

ENROLLED HOUSE
BILL NO. 1283

By: Adair, Mitchell and
Smith (Bill) of the
House

and

Littlefield of the
Senate

An Act relating to motor carriers; providing short title; creating the Motor Carrier Act of 1995; declaring public policy and interest; revoking certain permits; providing for application of act; providing definitions; creating powers and duties of the Oklahoma Corporation Commission under the Motor Carrier Act of 1995; providing for certain shipping documentation and providing penalties for violations thereof; providing for contempt proceedings; providing for filing fees for certain license; providing for motor carrier license; establishing certain guidelines for granting certain license; providing for suspension or revocation of certain license; authorizing Oklahoma Corporation Commission to exercise additional powers and adopt necessary rules to comply with certain federal acts; providing for certain application and notice requirements; creating definitions; providing for operation of equipment not owned by motor carrier; providing for liability insurance policy or bond as condition to certain license; providing for filing of certain insurance policy or bond; providing exceptions; providing for suspension; prohibiting operation of vehicles in excess of weight and size limits; prohibiting certain advertisements and providing certain penalties; considering certain licenses personal; permitting Oklahoma Corporation Commission to promulgate certain rules; amending 47 O.S. 1991, Sections 161, 162, 163, 163.1, 165, 166, 166.5, 166a, 169, 169.1, 169.2, 169.3, 169.4, 169.5, 169.6, 170, 170.1, 170.2, 172, 172.1, 177.2, as amended by Section 253, Chapter 145, O.S.L. 1993, 177.3, as amended by Section 254, Chapter 145, O.S.L. 1993, 180, 180c, 180d, 180f, 180g, 180h, 180m, 224, 225 and 228.3 (47 O.S. Supp. 1994, Sections 177.2 and 177.3), which relate to motor carriers; modifying purpose; modifying and adding definitions; modifying powers and duties of Oklahoma Corporation Commission; modifying application of certain rates, fares and charges; modifying certain procedures; modifying certain fees and application thereof; modifying application of certain certificate and permit to certain motor carriers; deleting reference to certain types of routes; modifying reference to certain act if in

conflict with Constitution; modifying certain definitions; modifying certain lease requirements; requiring certain insurance or bonding; prohibiting certain action; establishing certain time limit to file for reinstatement of permit; providing for filing of certificates of insurance coverage; limiting liability for loss to certain motor carriers; limiting certain claims procedures to certain motor carriers; limiting certain burden of proof and claims for concealed loss to certain motor carriers; limiting personal character of permits to certain motor carriers; inserting certain reference to license; modifying reference to certain carriers and operating license for load capacity violations; extending violations and penalties to Motor Carrier Act of 1995; modifying reference to certain identification plates and documentation; modifying qualifications for enforcement officers; modifying deleterious substances permit; deleting certain requirement of proof; modifying reference to certain carriers; providing for cancellation of certain permit; deleting certain reference to certain disposal fee and penalties regarding the fee; providing that certain definitions apply to certain act; providing that certain size and weight laws applicable to certain acts; providing for promulgation of rules; deleting requirement to purchase identification devices from the State Penitentiary; providing that certain purchases be made in accordance with certain act; modifying time period to issue certain identification devices; modifying disposition of certain fees; modifying enforcement of act; providing for permit or license auto buses; repealing 47 O.S. 1991, Sections 161.1, 161.2, 163.2, 166.1, 166.1a, 166.1b, 166.2, 166.3, 166.4, 167.1, 176, 180i, 180j, 228.1 and 228.2, which relate to motor carriers; providing for codification; and providing an 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 240.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

The provisions of this act shall be known and may be cited as the "Motor Carrier Act of 1995".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. It is hereby declared that it is necessary in the public interest to regulate transportation by motor carriers and private carriers in such manner as to recognize the need to require all motor carriers and private carriers to have adequate insurance; for motor carriers and private carriers to provide service in a safe and efficient manner; and to establish that the operations of motor carriers and private carriers will not have a detrimental impact on the environment.

B. The public policy of this state, as declared by the Legislature, requires that all existing intrastate certificates and permits granted by the Oklahoma Corporation Commission, except household goods and used emigrant movables, prior to January 1, 1995, are hereby revoked.

C. The provisions of the Motor Carrier Act of 1995, except as hereinafter specifically limited, shall apply to the transportation of passengers or property by motor carriers and private carriers, except motor carriers of household goods and used emigrant movables, over public highways of this state; and the regulations of such transportation, and the procurement thereof and the provisions of facilities therefor, are hereby vested in the Oklahoma Corporation Commission.

D. Nothing herein shall be construed to interfere with the exercise by agencies of the government of the United States of its power of regulation of interstate commerce.

E. The terms and provisions of the Motor Carrier Act of 1995 shall apply to commerce with foreign nations, or commerce among the several states of this Union, insofar as such application may be permitted under the provisions of the Constitution of the United States and the Acts of Congress.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

As used in the Motor Carrier Act of 1995:

1. "Person" means any individual, firm, copartnership, limited partnership, corporation, limited liability corporation, company, association, or joint-stock association and includes any trustee, receiver, assignee, or personal representative thereof;

2. "Commission" means the Oklahoma Corporation Commission;

3. "License" means the license issued under authority of the laws of the State of Oklahoma to motor carriers and private carriers;

4. "Interstate Registration Certificate" (IRC) means a document issued by the Commission granting permission to operate upon the highways of the State of Oklahoma in interstate commerce exempt from federal motor carrier regulation;

5. "Motor vehicle" means any automobile, truck, truck-tractor, trailer or semitrailer or any motor bus or any self-propelled vehicle not operated or driven upon fixed rails or tracks;

6. "Motor carrier of persons or property" means any person, except a carrier of household goods or used emigrant movables, operating upon any public highway for the transportation of passengers or property for compensation or for hire or for commercial purposes, and not operating exclusively within the limits of an incorporated city or town within this state. Provided, the provisions of the Motor Carrier Act of 1995 shall not apply to cabs and bus companies engaged in the transportation of passengers and their baggage, not operated between two or more cities and towns, when duly licensed by a municipal corporation in which they might be doing business, and shall not apply to any person or governmental authority furnishing transportation for school children to and from public schools or to and from public-school-related extracurricular activities under contract with, and sponsored by, a public school board; provided, that motor vehicles and equipment operated for the purposes shall qualify in all respects for the transportation of school children under the Oklahoma School Code and the rules of the State Board of Education adopted pursuant thereto. Provided, this exemption shall apply only to such vehicles while they are being used for such transportation. Provided further, the provisions of

the Motor Carrier Act of 1995 shall not apply to transportation of livestock and farm products in the raw state, when any of such commodities move from farm to market or from market to farm on a vehicle or on vehicles owned and operated by a bona fide farmer not engaged in motor vehicle transportation on a commercial scale. Provided further, the provisions of this act shall not apply to tour buses as defined by Section 1171 of this title;

7. "Corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly one hundred percent (100%) interest;

8. "Intercorporate hauling" means the transportation of property, by motor vehicle, for compensation, by a carrier which is a member of a corporate family, as defined in the Motor Carrier Act of 1995, when the transportation for compensation is provided for other members of the corporate family;

9. "Private carrier" means any person engaged in transportation upon public highways, of persons or property, or both, but not as a motor carrier, and includes any person who transports property by motor vehicle where such transportation is incidental to or in furtherance of any commercial enterprise of such person, other than transportation;

10. "Market" means the point at which livestock and farm products in the raw state were first delivered by the producer of the livestock and farm products in the raw state, upon the sale thereof;

11. "Public highway" means every public street, road or highway, or thoroughfare in this state, used by the public, whether actually dedicated to the public and accepted by the proper authorities or otherwise; and

12. "Commercial enterprise" means all undertakings entered into for private gain or compensation, including all industrial pursuits, whether the undertakings involve the handling of or dealing in commodities for sale or otherwise.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission is hereby vested with power and authority, and it shall be its duty:

1. To supervise and regulate every motor carrier whether operating between fixed termini or over a regular route or otherwise and not operating exclusively within the limits of an incorporated city or town in this state and all private carriers operating vehicles having a gross registered weight of greater than 26,000 pounds and not operating exclusively within the limits of an incorporated city or town in this state;

2. To protect the shipping and general public by supervising and requiring insurance of all motor carriers and private carriers;

3. To ensure motor carriers and private carriers are complying with the applicable size and weight laws of this state and safety requirements;

4. To establish there will be no detrimental environmental impact; and

5. To supervise and regulate motor carriers in all other matters affecting the relationship between such carriers and the traveling and shipping public provided those matters do not exceed federal standards as they apply to this state.

B. The Commission shall have the power and authority by general order or otherwise to prescribe rules applicable to any or all motor carriers and private carriers as applicable.

C. The Commission shall cooperate and coordinate with the Oklahoma Department of Public Safety in regulating carrier safety, size and weight regulations of motor vehicles and the transportation of hazardous materials. The Commission may enter into interagency agreements with the Department of Public Safety for the purpose of implementing, administering and enforcing any provisions of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act and the rules and regulations of the Department of Public Safety issued pursuant thereto. Any license issued by the Commission may be suspended or revoked due to operations conducted in violation of any laws or rules and regulations pertaining to motor carriers, private carriers, carrier safety, size and weight regulations of motor vehicles and the transportation of hazardous materials.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Every motor carrier, subject to the Motor Carrier Act of 1995, 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.

B. Any person, motor carrier, or shipper who shall willfully violate any provisions of the Motor Carrier Act of 1995 by any means shall be deemed guilty of a misdemeanor and upon conviction thereof be fined as provided by law.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.6 of Title 47, unless there is created a duplication in numbering, reads as follows:

When the Commission, upon complaint, has reason to believe that any person, motor carrier, or shipper is violating or has willfully violated any provision of the Motor Carrier Act of 1995, the Commission shall, upon its own initiative, file a contempt proceeding and set a date for the proceeding to be heard before the Commission, and upon conviction the Commission shall invoke such contempt penalties as provided herein.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.7 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing by an intrastate motor carrier or private carrier of an application for a license, the applicant shall pay to the Corporation Commission a filing fee in the sum of One Hundred Dollars (\$100.00) with an original or subapplication. Any valid license issued will remain in force, unless otherwise revoked by the Commission in accordance with the provisions of the Motor Carrier Act of 1995, for one (1) year from date of issuance.

B. Every motor carrier or private carrier wishing to continue operations under the original license, shall pay to the Corporation Commission an annual renewal fee of Fifty Dollars (\$50.00).

C. The Commission shall, upon the receipt of any fee, deposit the same in the State Treasury to the credit of the Corporation Commission Revolving Fund.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.8 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any motor carrier to operate or furnish service within this state without first having obtained from the Commission a license declaring that all insurance requirements have been met and that the carrier will operate within all existing rules and state laws pertaining to safety standards, size and weight requirements and, when applicable, lawful handling and disposal of hazardous materials and deleterious substances, and will operate in

such a manner as to ensure there will be no detrimental environmental impact. It shall also be unlawful for any private carrier to operate or furnish service within this state without first having obtained from the Commission a license declaring that all insurance requirements have been met and that the carrier will operate within all existing rules and state laws pertaining to safety standards, size and weight requirements and, when applicable, lawful handling and disposal of hazardous materials and deleterious substances, and will operate in such a manner as to ensure there will be no detrimental environmental impact. The Commission shall have power, and it shall be its duty after public hearing, to issue the license as prayed for, or to refuse to issue the license within thirty (30) days of final hearing. The mere filing of an application does not authorize any person to operate as a carrier.

B. In granting applications for licenses, the Commission shall take into consideration the reliability of the applicant; the proper equipment meeting minimum safety criteria as adequate to perform the service; and the applicant's sense of responsibility toward the public and the environment.

C. The Commission may, at any time after a public hearing and for good cause, suspend or revoke any license. Provided, the record owner of the license shall be entitled to have ten (10) days' written notice by certified mail from the Commission of any hearing affecting the license, except as otherwise provided in the Motor Carrier Act of 1995. The right of appeal from such order or orders shall be given as in other cases appealed from orders of the Commission.

D. The Commission shall be authorized to exercise any additional power that may from time to time be conferred upon the state by any Act of Congress. The Commission shall adopt rules prescribing the manner and form in which motor carriers and private carriers shall apply for licenses required by the Motor Carrier Act of 1995. Among other rules adopted, the application shall be in writing and shall set forth the following facts:

1. The name and address of the applicant and the names and addresses of its officers, if any;

2. Full information concerning the physical properties of the applicant; and

3. Such other information as the Commission may consider pertinent to the application.

E. Upon filing of the application, the Commission shall, in its discretion, fix the time and place for the hearing of the same, which shall not be more than forty-five (45) days after the filing of the application.

F. In order for the public and all interested parties to receive proper notice, in addition to any notice the Commission may prescribe, the Commission shall circulate, on its own docket form, notice of all applications for licenses to operate as a carrier which have been filed and are pending. The notice shall be published at least fifteen (15) days prior to the date of hearing and shall show:

1. The time and place of the hearing;

2. The name and address of the applicant; and

3. Such other information as the Commission may consider pertinent to such notice.

G. Upon written annual request and payment of an annual fee to the Commission, the publication shall immediately be furnished by mail to any person by the Commission. The fee shall be set by the Commission at reasonable cost and shall not exceed the actual expense of publication. The Commission shall upon receipt of the

fee deposit the same in the State Treasury to the credit of the General Revenue Fund.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Authorized carrier" means a person or persons authorized to engage in the transportation of passengers or property as a licensed motor carrier;

2. "Equipment" means a motor vehicle, straight truck, tractor, semitrailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of passengers or property for hire;

3. "Owner" means a person to whom title to equipment has been issued, or who, without title, has the right to exclusive use of equipment for a period longer than thirty (30) days;

4. "Lease" means a contract or arrangement in which the owner grants the use of equipment, with or without driver, for a specified period to an authorized carrier for use in the regulated transportation of passengers or property, in exchange for compensation;

5. "Lessor", in a lease, means the party granting the use of equipment, with or without driver, to another;

6. "Lessee", in a lease, means the party acquiring the use of equipment, with or without driver, from another;

7. "Addendum" means a supplement to an existing lease which is not effective until signed by the lessor and lessee; and

8. "Shipper" means a person who sends or receives passengers or property which is transported in intrastate commerce in this state.

B. An authorized carrier may perform authorized transportation in equipment it does not own only under the following conditions:

1. There shall be a written lease granting the use of the equipment and meeting the requirements as set forth in subsection C of this section;

2. The authorized carrier acquiring the use of equipment under this section shall identify the equipment in accordance with the requirements of the Commission; and

3. Upon termination of the lease, the authorized carrier shall remove all identification showing it as the operating carrier before giving up possession of the equipment.

C. The written lease required pursuant to subsection B of this section shall contain the following provisions. The required lease provisions shall be adhered to and performed by the authorized carrier as follows:

1. The lease shall be made between the authorized carrier and the owner of the equipment. The lease shall be signed by these parties or by their authorized representatives;

2. The lease shall specify the time and date or the circumstances on which the lease begins and ends and include a description of the equipment which shall be identified by vehicle serial number, make, year model and current license plate number;

3. The period for which the lease applies shall be for thirty (30) days or more when the equipment is to be operated for the authorized carrier by the owner or an employee of the owner;

4. The lease shall provide that the authorized carrier lessee shall have exclusive possession, control and use of the equipment for the duration of the lease. The lease shall further provide that the authorized carrier lessee shall assume complete responsibility for the operation of the equipment for the duration of the lease;

5. The amount to be paid by the authorized carrier for equipment and driver's services shall be clearly stated on the face of the lease or in an addendum which is attached to the lease;

6. The lease shall clearly specify the responsibility of each party with respect to the cost of fuel, fuel taxes, empty mileage, permits of all types, tolls, detention and accessorial services, base plates and licenses, and any unused portions of such items. Except when the violation results from the acts or omissions of the lessor, the authorized carrier lessee shall assume the risks and costs of fines for overweight and oversize trailers when the trailers are preloaded, sealed, or the load is containerized, or when the trailer or lading is otherwise outside of the lessor's control, and for improperly permitted overdimension and overweight loads and shall reimburse the lessor for any fines paid by the lessor. If the authorized carrier is authorized to receive a refund or a credit for base plates purchased by the lessor from, and issued in the name of, the authorized carrier, or if the base plates are authorized to be sold by the authorized carrier to another lessor the authorized carrier shall refund to the initial lessor on whose behalf the base plate was first obtained a prorated share of the amount received;

7. The lease shall specify that payment to the lessor shall be made by the authorized carrier within fifteen (15) days after submission of the necessary delivery documents and other paperwork concerning a trip in the service of the authorized carrier. The paperwork required before the lessor can receive payment is limited to those documents necessary for the authorized carrier to secure payment from the shipper. The authorized carrier may require the submission of additional documents by the lessor but not as a prerequisite to payment;

8. The lease shall clearly specify the right of the lessor, regardless of method of compensation, to examine copies of the documentation of the carrier upon which charges are assessed;

9. The lease shall clearly specify all items that may be initially paid for by the authorized carrier, but ultimately deducted from the compensation of the lessor at the time of payment or settlement together with a recitation as to how the amount of each item is to be computed. The lessor shall be afforded copies of those documents which are necessary to determine the validity of the charge;

10. The lease shall specify that the lessor is not required to purchase or rent any products, equipment, or services from the authorized carrier as a condition of entering into the lease arrangement;

11. As it relates to insurance:

- a. the lease shall clearly specify the legal obligation of the authorized carrier to maintain insurance coverage for the protection of the public, and
- b. the lease shall clearly specify the conditions under which deductions for cargo or property damage may be made from the lessor's settlements. The lease shall further specify that the authorized carrier must provide the lessor with a written explanation and itemization of any deductions for cargo or property damage made from any compensation of money owed to the lessor. The written explanation and itemization must be delivered to the lessor before any deductions are made; and

12. An original and two copies of each lease shall be signed by the parties. The authorized carrier shall keep the original and

shall place a copy of the lease in the equipment during the period of the lease. The owner of the equipment shall keep the other copy of the lease.

D. The provisions of this section shall apply to the leasing of equipment with which to perform transportation regulated by the Corporation Commission by motor carriers holding a license from the Commission to transport passengers or property.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.10 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. No license shall be issued by the Commission to any carrier until after the carrier shall have filed with the Commission a liability insurance policy or bond covering public liability and property damage, issued by some insurance or bonding company or insurance carrier authorized pursuant to this section and which has complied with all of the requirements of the Commission, which bond or policy shall be approved by the Commission, and shall be in a sum and amount as fixed by a proper order of the Commission; and the 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 carrier for which the carrier is legally liable. A copy of the policy or bond shall be filed with the Commission, and, after judgment against the carrier for any damage, the injured party may maintain an action upon the policy or bond to recover the same, and shall be a proper party to maintain such action.

B. Every motor carrier shall file with the Commission a cargo insurance policy or bond covering any goods or property being transported, issued by some insurance or bonding company or insurance carrier authorized as set forth below, and which has complied with all of the requirements of the Commission, which bond or policy shall be approved by the Commission, and shall be in a sum and amount as fixed by a proper order of the Commission. The cargo insurance must be filed with the Commission prior to a license being issued by the Commission, unless the motor carrier has been exempted from this requirement.

Intrastate motor carriers of sand, rock, gravel, asphaltic mixtures or other similar road building materials shall not be required to file cargo insurance and shall be required to maintain liability insurance limits of Three Hundred Fifty Thousand Dollars (\$350,000.00) combined single limit.

No carrier, whose principal place of business is in Oklahoma, shall conduct any operations in this state unless the operations are covered by a valid primary bond or insurance policy issued by a provider authorized or approved by the State Insurance Commissioner. No carrier shall conduct any operations in this state unless the operations are covered by a valid bond or insurance policy issued by a provider authorized and approved by a National Association of Insurance Commissioners and certified by the State Insurance Commission.

C. Each carrier shall maintain on file, in full force, all insurance required by the laws of this state and the rules of the Commission during the operation of the carrier and that the failure for any cause to maintain the coverage in full force and effect shall immediately, without any notice from the Commission, suspend the rights of the carrier to operate until proper insurance is provided. Any carrier suspended for failure to maintain proper insurance shall have a reasonable time, not exceeding sixty (60)

days, to have its license reactivated, and to provide proper insurance upon showing:

1. No operation during the period in which it did not have insurance; and

2. Furnishing of proper insurance coverage.

D. Any carrier who fails to reactivate its license within sixty (60) days after the suspension, as above provided, shall have the license canceled, by operation of law, without any notice from the Commission. No license so canceled shall be reinstated or otherwise made operative except that the Commission may reinstate the license of a carrier upon proper showing that the carrier was actually covered by proper insurance during the suspension or cancellation period, and that failure to file with the Commission was not due to the negligence of the carrier. Any carrier desiring to file for reinstatement of its license shall do so within ninety (90) days of its cancellation by law.

E. The Commission shall, in its discretion, permit the filing of certificates of insurance coverage or such form as may be prescribed by the Commission, in lieu of copies of insurance policies or bonds, with the proviso that if the certificates are authorized the insurance company or carrier so filing it, upon request of the Commission, will, at any time, furnish an authenticated copy of the policy which the certificate represents, and further provided that thirty (30) days prior to effective cancellation or termination of the policy of insurance for any cause, the insurer shall so notify the Commission in writing of the facts or as deemed necessary by the Commission.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.11 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Nothing contained in the Motor Carrier Act of 1995 shall be construed to authorize the operation of any passenger or freight vehicle in excess of the gross weight, width, length or height authorized by law.

B. Any person who willfully advertises to perform transportation services for which the person does not hold a license shall be in violation of the Motor Carrier Act of 1995 and subject to the penalties prescribed for contempt of the Commission.

C. All licenses issued by the Commission under any law of the state relating to motor carriers or private carriers shall contain the provision that the Commission reserves to itself authority to suspend or cancel any such license for the violation, on the part of the applicant or any operator or operators of any motor vehicle to be operated thereunder, of any law of this state or any rule adopted by the Commission.

D. Licenses shall be considered personal to the holder of the license and shall be issued only to some definite legal entity operating motor vehicles as a motor carrier or private carrier, and shall not be subject to lease, nor shall the holder of the license sublet or permit the exercise, by another, of the rights or privileges granted under the license.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.12 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Commission shall have the power and authority by general order or otherwise to promulgate rules and regulations for the administration and enforcement of the provisions of the Motor Carrier Act of 1995.

SECTION 13. AMENDATORY 47 O.S. 1991, Section 161, is amended to read as follows:

Section 161. A. It is hereby declared that it is necessary in the public interest to regulate transportation by motor carriers of household goods and used emigrant movables in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in such transportation and among such carriers; promote adequate, economical, efficient service by motor carriers, and reasonable charges therefor, without unjust discriminations, undue preferences or advantages and unfair or destructive competitive practices; develop and preserve a highway transportation system properly adapted to the agricultural, industrial and commercial needs of the commerce of the State of Oklahoma and the national defense; and cooperate with the government of the United States, the departments of the State of Oklahoma, regulatory bodies of other states, and the duly authorized officials thereof and with any organization of motor carriers in the administration and enforcement of this act.

B. The provisions of this act, except as hereinafter specifically limited, shall apply to the transportation of ~~passengers or property~~ household goods and used emigrant movables by motor carriers over public highways of this state; and the regulations of such transportation, and the procurement thereof and the provisions of facilities therefor, is hereby vested in the Oklahoma Corporation Commission.

Nothing herein shall be construed to interfere with the exercise by agencies of the government of the United States of its power of regulation of interstate commerce.

C. As used in this act:

~~(A) The term "person"~~ 1. "Person" means any individual, firm, copartnership, limited partnership, corporation, limited liability corporation, company, association, or joint-stock association and includes any trustee, receiver, assignee, or personal representative thereof;

~~(B) The term~~ 2. "Commission" means the Oklahoma Corporation Commission;

~~(C) The term "certificate"~~ 3. "Certificate" means the certificate of public convenience and necessity issued under authority of the laws of the State of Oklahoma to common carriers of household goods or used emigrant movables by motor vehicle;

~~(D) The term "permit"~~ 4. "Permit" means a permit issued under authority of the laws of the State of Oklahoma to contract carriers of household goods or used emigrant movables by motor vehicle;

~~(E) The term "motor vehicle" when used in this act shall mean~~ 5. "Motor vehicle" means any automobile, truck, truck-tractor, trailer or semitrailer or any motor bus or any self-propelled vehicle not operated or driven upon fixed rails or tracks;

~~(F) The term "motor carrier" when used in this act~~ 6. "Motor carrier" includes both a common carrier by motor vehicle and a contract carrier by motor vehicle, operating upon any public highway for the transportation of passengers or property household goods and used emigrant movables for compensation or for hire or for commercial purposes, and not operating exclusively within the limits of an incorporated city or town within this state. ~~Provided the provisions of this act shall not apply to cabs and bus companies engaged in the transportation of passengers and their baggage, not operated between two or more cities and towns, when duly licensed by a municipal corporation in which they might be doing business, and shall not apply to any person or governmental authority furnishing transportation for school children to and from public schools or to and from public school related extracurricular activities under contract with, and sponsored by, a public school board; provided~~

~~that motor vehicles and equipment operated for said purposes shall qualify in all respects for the transportation of school children under the Oklahoma School Code and the rules and regulations of the State Board of Education adopted pursuant thereto. Provided, that this exemption shall apply only to such vehicles while they are being used for said transportation. Provided, further, the provisions of this act shall not apply to transportation of livestock and farm products in the raw state, including cotton, whether in the seed or ginned, and including cottonseed and baled hay, when any of such commodities move from farm to market or from market to farm on a vehicle or on vehicles owned and operated by a bona fide farmer not engaged in motor vehicle transportation on a commercial scale. Provided, further, the provisions of this act shall not apply to tour buses as defined by Section 7 of Enrolled Senate Bill No. 631 of the 2nd Session of the 41st Oklahoma Legislature.;~~

~~(G) The term "common 7. "Common carrier by motor vehicle" means any person which holds itself out to the general public to engage in the transportation by motor vehicle in intrastate ~~or interstate~~ commerce of passengers or property household goods or used emigrant movables or any class or classes thereof for compensation, ~~whether over regular or irregular routes.;~~~~

~~(H) The term "contract 8. "Contract carrier by motor vehicle" means any person which engages in transportation by motor vehicle of passengers or property household goods or used emigrant movables in ~~interstate or~~ intrastate commerce, for compensation (other than transportation referred to in the preceding paragraph) under continuing contracts with one person or a limited number of persons either ~~(a):~~~~

- ~~a. for the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served, ~~or (b)~~~~
- ~~b. for the furnishing of transportation services designed to meet the distinct need of each individual customer.;~~

~~(I) The term "private carrier of property by motor vehicle" means any person engaged in transportation upon public highways, of persons or property, or both, but not as a common carrier by motor vehicle, or a contract carrier by motor vehicle, and includes any person who transports property by motor vehicle where such transportation is incidental to or in furtherance of any commercial enterprise of such person, other than transportation.~~

~~(J) The term "regular route" means a fixed, specific and determined course to be traveled by a motor carrier's vehicles rendering service to, from or between various points, localities or municipalities in this state.~~

~~(K) The term "irregular route" means that the route to be used by a motor carrier is not restricted to any specific highway or highways within the area the said motor carrier is authorized to serve.~~

~~(L) The word "market" is hereby declared to mean the point at which such aforesaid livestock and farm products in the raw state were first delivered by the producer of such aforesaid livestock and farm products in the raw state, upon his sale thereof.~~

~~(M) The terms and provisions of this act shall apply to commerce with foreign nations, or commerce among the several states of this Union, insofar as such application may be permitted under the provisions of the Constitution of the United States and the Acts of Congress.~~

~~(N)~~ The term "public 9. "Corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly one hundred percent (100%) interest;

10. "Intercorporate hauling" means the transportation of property, by motor vehicle, for compensation, by a carrier which is a member of a corporate family, as defined in this act, when the transportation for compensation is provided for other members of the corporate family; and

11. "Public highway" when used in this act means every public street, road or highway, or thoroughfare in this state, used by the public, whether actually dedicated to the public and accepted by the proper authorities or otherwise.

~~(O) The term "commercial purposes" as used in this act is defined as describing all undertakings entered into for private gain or compensation, including all industrial pursuits, whether such undertakings involve the handling or dealing in commodities for sale or otherwise.~~

D. The terms and provisions of this act shall apply to commerce with foreign nations, or commerce among the several states of this Union, insofar as such application may be permitted under the provisions of the Constitution of the United States and the Acts of Congress.

SECTION 14. AMENDATORY 47 O.S. 1991, Section 162, is amended to read as follows:

Section 162. A. The Corporation Commission is hereby vested with power and authority, and it shall be its duty: ~~(1) to~~

1. To supervise and regulate every motor carrier whether operating between fixed termini or over a regular route or otherwise of household goods or used emigrant movables and not operating exclusively within the limits of an incorporated city or town in this state; (2) to

2. To fix or approve the maximum or minimum, or maximum and minimum rates, fares, charges, classifications and rules and regulations pertaining thereto, of each such motor carrier; (3) to

3. To regulate and supervise the accounts, schedules and service of each such motor carrier; and for the conservation of the public highways; (4) to

4. To prescribe a uniform system and classification of accounts to be used, which among other things shall set up adequate depreciation charges, and after such accounting system shall have been promulgated, such motor carriers shall use no other; (5) to

5. To require the filing of annual reports, and other data as required from time to time by the Commission; and (6) to

6. To supervise and regulate such motor carriers in all other matters affecting the relationship between such carriers and the traveling and shipping public.

B. The Commission shall have the power and authority by general order or otherwise to prescribe rules and regulations applicable to any or all motor carriers of household goods or used emigrant movables. ~~All regulatory power and authority over transportation and transmission companies now vested in the Commission is hereby specifically extended to include all motor carriers.~~

SECTION 15. AMENDATORY 47 O.S. 1991, Section 163, is amended to read as follows:

Section 163. ~~(A)~~ A. No common carrier by motor vehicle, unless otherwise provided by this act, shall engage in the transportation of passengers or property household goods or used emigrant movables 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)~~ 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~~ household goods or used emigrant movables, 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)~~ C. In the exercise of its power to prescribe just and reasonable rates, fares, and charges for the transportation of ~~passengers or property~~ household goods or used emigrant movables 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)~~ 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~~ household goods or used emigrant movables 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)~~ E. No common carrier of household goods or used emigrant movables 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)~~ 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 of

household goods or used emigrant movables 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)~~ G. It shall be the duty of every contract carrier of household goods or used emigrant movables 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~~ household goods or used emigrant movables 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 of household goods or used emigrant movables 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~~ household goods or used emigrant movables 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~~ household goods or used emigrant movables 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)~~ H. Whenever, after hearing, upon complaint or upon its own initiative, the Commission finds that any actual rate or charge of any contract carrier of household goods or used emigrant movables 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~~ household goods or used emigrant movables 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)~~ I. Every motor carrier, subject to this act, receiving property household goods or used emigrant movables 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)~~ J. No common carrier by motor vehicle shall deliver or relinquish possession at destination of any freight household goods or used emigrant movables 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)~~ K. Any person, motor carrier, or shipper who shall willfully violate 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.

SECTION 16. AMENDATORY 47 O.S. 1991, Section 163.1, is amended to read as follows:

Section 163.1 A. 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 of this title any person, motor carrier, or shipper.

~~Said~~ B. The 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~~ C. The 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~~ the salaries and expenses to be paid out of funds appropriated by the general departmental appropriations act.

D. 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 any provision of Section 163 of this title, 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~~ the Commission, and upon conviction ~~said~~ the Commission shall invoke such contempt penalties as are provided in Section 172 of this title.

SECTION 17. AMENDATORY 47 O.S. 1991, Section 165, is amended to read as follows:

Section 165. A. Upon the filing by an intrastate motor carrier of household goods or used emigrant movables of an application for a permit or certificate or the transfer of a permit or certificate, the applicant shall pay to the Corporation Commission a filing fee

in the sum of One Hundred Dollars (\$100.00) with an original application for permanent or temporary authority ~~and Fifteen Dollars (\$15.00) with each subapplication thereof.~~

B. Upon the filing by an interstate motor carrier of an application to register interstate authority, or supplement thereto, the applicant shall pay the Commission a filing fee as established by the Commission and in full compliance with applicable federal laws and regulations.

C. The Commission shall, upon the receipt of any such fee, deposit the same in the State Treasury to the credit of the Corporation Commission Revolving Fund.

SECTION 18. AMENDATORY 47 O.S. 1991, Section 166, is amended to read as follows:

Section 166. A. It is hereby declared unlawful for any common carrier of household goods or used emigrant movables by motor vehicle to operate or furnish service within this state without having obtained from the Commission a certificate declaring that public convenience and necessity require such operation, or for any contract carrier of household goods or used emigrant movables by motor vehicle to operate or furnish service within the state without having obtained a permit from the Commission declaring the operation shall be consistent with the public interest. The Commission shall have power, and it shall be its duty after public hearing, to issue said certificate or permit as prayed for, or to refuse to issue the same, or to issue it for the partial exercise only of said privilege sought within sixty (60) days of final hearing, and may attach to the exercise of the rights granted by such certificate or permit such terms and conditions as in its judgment the public convenience and necessity or public interest may require; provided that in all such cases it will be presumed, in the absence of competent evidence to the contrary, that intrastate common carriers operating under existing certificates are rendering adequate service between the points or within the areas authorized to be served by them, and the applicant has the burden of proof to show otherwise; and provided further, that the mere filing of an application does not authorize any person to operate as a motor carrier.

B. In granting applications for certification or permits the Commission shall take into consideration the reliability and financial condition of the applicant and his sense of responsibility toward the public; the transportation service being maintained by presently existing motor carriers; and any other matters tending to show the need or lack of necessity for granting said application. No permit for any contract carrier by motor vehicle shall be issued without the applicant proving by competent evidence that the transport service proposed under the contract is not such that it could be reasonably furnished by existing carriers, and further, that such permit would not jeopardize the existing common carrier service.

Provided, however, that in no instance shall a contract carrier of household goods or used emigrant movables by motor vehicle be authorized to serve more than six contracting shippers at any one time; provided further that such contracts are to be filed and approved by the Commission before the operation thereunder. ~~The provisions of this paragraph shall not be applicable to contract carriers by motor vehicle solely engaged in armored car service operations.~~

C. No common motor carrier shall transport property as a contract carrier in the same truck, at the same time that he is transporting property as a common motor carrier. No common motor carrier shall transport any property as a contract carrier which

property ~~said~~ the carrier is authorized to so transport as a common carrier. No contract motor carrier shall transport property as a common carrier in the same truck at the same time that ~~he~~ the contract carrier is transporting property as a contract carrier.

D. In the event a person who has once been issued a certificate or permit files an application for additional authority with the Commission, each ~~such~~ such application shall be identified by consecutive subnumbers and if ~~such~~ the application is granted, the additional authority shall be incorporated under ~~said person's~~ the original certificate or permit of the person and identified by the applicable subnumbers. The Commission may at any time after a public hearing and for good cause, suspend, alter, amend or revoke any such certificate or permit. Provided that the record owner of ~~such~~ the certificate or permit shall be entitled to have ten (10) days' written notice by certified mail from the Commission of any ~~such~~ hearing affecting ~~said~~ the certificate or permit, except as hereinafter provided in Section 169 of this title. The right of appeal from ~~such~~ the order or orders ~~is hereby~~ shall be given as in other cases appealed from orders of the Commission.

E. No intrastate carrier shall discontinue any service authorized by permit or certificate under the provisions of this act, without written authority from the Commission. Any carrier to whom a permit or certificate has been issued under the provisions of this act, desiring to discontinue such service, shall apply to the Commission in writing for privilege to so discontinue such service, and give notice in writing in such manner as directed by ~~said~~ the Commission, for a period of not less than thirty (30) days prior to the hearing thereof, to the public and all parties interested. Upon the filing of such application for discontinuance, the Commission shall direct the type of service or notice to be given for a period of not less than thirty (30) days, and fix the date of hearing thereof, at which hearing the Commission shall hear evidence and issue its order granting or refusing such application, as the facts developed may justify.

F. Permits or certificates shall not be assigned or transferred, in any manner, without authority of the Commission and on written application and public hearing; the transfer of the permits or certificates shall not be authorized when the Commission finds such action will be inconsistent with the public interest, or will have the effect of destroying competition or creating a monopoly, nor where it appears that reasonable continuous service under the authority which is sought to be transferred has not been rendered for one hundred eighty (180) days prior to the application for transfer or assignment. All applications for transfer must be made on proper forms prescribed by the Commission.

G. Motor carriers must operate and furnish service in strict conformity with the current existing terms and provisions of their respective certificates or permits. Provided, that it shall not be necessary for any interstate carrier, in order to obtain a permit, as herein provided, to make any showing of public need, except as to the transportation of passengers or freight between points within the state, the power to regulate such operation being specifically reserved herein; and provided further, the Commission ~~is hereby~~ specifically authorized to shall exercise any additional power that may from time to time be conferred upon the state by any Act of Congress.

H. The Commission shall adopt rules prescribing the manner and form in which motor carriers shall apply for certificates or permits required by this section. Among other rules adopted, the

application shall be in writing and shall ~~set forth the following facts contain:~~

~~(a) It shall contain the 1. The name and address of the applicant and the names and addresses of its officers, if any, and shall give full;~~

~~2. Full information concerning the financial conditions and physical properties of the applicant.;~~

~~(b) 3. The complete route, or routes, over which, or the area within which the applicant desires to operate, whether over regular or irregular routes; and the kind of transportation, whether passenger or freight, or both, in which applicant intends to engage, if freight, the applicant shall specify the commodity or commodities which applicant intends to transport.;~~ and

~~(c) A proposed time schedule, where applicable.~~

~~(d) 4. A schedule or tariff showing the passenger fares or freight rates to be charged between the several points or localities to be served.~~

I. Upon filing of ~~said~~ the application, the Commission shall, in its discretion, fix the time and place for the hearing of the same, which shall not be more than forty-five (45) days after the filing of said application.

J. In order for the public and all interested parties to receive proper notice, in addition to any notice the Commission may prescribe, the Commission shall circulate, on its own docket form, notice of all applications for, or transfers of, certificates or permits to operate as a motor carrier which have been filed and are pending. ~~Said~~ The notice shall be published at least fifteen (15) days prior to the date of hearing and shall show ~~the:~~

1. The time and place of the hearing; ~~the~~

2. The name and address of the applicant; ~~the~~

3. The route or territory involved; ~~the nature of the transport service; the commodities applied for, if any; and such~~

4. Such other information as the Commission may consider pertinent to ~~such~~ the notice.

K. Upon written annual request and payment of an annual fee to the Commission, ~~said~~ the publication shall immediately be furnished by mail to any person by the Commission. ~~Said~~ The fee shall be set by the Commission at reasonable cost and shall not exceed the actual expense of publication. The Commission shall upon receipt of any ~~such~~ fee deposit the same in the State Treasury to the credit of the General Revenue Fund.

SECTION 19. AMENDATORY 47 O.S. 1991, Section 166.5, is amended to read as follows:

Section 166.5 If this act or the Motor Carrier Act of 1995 or any provision hereof is, or may be deemed to be, in conflict or inconsistent with any of the provisions of Section 18 through Section 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, then, to the extent of any such conflicts or inconsistencies, it is hereby expressly declared that this entire act and this section are amendments to and alterations of ~~said~~ the sections of the Constitution, as authorized by Section 35 of Article IX of said Constitution.

SECTION 20. AMENDATORY 47 O.S. 1991, Section 166a, is amended to read as follows:

Section 166a. A. As used in this section:

1. "Authorized carrier" means a person or persons authorized to engage in the transportation of property household goods or used emigrant movables as a common or contract carrier;

2. "Equipment" means a motor vehicle, straight truck, tractor, semitrailer, full trailer, any combination of these and any other

type of equipment used by authorized carriers in the transportation of property household goods or used emigrant movables for hire;

3. "Owner" means a person to whom title to equipment has been issued, or who, without title, has the right to exclusive use of equipment for a period longer than thirty (30) days;

4. "Lease" means a contract or arrangement in which the owner grants the use of equipment, with or without driver, for a specified period to an authorized carrier for use in the regulated transportation of property household goods or used emigrant movables, in exchange for compensation;

5. "Lessor", in a lease, means the party granting the use of equipment, with or without driver, to another;

6. "Lessee", in a lease, means the party acquiring the use of equipment with or without driver, from another;

7. "Addendum" means a supplement to an existing lease which is not effective until signed by the lessor and lessee; and

8. "Shipper" means a person who sends or receives property household goods or used emigrant movables which is transported in intrastate commerce in this state.

B. An authorized carrier may perform authorized transportation in equipment it does not own only under the following conditions:

1. There shall be a written lease granting the use of the equipment and meeting the requirements as set forth in subsection C of this section;

2. The authorized carrier acquiring the use of equipment under this section shall identify the equipment in accordance with the Commission's requirements; and

3. Upon termination of the lease, the authorized carrier shall remove all identification showing it as the operating carrier before giving up possession of the equipment.

C. The written lease required pursuant to subsection B of this section shall contain the following provisions. The required lease provisions shall be adhered to and performed by the authorized carrier as follows:

1. The lease shall be made between the authorized carrier and the owner of the equipment. The lease shall be signed by these parties or by their authorized representatives;

2. The lease shall specify the time and date or the circumstances on which the lease begins and ends and include a description of the equipment which shall be identified by vehicle serial number, make, year, model and current license plate number;

3. The period for which the lease applies shall be for thirty (30) days or more when the equipment is to be operated for the authorized carrier by the owner or an employee of the owner;

4. The lease shall provide that the authorized carrier lessee shall have exclusive possession, control and use of the equipment for the duration of the lease. The lease shall further provide that the authorized carrier lessee shall assume complete responsibility for the operation of the equipment for the duration of the lease;

5. The amount to be paid by the authorized carrier for equipment and driver's services shall be clearly stated on the face of the lease or in an addendum which is attached to the lease. The amount to be paid may be expressed as a percentage of gross revenue, a flat rate per mile, a variable rate depending on the direction traveled or the type of commodity transported, or by any other method of compensation mutually agreed upon by the parties to the lease. The compensation stated on the lease or in the attached addendum may apply to equipment and driver's services either separately or as a combined amount;

6. The lease shall clearly specify the responsibility of each party with respect to the cost of fuel, fuel taxes, empty mileage, permits of all types, tolls, detention and accessorial services, base plates and licenses, and any unused portions of such items. Except when the violation results from the acts or omissions of the lessor, the authorized carrier lessee shall assume the risks and costs of fines for overweight and oversize trailers when the trailers are preloaded, sealed, or the load is containerized, or when the trailer or lading is otherwise outside of the lessor's control, and for improperly permitted overdimension and overweight loads and shall reimburse the lessor for any fines paid by the lessor. If the authorized carrier is authorized to receive a refund or a credit for base plates purchased by the lessor from, and issued in the name of, the authorized carrier, or if the base plates are authorized to be sold by the authorized carrier to another lessor the authorized carrier shall refund to the initial lessor on whose behalf the base plate was first obtained a prorated share of the amount received;

7. The lease shall specify that payment to the lessor shall be made by the authorized carrier within fifteen (15) days after submission of the necessary delivery documents and other paperwork concerning a trip in the service of the authorized carrier. The paperwork required before the lessor can receive payment is limited to those documents necessary for the authorized carrier to secure payment from the shipper. The authorized carrier may require the submission of additional documents by the lessor but not as a prerequisite to payment;

8. The lease shall clearly specify the right of those lessors whose revenue is based on a percentage of the gross revenue for a shipment to examine copies of the authorized carrier's freight bill before or at the time of settlement. The lease shall clearly specify the right of the lessor, regardless of method of compensation, to examine copies of the carrier's tariff;

9. The lease shall clearly specify all items that may be initially paid for by the authorized carrier, but ultimately deducted from the lessor's compensation at the time of payment or settlement together with a recitation as to how the amount of each item is to be computed. The lessor shall be afforded copies of those documents which are necessary to determine the validity of the charge;

10. The lease shall specify that the lessor is not required to purchase or rent any products, equipment, or services from the authorized carrier as a condition of entering into the lease arrangement;

11. As it relates to insurance:

- a. the lease shall clearly specify the legal obligation of the authorized carrier to maintain insurance coverage for the protection of the public, and
- b. the lease shall clearly specify the conditions under which deductions for cargo or property damage may be made from the lessor's settlements. The lease shall further specify that the authorized carrier must provide the lessor with a written explanation and itemization of any deductions for cargo or property damage made from any compensation of money owed to the lessor. The written explanation and itemization must be delivered to the lessor before any deductions are made; and

12. An original and two copies of each lease shall be signed by the parties. The authorized carrier shall keep the original and

shall place a copy of the lease in the equipment during the period of the lease. The owner of the equipment shall keep the other copy of the lease.

D. The provisions of this section shall apply to the leasing of equipment with which to perform transportation regulated by the Corporation Commission by motor carriers holding permanent or temporary authority from the Commission to transport ~~property~~ household goods or used emigrant movables.

SECTION 21. AMENDATORY 47 O.S. 1991, Section 169, is amended to read as follows:

Section 169. A. No certificate or permit shall be issued by the Commission to any motor carrier of household goods or used emigrant movables until after such motor carrier shall have filed with the Commission a liability insurance policy or bond covering public liability and property damage, issued by some insurance or bonding company or insurance carrier authorized ~~to do business in this state as set forth below,~~ and which has complied with all of the requirements of the Commission, which bond or policy shall be approved by the Commission, and shall be in such sum and amount as fixed by a proper order of ~~said~~ the 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 motor carrier for which such carrier is legally liable. A copy of ~~such~~ the policy or bond shall be filed with ~~said~~ the Commission, and, after judgment against the carrier for any ~~such~~ damage, the injured party may maintain an action upon ~~such~~ the policy or bond to recover the same, and shall be a proper party ~~so~~ to ~~de~~ maintain such action.

~~Providing further that such~~ B. Every motor carrier of household goods or used emigrant movables shall file with the Commission a cargo insurance policy or bond covering any goods or property being transported, issued by some insurance or bonding company or insurance carrier authorized as set forth below, and which has complied with all of the requirements of the Commission, which bond or policy shall be approved by the Commission, and shall be in a sum and amount as fixed by a proper order of the Commission. The cargo insurance must be filed with the Commission prior to a certificate or permit being issued by the Commission.

C. No carrier, whose principal place of business is in Oklahoma, shall conduct any operations in this state unless the operations are covered by a valid primary bond or insurance policy issued by a provider authorized or approved by the State Insurance Commissioner. No carrier shall conduct any operations in this state unless the operations are covered by a valid bond or insurance policy issued by a provider licensed or approved by the State Insurance Commissioner or the insurance regulatory authority of any other state.

D. Each motor carrier shall maintain on file, in full force, all insurance required by the laws of the State of Oklahoma and the rules of the Commission during such motor carrier's operation and that the failure for any cause to maintain such coverage in full force and effect shall immediately, without any notice from the Commission, suspend such carrier's rights to operate until proper insurance is provided. Any carrier suspended for failure to maintain proper insurance shall have a reasonable time, not exceeding sixty (60) days, within which to provide proper insurance and to have his authority ~~reinstated~~ reactivated, upon showing:

~~(a)~~ 1. No operation during the period in which he did not have insurance; and

~~(b)~~ 2. Furnishing of proper insurance coverage.

E. Any carrier who fails to ~~apply for reinstatement of~~ reactivate his or its permit or certificate within sixty (60) days after such suspension, as above provided, shall have said permit or certificate canceled, by operation of law, without any notice from the Commission. No certificate or permit so canceled shall be reinstated or otherwise made operative except that the Commission ~~shall~~ may reinstate the authority of a motor carrier upon proper showing that the motor carrier was actually covered by proper insurance during the suspension or cancellation period, and that failure to file with the Commission was not due to the motor carrier's own negligence. Any carrier desiring to file for reinstatement of its certificate or permit shall do so within ninety (90) days of its cancellation by law.

F. The Commission shall, in its discretion, permit the filing of certificates of insurance coverage on such form as may be prescribed by the Commission, in lieu of copies of insurance policies or bonds, with the proviso that if the certificates are authorized, the insurance company or carrier so filing it, upon request of the Commission, shall, at any time, furnish an authenticated copy of the policy which the certificate represents, and further provided that thirty (30) days prior to effective cancellation or termination of the policy of insurance for any cause, the insurer shall so notify the Commission in writing of the facts or as deemed necessary by the Commission.

SECTION 22. AMENDATORY 47 O.S. 1991, Section 169.1, is amended to read as follows:

Section 169.1 Every motor carrier of household goods or used emigrant movables shall be liable for all loss, damage or injury to goods or property due to any negligence while the same is being carried by it.

SECTION 23. AMENDATORY 47 O.S. 1991, Section 169.2, is amended to read as follows:

Section 169.2 Every motor carrier of household goods or used emigrant movables, upon receipt of a claim in writing for loss of or damage to cargo during transportation, some portion of which was performed by that carrier, regardless of the form in which the claim is presented, shall:

1. Acknowledge receipt of the claim in writing within thirty (30) days after receipt thereof by the motor carrier~~;~~;
2. Commence an investigation in good faith to determine whether the carrier acknowledges or denies liability for the loss or damage~~;~~;
3. Either pay the claim in full, or as agreed to by mutual compromise, or deny liability for loss or damage, in writing, within ninety (90) days after receipt of the original claim by the carrier. Such action shall not be withheld or postponed pending receipt of payment or acknowledgment of liability from connecting carriers~~;~~;
4. Acknowledgment of liability shall be accompanied by payment in full for the value of property lost or damaged except where subject to limited liability or released value. When a shipper, without prior approval from the consignee, elects to release a shipment at a value less than the full value of the property shipped, in the event of loss or damage said shipper will indemnify to the consignee the difference between the released or limited valuation paid by the carrier and the full value of the property shipped. A carrier's liability is limited to the released value or limited liability as stated in the carrier's governing tariff.

SECTION 24. AMENDATORY 47 O.S. 1991, Section 169.3, is amended to read as follows:

Section 169.3 Where shipments of household goods or used emigrant movables are received by the carrier from the shipper in apparent good order and with no exceptions noted on the bill of lading, and delivered by the carrier with written exceptions covering loss or damage thereto, the carrier shall have the burden of proof to establish nonliability for such loss or damage. Terms and conditions of the bill of lading contract referring to excepted causes shall remain applicable.

SECTION 25. AMENDATORY 47 O.S. 1991, Section 169.4, is amended to read as follows:

Section 169.4 Where shipments of household goods or used emigrant movables are received by the carrier from the shipper in apparent good order and with no exceptions noted on the bill of lading, and delivered by the carrier in the same manner, with no exceptions noted, such concealed loss or damage claims must be submitted to the carrier by the shipper. Inspections covering loss or damage found after delivery must be requested to the delivering carrier in writing within fifteen (15) days after the delivery of the shipment involved. If more than fifteen (15) days have passed it is incumbent upon the consignee to offer reasonable evidence to the carrier or a representative of the carrier that loss or damage was not incurred by the consignee after delivery by the carrier.

SECTION 26. AMENDATORY 47 O.S. 1991, Section 169.5, is amended to read as follows:

Section 169.5 If the carrier fails to process loss or damage claims as provided in Sections ~~2~~ 169.2 through ~~4~~ 169.4 of this ~~act~~ title, or to express declinations of said claims in writing with proof of nonliability, said carrier may be fined by the Corporation Commission an amount not to exceed Five Hundred Dollars (\$500.00) upon hearing of a complaint filed with the Commission. Failure to pay the fine or resolve the complaint will result in a hearing by the Corporation Commission to determine if the operating authority of the carrier shall be revoked.

SECTION 27. AMENDATORY 47 O.S. 1991, Section 169.6, is amended to read as follows:

Section 169.6 Nothing in Sections ~~4~~ 169.1 through ~~5~~ 169.5 of this ~~act~~ title shall deprive any holder of a receipt of bill of lading any remedy or right of action under existing law. Where litigation is pursued under other existing rights, the prevailing party shall be allowed reasonable attorney fees and court costs.

SECTION 28. AMENDATORY 47 O.S. 1991, Section 170, is amended to read as follows:

Section 170. A. Nothing contained in this act shall be construed to authorize the operation of any ~~passenger or~~ freight vehicle in excess of the gross weight, width, length or height authorized by law.

B. Any person who willfully advertises to perform transportation services for which he does not hold a proper certificate or permit shall be in violation of this act and subject to the penalties prescribed for contempt of the Commission.

C. All certificates or permits issued by the Commission under any law of the state relating to motor carriers shall contain the provision that ~~said~~ the Commission reserves to itself authority to suspend and/or cancel any such certificate or permit for the violation, on the part of the applicant or any operator or operators of any motor vehicle to be operated thereunder, of any law of the State of Oklahoma or any rule ~~or regulation~~ adopted by ~~said~~ the Commission; and ~~said~~ the Commission may cancel the certificate of any motor carrier operating as an intrastate carrier, who shall fail

to remit to the consignor, within ten (10) days after collection from the consignee, of any or all C.O.D. charges or collections.

D. Certificates or permits shall be considered personal to the holder thereof and shall be issued only to some definite legal entity operating motor vehicles as a motor carrier of household goods or used emigrant movables, and shall not be subject to lease, nor shall the holder thereof sublet or permit the exercise, by another, in anywise, of the rights or privileges granted thereunder; provided, nothing herein contained shall be construed to prohibit the Commission, in case the necessities of public convenience require temporary service over any route, to grant authority to another motor carrier to render such service, upon compliance with the other provisions of law applicable to other motor carriers.

SECTION 29. AMENDATORY 47 O.S. 1991, Section 170.1, is amended to read as follows:

Section 170.1 A. Upon any complaint in writing under oath being made by any person, or by the Commission of its own motion, setting forth any act or thing done or omitted to be done by any person in violation, or claimed violation, of any provision of law, or of any order or rule of the Commission, the Commission shall enter same upon its docket and shall immediately serve a copy thereof upon each defendant together with a notice directed to each defendant requiring that the matter complained of be answered, in writing, within ten (10) days of the date of service of such notice, provided that the Commission may, in its discretion, require particular cases to be answered within a shorter time, and the Commission may, for good cause shown, extend the time in which an answer may be filed.

Upon the filing of the answer herein provided for, the Commission shall set a time and place for ~~said the~~ hearing, and notice of the time and place of ~~said the~~ hearing shall be served not less than ten (10) days before the time set therefor, unless the Commission shall find that public necessity requires the hearing at an earlier date.

B. The Commission may, in all matters within its jurisdiction, issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings pending before the Commission; may administer oaths, examine witnesses, compel the production of records, books, papers, files, documents, contracts, correspondence, agreements, or accounts necessary for any investigation being conducted, and certify official acts.

C. In case of failure on the part of any person to comply with any lawful order of the Commission, or of any Commissioner, or with any subpoena or subpoena duces tecum, or to testify concerning any matter on which he may be lawfully interrogated, the Commission may compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena, or of the refusal to testify.

D. Witnesses who are summoned before the Commission shall be paid the same fees and mileage as are paid to witnesses in courts of record. Any party to a proceeding at whose instance a subpoena is issued and served shall pay the costs incident thereto and the fees for mileage of all his witnesses.

E. In event any process shall be directed to any nonresident who is authorized to do business in this state, ~~said the~~ process may be served upon the agent designated by ~~said the~~ nonresident for the service of process, and service upon ~~said the~~ agent shall be as sufficient and as effective as if served upon the ~~person himself~~ nonresident.

F. All process issued by the Commission shall extend to all parts of the state and any such process, together with the service of all notices issued by the Commission, as well as copies of complaints, rules, orders and regulations of the Commission, may be served by any person authorized to serve process issued out of courts of record, or by certified mail.

G. After the conclusion of any hearing, the Commission shall, within sixty (60) days, make and file its findings and order, with its opinion. Its findings shall be in sufficient detail to enable any court in which any action of the Commission is involved to determine the controverted questions presented by the proceeding. A copy of such order, certified under the seal of the Commission, shall be served upon the person against whom it runs, or ~~his~~ the attorney of the person, and notice thereof shall be given to the other parties to the proceedings or their attorneys. ~~Said~~ The order shall take effect and become operative within fifteen (15) days after the service thereof, unless otherwise provided. If an order cannot, in the judgment of the Commission, be complied with within fifteen (15) days, the Commission may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in the order.

H. In the event the Commission finds that the defendant is guilty upon any complaint filed and proceeding had and that the provisions of law, or the rules, regulations or orders of this Commission have been willfully and knowingly violated and the violator holds a permit or certificate or license issued by the Commission authorizing it to engage in the transportation of persons or property for hire, then such permit or certificate or license may also be revoked by the Commission.

I. Where a complaint is instituted by any person other than the Commission of its own motion and in the event the Commission should find that ~~said~~ the complaint was not in good faith, the complaining party shall be required to pay the defendant's attorney's fee, ~~said~~ the fee to be prescribed by the Commission in accordance with applicable Oklahoma Bar Association standards.

J. Any person aggrieved by any findings and order of the Commission may appeal to the Supreme Court in the way and manner now or hereafter provided for appeals from the district court to the Supreme Court.

SECTION 30. 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~~ motor carriers or private carriers 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 or private carriers shall be grounds for issuance of a show-cause order for consideration of temporary or permanent cancellation of operating authority or license. 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. 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 or private carrier shall apply to any other person, firm, or corporation that aids or abets such violations. Provided however, no motor carrier, private 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~~ the 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 or the Motor Carrier Act of 1995.

SECTION 31. AMENDATORY 47 O.S. 1991, Section 172, is amended to read as follows:

Section 172. A. Every owner of any motor vehicle, ~~his~~ the agents, ~~his~~ or employees of the owner, and every other person who violates or fails to comply with or procures, aids, or abets in the violation of Sections 161 through 180m of this title or the Motor Carrier Act of 1995, 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~~ the person's, 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 a fine of not exceeding One Thousand Dollars (\$1,000.00).

B. 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 the Motor Carrier Act of 1995 or any rule ~~or regulation~~ of the Corporation Commission promulgated pursuant to the provisions of Sections 161 through 180m of this title or the Motor Carrier Act of 1995, 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.~~ C. Any person failing, neglecting or refusing to comply with the provisions of Sections 161 through 180m of this title or the Motor Carrier Act of 1995, or with any rule, regulation, or requirement of the Corporation Commission promulgated pursuant to the provisions of Sections 161 through 180m of this title or the Motor Carrier Act of 1995, shall be guilty of contempt of the Corporation Commission, and shall be subject to a fine to be imposed by ~~said~~ the 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.

~~C.~~ D. The Corporation Commission shall appoint a director of ~~motor carriers transportation~~, ~~an assistant~~ a deputy director, an insurance supervisor, an insurance clerk, two stenographers, a secretary to the director, an identification ~~plate~~ device supervisor and an assistant identification ~~plate~~ device supervisor at such salaries as the Legislature may from time to time prescribe. ~~Such~~ The employees shall be allowed actual and necessary travel expenses pursuant to the provisions of the State Travel Reimbursement Act. All of ~~said~~ the expense claims shall be presented and paid monthly.

~~D.~~ E. 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 and the Motor Carrier Act of 1995 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~~ F. The 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 or the Motor Carrier Act of 1995, shall be authorized to require the driver of ~~such~~ the vehicle to stop and submit to an inspection of the identification ~~plate, or plates~~ device, or devices, ~~on such~~ in the 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 or shipping documentation, waybills, or other evidences of transportation carried by the driver of ~~such~~ the vehicle. ~~Such~~ The officers shall not have the right to plea bargain.

~~F.~~ ~~Such~~ G. The 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 or the Motor Carrier Act of 1995 and the rules, regulations, and requirements prescribed by the Corporation Commission promulgated pursuant to Sections 161 through 180m of this title or the Motor Carrier Act of 1995.

~~G.~~ ~~Such~~ H. The 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 or the Motor Carrier Act of 1995. The enforcement officers are authorized to hold and detain any motor vehicle operating upon the highways of this state, if, ~~said~~ the enforcement officer has reason to believe that ~~such~~ the vehicle is being operated contrary to the provisions of Sections 161 through 180m of this title or the Motor Carrier Act of 1995, or the rules, regulations, and requirements of the Corporation Commission promulgated pursuant to

Sections 161 through 180m of this title or the Motor Carrier Act of 1995.

~~H.~~ I. 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 or the Motor Carrier Act of 1995.

~~I.~~ J. Each of ~~said~~ the 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~~ The bond shall be approved and filed as provided by law.

~~J.~~ K. 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~~ the legal staff of the chief legal counsel.

SECTION 32. AMENDATORY 47 O.S. 1991, Section 172.1, is amended to read as follows:

Section 172.1 A. Future applicants for the position of enforcement officer shall be high school graduates and shall have had at least three (3) years' practical experience in the transportation industry or in the field of law enforcement and be certified by the Council on Law Enforcement Education and Training (CLEET) within twelve (12) months from the date of employment. Applicants shall have attained the age of ~~twenty-three (23)~~ twenty-one (21) years. ~~The maximum age for the initial employment of any man employed as an enforcement officer shall be fifty-eight (58) years of age.~~

~~Said~~ B. The applicants shall pass a written test or examination on motor carrier law and the rules of the Commission pertaining thereto, for the purpose of establishing the applicant's fitness and ability to perform the duties of an enforcement officer.

SECTION 33. AMENDATORY 47 O.S. 1991, Section 177.2, as amended by Section 253, Chapter 145, O.S.L. 1993 (47 O.S. Supp. 1994, Section 177.2), is amended to read as follows:

Section 177.2 A. No motor carrier shall engage in the business of transporting any salt water, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and operating of oil and gas wells and brine wells, for any valuable consideration whatever, or in any quantity over twenty (20) gallons, without a ~~certificate or permit~~ license authorizing such operation and a deleterious substance transport ~~license~~ permit to be issued by the Commission. Provided, transportation of such substances by private carrier of property by motor vehicle shall require a deleterious substance transport ~~license~~ permit.

~~B.~~ The Oklahoma Corporation Commission shall, in no instance, issue a grant of operating authority to transport deleterious substances for which a deleterious transport license is required by this section to any applicant for such authority who cannot furnish No carrier shall transport deleterious substances under a carrier license issued by the Commission until such time as the carrier has been issued a deleterious substance transport permit.

C. No deleterious substance transport permit shall be issued to a motor carrier or private carrier until the carrier has furnished written proof of access to a Class II disposal well or wells within reasonable hauling distance of the territory proposed to be served. Said written proof of access shall be provided by the owner of such

disposal well. Such disposal well must first be approved by the Corporation Commission as adequate to meet the need for proper disposal of all substances which the applicant may reasonably be expected to transport as a ~~common~~ motor carrier or private carrier. Provided that nothing in this section shall be construed as prohibiting the disposition of such deleterious substances in a disposal well that is owned by a person other than the ~~licensee~~.

~~C. Motor carriers holding such operating authority shall furnish written proof of access to an approved disposal well within reasonable hauling distance. Failure to comply may, at the discretion of the Commission, result in suspension of carrier's operating authority transporter.~~

D. The Commission shall maintain a current list of such ~~licenses permits~~. The Commission shall charge such annual deleterious substance transport ~~licensing permitting~~ fees as will cover the cost of issuing such licenses and an annual fee of Two Hundred Fifty Dollars (\$250.00) for each such deleterious substance transport license. Proceeds from the fees shall be deposited by the Commission in the State Treasury to the credit of the Corporation Commission Revolving Fund. The provisions of this section are supplemental and are in addition to the laws applicable to motor carriers.

SECTION 34. 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 of the provisions of subsections A or B of this section shall constitute a misdemeanor. 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 motor carrier or private 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 motor carrier or private 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~~ license for a period up to one (1) year and cancellation of a motor carrier or private carrier deleterious substance transport permit. 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).

~~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 35. AMENDATORY 47 O.S. 1991, Section 180, is amended to read as follows:

Section 180. The following words and phrases, when used in this act, shall have the meanings respectively ascribed to like words and phrases by the motor carrier statutes of Oklahoma, except as herein provided:

~~(a) 1.~~ 1. The term "identification application" shall mean the application as provided by the Commission, for making application for motor carrier vehicle identification devices; ~~and~~

~~(b) 2.~~ 2. The term "Identification Device" shall mean the motor carrier vehicle identification device issued by the Commission under the provisions of this act for the purpose of identifying powered motor carrier vehicles operated under and coming within the provisions of this act or the Motor Carrier Act of 1995.

SECTION 36. AMENDATORY 47 O.S. 1991, Section 180c, is amended to read as follows:

Section 180c. The Commission may issue an order for the seizure and confiscation and return to the Commission of any identification device or devices, for any of the following reasons, and to direct said order or orders to any officer of the State of Oklahoma charged with the duties of enforcing the provisions of this act and/or any other section of the motor carrier law now in force or hereinafter enacted:

~~(a) 1.~~ 1. In all cases where the motor carrier has permitted the insurance coverage, as required by law to be filed with the Commission, to lapse or become cancelled or for any reason to become void and fail to meet the requirements as provided by law; ~~i~~

~~(b) 2.~~ 2. For failure on the part of any motor carrier, his or its agents or employees to comply with any part or provision of this act, or any other act or law or part or provision thereof relative to the legal operation of a for-hire motor carrier or to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission; ~~i~~

~~(c) 3.~~ 3. Upon the cancellation or revocation of the certificate or permit or IRC or license under which said identification device or devices were issued; ~~i~~ or

~~(d) 4.~~ 4. For operating any powered motor vehicle in violation of the terms and provisions of this act or the Motor Carrier Act of 1995 and all applicable size and weight laws and safety standards of this state.

SECTION 37. AMENDATORY 47 O.S. 1991, Section 180d, is amended to read as follows:

Section 180d. The Commission shall have the power and authority by general order or otherwise to promulgate rules and regulations

for the administration and enforcement of the provisions of this act or the Motor Carrier Act of 1995.

SECTION 38. AMENDATORY 47 O.S. 1991, Section 180f, is amended to read as follows:

Section 180f. The Commission is hereby authorized to purchase said identification devices in sufficient amounts to supply the demand, ~~from the State Penitentiary, at McAlester, Oklahoma,~~ and to purchase such other officer supplies and equipment as is necessary to administer and enforce the provisions of this act or the Motor Carrier Act of 1995, and to pay for, or cause the same to be paid for, out of the appropriation provided therefor.

SECTION 39. AMENDATORY 47 O.S. 1991, Section 180g, is amended to read as follows:

Section 180g. It shall be the duty of the Commission to provide identification devices upon written application of any authorized motor carrier.

Upon written application of any authorized motor carrier holding a certificate or permit or license issued by the Commission, the Commission shall issue to ~~said the~~ motor carrier a sufficient number of identification devices so that each powered vehicle owned or to be operated by the motor carrier in the state shall bear one identification device. Identification devices shall be issued on a ~~calendar-year~~ an annual basis, and applications shall be made annually on the form prescribed by the Commission, and any motor carrier operating a powered vehicle without a current identification device shall be in violation of the provisions of Sections 180 through 180m of this title or the Motor Carrier Act of 1995.

It is hereby declared unlawful for any motor carrier, or agents or employees of any motor carrier, to use or transfer an identification device except as provided by rules of the Commission.

SECTION 40. AMENDATORY 47 O.S. 1991, Section 180h, is amended to read as follows:

Section 180h. The Corporation Commission is hereby authorized to collect from applicants for motor carrier identification devices a fee of Seven Dollars (\$7.00) for registration of each of its trucks and Seven Dollars (\$7.00) for each of its truck-tractors registered under the provisions of this act or the Motor Carrier Act of 1995; and ~~said the~~ fee shall be in addition to any other fees now provided for by law for the registration of said motor vehicles and shall be deposited in the State Treasury to the credit of the Corporation Commission Revolving Fund. ~~The first One Hundred Twenty-three Thousand Dollars (\$123,000.00) shall be used for a joint study in conjunction and cooperation with the Corporation Commission, the Department of Public Safety, the Oklahoma Tax Commission, and the Oklahoma trucking industry to provide research and analysis of the Oklahoma motor transportation economic regulatory systems, its enforcement practices and effectiveness as relates to the development of Oklahoma as a motor transportation hub center. Any research contracts shall be jointly approved by the Chairman of the Corporation Commission and the Commissioner of the Department of Public Safety. The Office of Public Affairs shall provide oversight as provided by the Oklahoma Central Purchasing Act.~~

SECTION 41. AMENDATORY 47 O.S. 1991, Section 180m, is amended to read as follows:

Section 180m. Duties of State and Local Officers: In addition to all other duties as provided by law, it is hereby declared to be, and shall be the duty of all sheriffs, deputy sheriffs, district attorneys, enforcement officers appointed by the Corporation Commission of the State of Oklahoma, and all highway patrolmen

within the State of Oklahoma, to enforce the provisions of this act or the Motor Carrier Act of 1995. To apprehend and detain any motor vehicle or vehicles and driver or chauffeur and their aids who are operating any motor vehicle, upon or along the highways of this state, ~~without the specific identification plate so attached thereto as provided herein,~~ for a reasonable length of time, for the purpose of investigating and determining whether such vehicle is being operated in violation of any of the provisions of this act or the Motor Carrier Act of 1995; and to make arrests for the violation of the provisions of this act or the Motor Carrier Act of 1995, without the necessity of procuring a warrant; and to sign the necessary complaint and to cause the violator or violators to be promptly arraigned before a court of competent jurisdiction for trial and to aid and assist in the prosecution of the violator or violators in the name of the State of Oklahoma to the end that this law shall be enforced:

~~(a)~~ 1. It shall be the further duty of the arresting officer to report all such arrests to the Corporation Commission of Oklahoma within ten (10) days after making such arrest and to furnish such information concerning same as the Commission may request.

~~(b)~~ 2. It shall be the further duty of the officers herein, at the request of the Corporation Commission, to seize and confiscate any and all ~~certificates of registration and identification plates devices~~ and to forward the same to the Corporation Commission for cancellation.

SECTION 42. AMENDATORY 47 O.S. 1991, Section 224, is amended to read as follows:

Section 224. Any city of this state may, by a duly-adopted ordinance, in any manner deemed best for the interest of ~~said the~~ city, regulate the operation within the corporate limits of ~~said the~~ city of auto buses not operated under a certificate of convenience and necessity or permit or license issued by the Corporation Commission for the transportation of passengers for hire to or from a point or points outside the corporate limits of ~~said the~~ city, and to or from points within ~~said the~~ corporate limits of ~~said the~~ city.

SECTION 43. AMENDATORY 47 O.S. 1991, Section 225, is amended to read as follows:

Section 225. Any city of this state may, by a duly adopted ordinance, prohibit any auto bus being operated under a certificate of convenience and necessity or permit or license issued by the Corporation Commission of Oklahoma transporting passengers for hire to, from or through said city from stopping, except in cases of accident or other emergencies, on the streets or alleys within a specified area of ~~said the~~ city where the traffic is congested, and loading and unloading passengers while so stopped; and also prohibit the parking of any such automobile or auto bus on the streets or alleys in such congested area; ~~provided that nothing.~~ Nothing contained in this act shall authorize any city or town to designate the location of passenger terminals or bus stations.

SECTION 44. AMENDATORY 47 O.S. 1991, Section 228.3, is amended to read as follows:

Section 228.3 The Oklahoma Corporation Commission shall establish an intrastate motor transportation fuel surcharge for common carriers of household goods or used emigrant movables by motor vehicles over irregular routes that shall in no instance be less than that established by the Interstate Commerce Commission for interstate transportation by like carriers.

SECTION 45. REPEALER 47 O.S. 1991, Sections 161.1, 161.2, 163.2, 166.1, 166.1a, 166.1b, 166.2, 166.3, 166.4, 167.1, 176, 180i, 180j, 228.1 and 228.2, are hereby repealed.

SECTION 46. This act shall become effective November 1, 1995.
Passed the House of Representatives the 26th day of April, 1995.

Speaker of the House of
Representatives

Passed the Senate the 22nd day of March, 1995.

President of the Senate