall state all grounds for termination;

10. In any subsequent proceedings before the Oklahoma Merit Protection Commission or district court, no grounds for termination other than those stated in the aforementioned notices shall be considered.

C. Any individual who ~~willfully and knowingly~~ violates these provisions shall be ~~guilty of a misdemeanor~~ <u>liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00)</u> and ~~will~~ <u>may</u> be subject to ~~appropriate~~

~~disciplinary action which may include~~ termination from state service. This section shall be in addition to any appropriate criminal provision in Title 21 of the Oklahoma Statutes.

SECTION 961. AMENDATORY 74 O.S. 1991, Section 841.18, as amended by Section 37, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-1.10), is amended to read as follows:

Section 840-1.10 A. A member of the Oklahoma Merit Protection Commission and the Executive Director shall have power to subpoena witnesses and compel the production of books and papers pertinent to any investigation, dispute resolution or hearing authorized by this act. Members of the Oklahoma Merit Protection Commission, the Executive Director, and their designees shall have the power to administer oaths. Any person who fails to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation, dispute resolution or hearing ~~or who shall knowingly give false testimony therein upon conviction~~ shall be subject to ~~penalties pursuant to Section 40 of this act~~ criminal prosecution as provided in Title 21 of the Oklahoma Statutes. The Commission shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

B. Any state employee subpoenaed by the Executive Director or Commission to appear shall be reimbursed by the employing agency for expenses as provided in the State Travel Reimbursement Act and shall be paid his or her regular salary for each day that the employee is subpoenaed to appear. Said reimbursement and payment shall be in lieu of any witness fees to which the employee might otherwise be entitled by law and a request by a state employee for such fees shall not remove the obligation which the state employee has to honor the subpoena.

SECTION 962. AMENDATORY 74 O.S. 1991, Section 924, is amended to read as follows:

Section 924. ~~Any person who shall knowingly make any false statement, or who shall falsify or permit to be falsified any record necessary for carrying out the intent of this act for the purpose of committing fraud, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding Five Hundred Dollars ($500.00) or by imprisonment for not exceeding one (1) year.~~ Should any error in any records of the Oklahoma Public Employees Retirement System result in any member or beneficiary receiving more or less than he would have been entitled to receive had the records been correct, the Board shall correct such error, and, as far as practicable, make future payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was entitled shall be paid, and to this end may recover any overpayments.

SECTION 963. AMENDATORY 74 O.S. 1991, Section 1812, is amended to read as follows:

Section 1812. The Oklahoma Tourism and Recreation Department shall have the right to post areas where cabins or camping facilities are located within state parks to regulate the use or operation of motor vehicles, including motorcycles, motorbikes or motor scooters, in said area. Any ~~violation~~ breach of such posting shall be ~~punishable as a misdemeanor~~ a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00).

SECTION 964. AMENDATORY 74 O.S. 1991, Section 1846.2, is amended to read as follows:

Section 1846.2 No person shall ~~injure, destroy, mutilate or deface any building, structure, sign, rock, tree, shrub, vine, or property, or~~ dispose of any matter which will likely contaminate any swimming pool or other waters on the state park, or take, kill, injure, pursue, hunt, or molest, any wild game animal or mar, or

rifle~~,~~ the nest of any bird or the den or nest or abode of any wild animal within any of the state parks, recreational grounds or state monuments now created or which may be hereafter acquired or designated. Anyone ~~violating~~ breaching any portion of this section shall be ~~deemed to have committed a misdemeanor and shall be fined in the sum not more than One Hundred Dollars ($100.00) or by imprisonment of thirty (30) days in jail, or both, such fine and imprisonment~~ liable for a civil infraction and subject to a fine of not more than One Hundred Dollars ($100.00). This section shall be in addition to any appropriate punishment as provided in Title 21 of the Oklahoma Statutes.

SECTION 965. AMENDATORY 74 O.S. 1991, Section 1859, is amended to read as follows:

Section 1859. A. No hunting of wild game or the shooting of firearms shall be permitted along the trail, with the exception of those portions of the trail which traverse public hunting areas. Such portions of the trail shall be closed to trail use, as listed in this act, during hunting season.

B. All horseback riding and motorcycling activities shall be restricted to their designated special-use trails. Foot travel on these special-use trails will be permitted; however, the special-use activities have the right-of-way on these trails.

C. Each person is ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00), who shall~~:~~

~~1. Willfully mutilate, deface or destroy any guidepost, notice, tablet or other work for the protection or ornamentation of any state trail;~~

~~2. Place~~ place along any trail or affix to any object in the right-of-way, without a written license from the Commission, any word, character or device designed to advertise any business, trade, profession, article, thing, matter or event~~; or~~

~~3. Willfully cause any damage to lands within or adjacent to the state trails system~~.

SECTION 966. AMENDATORY 75 O.S. 1991, Section 19, is amended to read as follows:

Section 19. Any person holding office in this state, or in any county or township thereof, upon relinquishing office to his successor, who fails or refuses to deliver to his successor in office all the volumes of laws that have come into his possession by virtue of holding such office shall be liable~~, upon conviction,~~ for a civil infraction and subject to a fine of ~~Fifty Dollars ($50.00), or to imprisonment in the county jail not exceeding twenty (20) days~~ not more than One Thousand Dollars ($1,000.00). The person succeeding to the office of such delinquent shall file a complaint against him. If the person so failing or refusing to deliver said volumes of laws can show to the satisfaction of the judge that said volumes have been destroyed or stolen in a manner for which the said delinquent person should not be held responsible, then no penalty shall be imposed.

SECTION 967. AMENDATORY 76 O.S. 1991, Section 17, is amended to read as follows:

Section 17. Whenever a claim of personal injury is made against any practitioner of the healing arts or a licensed hospital, a report shall be made to the appropriate licensing board or agency by the liability insurer of such practitioner or hospital within sixty (60) days after receipt of information that a claim is being made. In the event that such claim is made against a party not insured, the report shall be made by the party. The report shall be in writing on a form containing the following information:

1. The name and address of the practitioner or hospital;

2. The name, age and address of the claimant;

3. A brief statement of the nature of the injury, illness or condition complained of and the act or omission complained of; and

4. Whether a suit is pending and, if so, the court, style and docket number of the action.

And whenever such claim or suit is concluded, the disposition shall be reported to the appropriate board or agency promptly.

This report shall be privileged except as hereinafter provided.

The licensing board or agency shall take any remedial, disciplinary or corrective action as it may deem warranted by the facts contained in the report.

Any person or liability insurer failing to furnish a report on a claim as required in this section shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

Further, the board or agency shall annually furnish the President Pro Tempore of the Senate and the Speaker of the House of Representatives a full report of all such claims except that names and addresses of all parties shall be omitted. Such report shall include disposition of the claim as well as a report of all action taken by the board or agency and the reason therefor.

SECTION 968. AMENDATORY 76 O.S. 1991, Section 20, is amended to read as follows:

Section 20. Any person refusing to furnish records or information required in Section ~~3~~ 19 of this ~~act~~ title shall be ~~guilty of a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 969. AMENDATORY 76 O.S. 1991, Section 23, is amended to read as follows:

Section 23. A. As used in this section:

1. "Utility" means any person, firm, corporation, district or association, whether private, municipal, body politic or cooperative, which is engaged in the sale, generation, distribution or delivery of electricity, water or gas;

2. "Person" means any individual, firm, partnership, corporation or association; and

3. "Utility service" means the furnishing, sale, generation, distribution or delivery of electricity, water or gas by a utility as defined herein.

B. It shall be unlawful for any person, with intent to defraud a utility, to:

1. Alter, tamper with, injure or knowingly allow the altering, tampering with or injuring of any pipeline, line, wire, conduit, conductor, meter, meter seal, transformer or other equipment used by a utility to deliver or register service;

2. Prevent any installed metering device from registering correctly the quantity of service passing through such metering device;

3. Make or cause to be made any connection between any pipeline, lines, wires, conduits, conductors, meters, transformers or other equipment in such manner as to prevent the correct registration of service by any metering device, or to otherwise use electricity without the consent of the utility; or

4. Supply or cause to be supplied any utility service to any person without such service first passing through the metering device provided by the utility for measuring and registering the quantity of service.

C. Any person ~~who is convicted of~~ violating the provisions of ~~subsection B of~~ this section shall be ~~guilty of a misdemeanor punishable by payment of a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for a period not to exceed six (6) months, or by such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

D. If a civil action is brought by a utility against a person, said person may post a bond, cash or other security with the utility

in an amount equal to the value of the service alleged to be unlawfully used or diverted. Upon posting of said bond or cash, and until final disposition of the case, the utility shall restore to said person any service which it may have terminated.

E. Nothing in this section shall be construed to apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards.

F. This section shall not be construed as repealing any laws of the state relating to the powers, duties or jurisdiction of the Oklahoma Corporation Commission, but shall be held as auxiliary and supplementary thereto.

SECTION 970. AMENDATORY 78 O.S. 1991, Section 75, is amended to read as follows:

Section 75. Any merchant who ~~knowingly and willfully~~ tags or labels any article as being an American Indian art or craft when it does not meet the specifications of this act shall be ~~guilty of violating the provisions of the American Indian Arts and Crafts Sales Act and shall be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00), or by imprisonment for not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 971. AMENDATORY 78 O.S. 1991, Section 84, is amended to read as follows:

Section 84. Any person ~~violating~~ breaching the provisions of ~~this section~~ Section 82, 83 or 83.1 shall be ~~guilty of a misdemeanor and upon conviction thereof shall be punished as and for a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 972. AMENDATORY 79 O.S. 1991, Section 7, is amended to read as follows:

Section 7. Any person, firm, corporation or association ~~guilty of a violation of~~ breaching this act shall be ~~deemed guilty of a misdemeanor and upon conviction shall be fined not less than Fifty Dollars ($50.00), nor~~ liable for a civil infraction and subject to a fine of not more than ~~Five Hundred Dollars ($500.00),~~ One Thousand Dollars ($1,000.00) for each offense and shall likewise be held civilly liable to pay all damages and costs incurred by a competitor who has sustained a loss or detriment by reason of the ~~violation~~ breach of this act.

SECTION 973. AMENDATORY 79 O.S. 1991, Section 81, is amended to read as follows:

Section 81. Any person, firm or corporation, foreign or domestic, doing business in the State of Oklahoma, and engaged in the production, manufacture or distribution of any commodity in general, ~~that intentionally,~~ for the purpose of destroying the competition of any regular, established dealer in such commodity, or to prevent the competition of any person who, in good faith, intends and attempts to become such dealer, shall discriminate between different sections, communities or cities of this state by selling such commodity at a lower rate in one section, community or city, or any portion thereof, than such person, firm or corporation, foreign or domestic, charges for such commodity in another section, community or city, or that shall discriminate between different sections, communities or cities of this state by selling such commodity at a lower rate in one section, community or city, or any portion thereof, than such person, firm or corporation, foreign or domestic, charges for such commodity in another section, community or city after equalizing the distance from the point of production, manufacture or distribution and freight rates therefrom, shall be ~~deemed guilty of unfair discrimination, which is hereby declared to be a misdemeanor~~ liable for a civil infraction and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 974. AMENDATORY 80 O.S. 1991, Section 43, is amended to read as follows:

Section 43. Any person, firm, corporation, partnership or association who ~~violates~~ breaches the provisions of this act shall be ~~deemed guilty of misdemeanor, and upon conviction therefor, shall be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00) or by imprisonment in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 975. AMENDATORY 82 O.S. 1991, Section 105.20, is amended to read as follows:

Section 105.20 The ~~unauthorized use of water, the~~ unauthorized transfer of a water right, the continued use of works which are unsafe after receiving notice to repair, the waste of water, the unauthorized severance of a water right from the land to which it is appurtenant, the refusal to change unsafe works when directed to do so, or the ~~injury or~~ obstruction of waterworks shall be ~~a misdemeanor~~ an administrative violation. Any person so breaching the provisions of this section shall be subject to a fine of not more than One Thousand Dollars ($1,000.00) and each day such ~~violation~~ breach continues shall be a separate ~~violation~~ breach. In addition to ~~filing criminal complaints and~~ any other remedies provided herein, the Board shall have the right to bring an action in the district court of the county wherein such act or omission occurs to enjoin the same. The Board and its authorized agents shall have a reasonable right to go upon private property in the performance of their duties hereunder ~~and shall have the duty to file complaints of violations of the penal provisions of this section~~. This section shall be in addition to any appropriate provisions in Title 21 of the Oklahoma Statutes.

SECTION 976. AMENDATORY 82 O.S. 1991, Section 277.21, as amended by Section 21, Chapter 69, O.S.L. 1992 (82 O.S. Supp. 1994, Section 277.21), is amended to read as follows:

Section 277.21 A. Except for contracts of employment, directors and employees shall not be interested, directly or indirectly, in any contract entered into by the district unless the district court of the county wherein the principal office of the district is located considers the contract, the interest of such persons therein and approves the execution thereof.

B. Directors and employees shall not:

1. Directly or indirectly accept or request any compensation, gift, loan, entertainment, favor, or service given for the purpose of influencing such director and employee in the discharge of his official duties;

2. Directly or indirectly spend district funds or permit any property of the district to be used for political campaigns;

3. Engage in political campaigns in the name of the district;

4. Disclose confidential information acquired by reason of their official positions to any person, group, or others not entitled to receive such confidential information; or

5. Use confidential information acquired by reason of their official position for their personal gain or benefit.

C. A director shall immediately forfeit his office in the event he sues the district for any action, directly or indirectly, related to the operation of the district.

D. The failure of a director or employee to comply with these prohibitions shall constitute a willful neglect of duty and shall be grounds for removal from office.

E. Every person who ~~knowingly and willfully~~ violates this section shall~~, upon conviction, be guilty of a misdemeanor, and shall be punished by the imposition of a fine of not more than One Thousand Dollars ($1,000.00), or by confinement in the county jail~~

~~for not more than six (6) months, or by both such fine and imprisonment~~ be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 977. AMENDATORY 82 O.S. 1991, Section 572, is amended to read as follows:

Section 572. Where necessary in order to secure the best results from the execution and operation of the plans of the district, or to prevent damage to the district by the deterioration or misuse, or by the pollution of the waters, of any water course therein, the board of directors may make regulations for and may prescribe the manner of building bridges, roads, or fences or other works in, into, along or OPross any channel, reservoir, or other construction; and may prescribe the manner in which ditches or other works shall be adjusted to or connected with the works of the district or any watercourse therein.

The construction of any works in a manner harmful to the district or to any water course therein, and in a manner contrary to that specified by the directors, shall be ~~a misdemeanor, and upon conviction shall be punishable by~~ an administrative violation. Any person so breaching the provisions of this section shall be subject to a fine of not more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00). The directors shall have authority to enforce by mandamus or otherwise all necessary regulations made by them and authorized by this act, and may remove any harmful construction or may close any opening improperly made. Any person, corporation or municipality willfully failing to comply with such regulations shall be liable for all damages caused by such failure and for the cost of renewing any construction damaged or destroyed.

SECTION 978. AMENDATORY 82 O.S. 1991, Section 1020.22, as amended by Section 323, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1994, Section 1020.22), is amended to read as follows:

Section 1020.22 A. Except as otherwise provided by subsection B of this section, any person who, after notice from the Board, ~~violates~~ breaches or refuses or neglects to comply with any provision of Sections 1020.1 through 1020.21 of this title or of any rule or regulation promulgated by the Board pursuant thereto, or who commits waste as defined in Section 1020.15 of this title shall be ~~guilty of a misdemeanor, and upon conviction shall be fined not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Fifty Dollars ($250.00)~~ liable for an administrative violation and subject to a fine of not more than Five Hundred Dollars ($500.00) for each offense. Any person who, after notice that he is in ~~violation~~ breach thereof continues to ~~violate~~ breach any provision of Sections 1020.1 through 1020.21 of this title, and fails to comply therewith within a reasonable length of time, is ~~guilty of a separate offense for each day the violation continues~~ liable for contempt and shall be prosecuted as provided for in Title 21 of the Oklahoma Statutes. The Board shall first give an oral or written warning to such person that if he fails to comply with the request or order, the matter shall be referred for prosecution as contempt.

B. Any person causing pollution of the groundwater or placing or causing to be placed waste in a location where they are likely to cause pollution of the groundwater shall be subject to the Oklahoma Environmental Quality Code.

SECTION 979. AMENDATORY 82 O.S. 1991, Section 1085.9, is amended to read as follows:

Section 1085.9 If any employee of the Oklahoma Water Resources Board shall fail to make his quarterly report to the Auditor of Oklahoma as provided herein, or shall ~~wilfully~~ make any false entry or statement therein, or shall fail to report all fees collected by the Oklahoma Water Resources Board or its clerks, or shall fail or refuse to pay into the State Treasury all monies received by the Oklahoma Water Resources Board or its clerks, as fees during each

quarter, shall be ~~guilty of a misdemeanor, and shall upon conviction be fined not less than One Thousand Dollars ($1,000.00) nor~~ liable for a civil infraction and subject to a fine of not more than Ten Thousand Dollars ($10,000.00).

SECTION 980. AMENDATORY 82 O.S. 1991, Section 1087.20, is amended to read as follows:

Section 1087.20 ~~Any~~ Except as otherwise provided in Title 21 of the Oklahoma Statutes, any person ~~violating~~ breaching any of the provisions of this act or any lawful regulation or order issued pursuant thereto shall be ~~guilty of a misdemeanor and a continuing violation punishable as a separate offense for each day during which it occurs, and upon conviction shall be imprisoned in the county jail for not more than ten (10) days or by~~ liable for an administrative violation and the violator shall be subject to a fine of not ~~less than One Hundred Dollars ($100.00) nor~~ more than One Thousand Dollars ($1,000.00)~~, or by both, for each such separate offense~~. Each day shall constitute a separate breach.

SECTION 981. AMENDATORY 82 O.S. 1991, Section 1281, is amended to read as follows:

Section 1281. Except for contracts of employment, directors and employees shall not have a financial interest, directly or indirectly, in any contract entered into by the district. Directors and employees shall not receive any bonus, gratuity or bribe. They shall not spend funds of the district, directly or indirectly, for political purposes or political educational purposes, shall not engage in political campaigns in the name of the district, and shall not permit any property of the district to be used for any such purpose. Any violation of this section shall ~~be deemed a felony~~, ~~shall~~ work a forfeiture of office or employment and shall be ~~punishable by a fine not exceeding Five Hundred Dollars ($500.00), or by imprisonment in the penitentiary not exceeding five (5) years,~~

~~or both~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 982. AMENDATORY 82 O.S. 1991, Section 1455, is amended to read as follows:

Section 1455. A. It is recognized by the Legislature that littering by people using the "scenic river areas" is one of the most immediate threats to the scenic beauty of our free-flowing streams and surrounding areas.

B. Any law enforcement, police or peace officer, game wardens or any other personnel of the Wildlife Conservation Commission, the personnel of the Tourism and Recreation Department, any landowner in the area, or any other interested party may file a complaint to enforce the provisions of this act.

~~C. Any person who deliberately places, throws, drops, deposits or discards any garbage, trash, waste, rubbish, refuse, debris or other deleterious substance on or near a scenic river area shall be subject to the provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes.~~

SECTION 983. AMENDATORY 82 O.S. 1991, Section 1467, is amended to read as follows:

Section 1467. Any person who ~~willfully violates~~ breaches any rule, regulation or order issued under this act, except such rules, regulations or orders as relate solely to procedural matters, shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than Five Hundred Dollars ($500.00).

SECTION 984. AMENDATORY 82 O.S. 1991, Section 1470, as amended by Section 1, Chapter 61, O.S.L. 1993 (82 O.S. Supp. 1994, Section 1470), is amended to read as follows:

Section 1470. A. The Scenic Rivers Commission for the Flint Creek, Illinois River and those portions of Barren Fork Creek within Cherokee County is authorized and directed to charge an annual use

fee of Five Dollars ($5.00) per commercially owned and operated flotation device. The operation of a commercial flotation device without displaying a proper Oklahoma Scenic Rivers Commission license is an administrative violation subject to a fine of not ~~to exceed~~ more than One Hundred Dollars ($100.00). Said penalty will be assessed upon the owner or operator of the commercial flotation device business and not upon the individual renting the commercial flotation device.

B. In addition to the annual use fee imposed on a commercially owned and operated flotation device, there shall be imposed a user fee of One Dollar ($1.00) per trip per flotation device to be paid by the individual renting the commercial flotation device. Said fee shall be paid into the Scenic Rivers Commission Revolving Fund. This per-trip user fee shall also be levied on privately owned canoes except as stated by subsection E of this section. If a commercial operator fails to remit such user fees on schedule as required by the Scenic Rivers Commission, such operator shall be assessed an additional fee of One Hundred Dollars ($100.00) per week for each week he remains in arrearage.

C. The Scenic Rivers Commission for the Flint Creek, Illinois River and those portions of Barren Fork Creek within Cherokee County Scenic River Areas shall promulgate rules and regulations for the collection and administration of the fees imposed pursuant to the provisions of this section in accordance with the Administrative Procedures Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes.

D. The Oklahoma Tax Commission shall conduct an annual on-the-scene audit of all commercial flotation device businesses to determine if all fees required are being properly collected and reported. Such audit shall be conducted at least once each three (3) years.

E. Property owners adjacent to the rivers under the operating area of the Scenic Rivers Commission may own and operate one canoe for their individual use without paying the use fee. The Commission may contract with the Oklahoma Tourism and Recreation Department or the sheriff's office of Cherokee County, Adair County, or Delaware County for the ranger personnel necessary to secure said scenic river area.

F. The Administrator of the Scenic Rivers Commission is hereby authorized to be commissioned as a state park ranger after completion of all required training for the purpose of supervision of park rangers employed by the Commission and such administrator may be utilized for any law enforcement purpose as may be necessary.

G. For the purposes of this section, the term commercial flotation device shall mean a canoe, boat, raft, inner tube or other similar device suitable for the transportation of a person or persons on waterways which is available for hire by the public for use on waterways within the operating area of the Oklahoma Scenic Rivers Commission.

SECTION 985. AMENDATORY 82 O.S. 1991, Section 1617, is amended to read as follows:

Section 1617. No new structure, fill, excavation or other floodplain use that is unreasonably hazardous to the public or that unduly restricts the capacity of the floodway to carry and discharge the regional flood shall be permitted without securing written authorization from the floodplain board in which the floodplain is located. Any person ~~violating~~ breaching the provisions of this section shall be ~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 986. AMENDATORY 85 O.S. 1991, Section 3.4, as amended by Section 3, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1994, Section 3.4), is amended to read as follows:

Section 3.4 A. All claims for any compensation or benefits under the Workers' Compensation Act shall be commenced with the filing of a notice of injury with the Administrator. All claims filed for workers' compensation benefits shall contain a statement that all matters stated therein are true and accurate, and shall be signed by the claimant and his agent, if any. Any person who signs this statement or causes another to sign this statement knowing the statement to be false shall be ~~guilty of perjury~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. An individual who signs on behalf of a claimant may be presumed to have the authorization of the claimant and to be acting at his direction. All answers and defenses to claims or other documents filed on behalf of a respondent or the respondent's insurer in a workers' compensation case shall contain a statement that all matters stated therein are true and accurate, and shall be signed by the respondent, the insurer, or their respective agents, if any. Any person who signs such a statement or causes another to sign such a statement, knowing the statement to be false, shall be ~~guilty of perjury~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. ~~An individual who signs on behalf of a respondent, its insurer, or its agent may be presumed to have the authorization of the respondent, its insurer and agent to be acting at their direction.~~ All matters pertaining to such claims shall be presented to the Administrator until such time as the Administrator is notified in writing by a party that there is a controverted issue that cannot be resolved by the parties or that the parties have received an agreed final order from the Court. The Administrator shall, within seven (7) days of the receipt of such notification, set the matter for hearing at the earliest available time to be heard by the Court in the appropriate judicial district as provided in Section 3.5 of this title. The Administrator shall assign a member of the Court to hear a docket in each judicial district of

the state at least once each calendar month when there has been a request for a hearing in the judicial district. The Administrator shall assign Judges to the state judicial districts on a rotating basis for the purpose of holding prehearing conferences and hearing cases. At the request of either party, a prehearing conference shall be held before the member of the Court assigned to the case within forty-five (45) days of the filing of a claimant's request for a hearing. The purpose of the prehearing conference shall be to mediate and encourage settlement of the case or determine issues in dispute. The Court shall be vested with jurisdiction over all claims filed pursuant to the Workers' Compensation Act. The Court shall determine the lawfulness of any claim for compensation under the Workers' Compensation Act based on the weight of evidence; provided, however, any claim, and subsequent disability, that has as its source a physical condition resulting from incremental damage or injury or a gradual deterioration of physical health, which is caused by a condition arising out of and in the course of employment, must be proven by a preponderance of the evidence presented to the Court.

B. All claims so filed shall be heard by the Judge sitting without a jury. All petitions for final orders or awards filed pursuant to the provisions of Section 84 of this title must be approved by the Court having jurisdiction before a final order or award may be entered. All matters relating to a claim for benefits under the Workers' Compensation Act shall be filed with the Administrator.

SECTION 987. AMENDATORY 85 O.S. 1991, Section 3.8, as amended by Section 5, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1994, Section 3.8), is amended to read as follows:

Section 3.8 A. No employee of the Administrator shall be competent to testify on any matter before a court concerning any

information he has received through the performance of his duties under the provisions of the Workers' Compensation Act.

B. The Administrator and his employees shall not solicit employment for any attorney or physician nor shall they recommend or refer any claimant or employer to an attorney or physician. ~~If the Administrator or any of his employees makes such a solicitation, recommendation or reference, that person, upon conviction, shall be guilty of a misdemeanor punishable, for each offense, by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment not to exceed one (1) year, or by both such fine and imprisonment.~~ The Administrator shall immediately terminate the employment of any such employee who is guilty of such solicitation, recommendation or reference. An Administrator guilty of such solicitation, recommendation or reference shall be subject to removal from office. <u>This section shall be in addition to any appropriate criminal provisions in Title 21 of the Oklahoma Statutes.</u>

C. No judge of the Workers' Compensation Court shall engage in any ex parte communication with any party to an action pending before the Court or with any medical provider regarding the merits of a specific matter pending before the judge for resolution. Any violation of this provision shall subject the judge to disqualification from the action or matter upon presentation of an application for disqualification.

SECTION 988. AMENDATORY 85 O.S. 1991, Section 46, is amended to read as follows:

Section 46. No agreement by any employee to pay any portion of the premium paid by his employer to the cost of mutual insurance or other insurance, maintained for or carried for the purpose of providing compensation as herein required, shall be valid, and any employer who makes a deduction for such purpose from the wages or salary or any employee entitled to the benefits of this act shall be

~~guilty of a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 989. AMENDATORY 85 O.S. 1991, Section 63.3, is amended to read as follows:

Section 63.3 ~~A.~~ Any employer who ~~willfully~~ fails to provide compensation required by Section 61 of ~~Title 85 of the Oklahoma Statutes~~ this title shall be ~~charged with a misdemeanor~~ liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) ~~or imprisonment in the county jail for not more than six (6) months, or both such fine and imprisonment~~.

~~B. Evidence of two prior penalties assessed by the Department of Labor pursuant to Sections 20 and 21 of this act in any given three-year period shall constitute a prima facie case of a willful violation.~~

SECTION 990. AMENDATORY 85 O.S. 1991, Section 92, is amended to read as follows:

Section 92. It shall be unlawful and ~~a misdemeanor~~ an administrative violation subject to a fine of not more than One Thousand Dollars ($1,000.00) for any person acting as an attorney, adjustor, or representative in any capacity for a respondent or insurance carrier in any workers' compensation case before the Court to thereafter represent the claimant in any such case in any action or proceeding for compensation of such claimant against or from the Special Indemnity Fund.

SECTION 991. AMENDATORY 85 O.S. 1991, Section 145, is amended to read as follows:

Section 145. Every person, firm or corporation who has insured in "The State Insurance Fund" shall keep, a true and accurate record of the number of employees and the wages paid by him, and shall furnish upon demand and sworn statement of the same. Such record shall be open to inspection at any time, and as often as may be

necessary to verify the number of employees and the amount of the pay roll. Any person, firm or corporation who shall fail to keep such record ~~or who shall willfully falsify any such record, shall be guilty of a misdemeanor~~, shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 992. AMENDATORY 85 O.S. 1991, Section 146, is amended to read as follows:

Section 146. Any person who ~~willfully~~ knowingly misrepresents any fact in order to obtain insurance in "The State Insurance Fund" at less than the proper rate for such insurance, or in order to obtain payment out of such fund shall be ~~guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

SECTION 993. AMENDATORY 85 O.S. 1991, Section 147, is amended to read as follows:

Section 147. A. Information acquired by the Commissioner or the officers or employees of the State Insurance Fund, from persons, firms or corporations insured in said State Insurance Fund, or from employees of such persons, firms or corporations pursuant to this article shall not be open to public inspection, and any officer or employee of the State of Oklahoma, who without authority of the Commissioner, or pursuant to the rules prescribed by the State Insurance Fund Commissioner, or as otherwise required by law, shall disclose the same, shall be ~~guilty of a misdemeanor~~ subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes.

B. For the purpose of implementing Section ~~2~~ 142A of this ~~act~~ title, the State Insurance Fund Commissioner shall provide to the Commissioner of Labor annually, upon request, a listing of the insureds of the State Insurance Fund with the name, address and nature of business or occupation of the insured.

SECTION 994. REPEALER 2 O.S. 1991, Sections 2-18, 5-61L, 6-125, 6-126, 6-142, 6-151, 6-155, 6-156, 6-191, 6-206, 6-259, 6-260, 6-262, 6-263, 6-280.10, 9-35, 9-36, 9-37, 9-47.1, 11-8, 247, 248, 745, 746, 794, 1301-205, 1301-211, 1301-213, 1301-214, 1301-309 and 1301-310, 3 O.S. 1991, Sections 301, 307 and 321, 3A O.S. 1991, Sections 208.4, as amended by Section 2, Chapter 254, O.S.L. 1993 (3A O.S. Supp. 1994, Section 208.4), 208.6, 208,7, 208.8, 208.9 and 208.10, 4 O.S. 1991, Sections 85.11, 268, as amended by Section 4, Chapter 36, O.S.L. 1993 (4 O.S. Supp. 1994, Section 268) and 269, 6 O.S. 1991, Sections 1412 and 1413, 8 O.S. 1991, Section 1a, 10 O.S. 1991, Sections 37, 1122, 1144 and 1149, 11 O.S. 1991, Sections 8-113, 22-123 and 37-114, 12 O.S. 1991, Sections 414 and 923, 13 O.S. 1991, Sections 176.1, 176.2, 176.3, 176.4, 176.5, 176.6, 176,7, 176.8, 176.9, 176.10, 176.11, 176.12, 176.13, 176.14, 177.1, 177.2, 177.3, 177.4 and 177.5, 15 O.S. 1991, Sections 564, 565, 566 and 567, 17 O.S. 1991, Sections 179 and 180, 18 O.S. 1991, Sections 552.18, 553.1, 553.2 and 553.3, 19 O.S. 1991, Sections 28, 91, 112, 448, 641 and 1610, 22 O.S. 1991, Sections 31, 32, 33, 94, 101, 102, 103, 104, 105, 106, 107, 261, 1110, 1135, 1136, 1141.11, 1239, 1240, 1262, 1263, 1264, 1401, 1402, as amended by Section 2, Chapter 156, O.S.L. 1993 (22 O.S. Supp. 1994, Section 1402), 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418 and 1419, 24 O.S. 1991, Section 14, 26 O.S. 1991, Sections 9-118, 16-101, 16-102, 16-103, 16-103.1, as amended by Section 24, Chapter 260, O.S.L. 1994 (26 O.S. Supp. 1994, Section 16-103.1), 16-104, 16-105, 16-106, 16-107, 16-108, 16-109, 16-110, 16-113, 16-114, 16-116, 16-117, 16-118, 16-119, 16-120 and 16-121, 28 O.S. 1991, Section 13, 29 O.S. 1991, Section 5-204, as amended by Section 8, Chapter 264, O.S.L. 1993, 7-205 as amended by Section 11, Chapter 149, O.S.L. 1992, and 7-704 (29 O.S. Supp. 1994, Sections 5-204 and 7-205), 34 O.S. 1991, Sections 3.1 and 23, 36 O.S. 1991, Sections 117 and 935, 37 O.S. 1991, Sections 8, 163.20, 550 and 587,

38 O.S. 1991, Section 104, 40 O.S. 1991, Sections 5-102, 166, 169, 172, 173, 179, 180, 196.13, 198.2 and 226, 41 O.S. 1991, Section 25, 42 O.S. 1991, Sections 101, as amended by Section 3, Chapter 309, O.S.L. 1992 (42 O.S. Supp. 1994, Section 101), 117, 120, 121 and 142.2, 43 O.S. 1991, Sections 14, 15, 19, 123, 124, 126 and 527, as amended by Section 2, Chapter 132, O.S.L. 1994 (43 O.S. Supp. 1994, Section 527), 43A O.S. 1991, Sections 2-217, 2-218, 2-219, 2-220, 5-103, 5-104 and 7-108, 45 O.S. 1991, Sections 580, 603, 604 and 807, 47 O.S. 1991, Sections 2-312, 4-102, 4-103, 4-104, 4-106, 4-107, 4-109, 6-301, 6-302, 6-303, as amended by Section 5, Chapter 97, O.S.L. 1993, 7-403, as amended by Section 14, Chapter 181, O.S.L. 1994, Section 6, Chapter 382, O.S.L. 1992, 10-112, 11-901, 11-904, 11-1006, 11-1007, 16-101, 16-104, 17-101, 17-102, 1141 and 1503 (47 O.S. Supp. 1994, Sections 6-303, 7-403 and 10-102.1), 51 O.S. 1991, Sections 5, 18 and 36.6, 52 O.S. 1991, Sections 114, 115, 117, 118, 119, 235, 330, 336, 337, 338, 345 and 398, 53 O.S. 1991, Section 2.1, as amended by Section 1, Chapter 164, O.S.L. 1994 (53 O.S. Supp. 1994, Section 2.1), 56 O.S. 1991, Sections 26.18, 147, 185, 186 and 1005, 57 O.S. 1991, Sections 9, 10, 13, 21, as last amended by Section 1, Chapter 48, O.S.L. 1993 (57 O.S. Supp. 1994, Section 21), 31, 32 and 56, 59 O.S. 1991, Sections 396.24, 396.25, 536.11, 638, as amended by Section 19, Chapter 230, O.S.L. 1993 (59 O.S. Supp. 1994, Section 638), 887.15, 1012 and 1335, 62 O.S. 1991, Section 604, 63 O.S. 1991, Sections 1-519, 2-321, 2-322, 2-323, 2-324, 2-325, 2-326, 2-327, 2-328, 2-329, 2-401, as last amended by Section 2, Chapter 307, O.S.L. 1994, 2-402, as last amended by Section 1, Chapter 311, O.S.L. 1993, 2-403, 2-404, 2-405, 2-406, 2-407, 2-407.1, 2-411, 2-412, 2-413, 2-415, as amended by Section 1, Chapter 21, O.S.L. 1993, 2-419, 2-503.1, 2-509, as amended by Section 2, Chapter 335, O.S.L. 1994, 2-510, 129, 465.20, 465.21, 2557, 2819 and 4209, as amended by Section 35, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1994, Sections 2-401, 2-402, 2-415, 2-509 and

4209), 64 O.S. 1991, Section 88, 111, 112, 114, 115, 116, 123, 132, 214, 245, 251 and 459, 66 O.S. 1991, Sections 99 and 100, 67 O.S. 1991, Section 83, 68 O.S. 1991, Sections 218.1, 240, 240.1, 241, 242, 409, 450.9, 1633, 2376, 2900, 2920, 2944 and 50009, 69 O.S. 1991, Sections 310, 1802 and 3019, 70 O.S. 1991, Sections 6-110, as amended by Section 30, Chapter 239, O.S.L. 1993, 6-111, 6-112, 6-113, 16-122, as last amended by Section 12, Chapter 360, O.S.L. 1993, 16-123, as last amended by Section 13, Chapter 360, O.S.L. 1993, 24-103, as amended by Section 48, Chapter 239, O.S.L. 1993, 24-104, as amended by Section 49, Chapter 239, O.S.L. 1993, 24-131, 1924 and 1925 (70 O.S. Supp. 1994, Sections 16-122, 16-123, 24-103 and 24-104), 71 O.S. 1991, Section 825, 73 O.S. 1991, Sections 21, 23, and 162, 74 O.S. 1991, Sections 71, 85.47h, 87.2, 152.7, 217, 318, 1323, 3404 and 4235, 79 O.S. 1991, Sections 3, 27, 83 and 103, 82 O.S. 1991, Sections 672, 673, 674, 867 and 1086.3, are hereby repealed.

SECTION 995. This act shall become effective July 1, 2000.

Passed the Senate the 15th day of March, 1995.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1995.

Speaker of the House of Representatives