

SHORT TITLE: Motor vehicles; transferring duties of inspection of rebuilt vehicles from motor license agents to Department of Public Safety; effective date; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1272

By: Helton

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 6-117, as last amended by Section 1, Chapter 208, O.S.L. 1995, and 1111, as last amended by Section 2, Chapter 324, O.S.L. 1995 (47 O.S. Supp. 1995, Sections 6-117 and 1111), which relate to driver licenses and vehicle titles; modifying purposes for which certain monies may be budgeted and expended; deleting certain provision for reissuance of motor vehicle title; modifying procedures for application for rebuilt title; modifying procedures for certain inspections and examinations; transferring certain duties from motor license agents to Department of Public Safety; modifying date by which certain inspection and examination must be performed; requiring Department to promulgate certain rules; modifying fee for inspection and examination of rebuilt vehicles; providing that fee be nonrefundable except upon certain notification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 6-117, as last amended by Section 1, Chapter 208, O.S.L. 1995 (47 O.S. Supp. 1995, Section 6-117), is amended to read as follows:

Section 6-117. A. The Department of Public Safety shall file every application for a license received by it and shall maintain suitable indexes containing, in alphabetical order:

1. All applications denied and on each thereof note the reasons for such denial; and
2. All applications granted; and
3. The name of every licensee whose license has been suspended or revoked by the Department and after each such name note the reasons for such action. Any notation of suspension of a license

for reason of nonpayment of a fine shall be removed from the record after the licensee has paid the fine and has had his or her license reinstated.

B. The Department shall also file all accident reports and abstracts of court records of convictions received by it pursuant to the laws of this state and maintain convenient records of such records and reports or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which he or she has been involved shall be readily ascertainable and available for the consideration of the Department of Public Safety upon any application for license or renewal of license and at other suitable times. Any abstract, index or other entry relating to a driving record according to the licensing authority in another state or a province of Canada may be posted upon the driving record of any resident of this state when notice thereof is received by documentation or by electronic transmission. The individual record of each licensee shall not include any accident reports and abstracts of court records involving an accident in which the individual licensee was not issued a citation or if a citation is issued and said licensee was not convicted.

C. The Commissioner may cause any or all records kept by the Department of Public Safety to be photographed, microphotographed, photostated, or reproduced on film. Such film or reproducing material shall be of durable material and the device used to reproduce such records on such film or material shall be such as to accurately reproduce and perpetuate the original records in all detail.

D. Such photostatic copy, photograph, microphotograph, or photographic film of the original records shall be deemed to be an

original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies. A facsimile, exemplification, or certified copy thereof shall be deemed to be a transcript, exemplification, or certified copy of the original.

E. If such photostatic copy, photograph, microphotograph, or reproductions on films shall be placed in conveniently accessible files and provisions made for preserving, examining, and using same, the Commissioner is empowered to authorize the disposal, archival storage, or destruction of such records or papers.

F. Officers and employees of the Department designated by the Commissioner, for the purpose of administering the motor vehicle laws, are authorized to administer oaths and acknowledge signatures, and shall do so without fee.

G. The Commissioner and such officers of the Department as he or she may designate are hereby authorized to prepare under the seal of the Department and deliver upon request a certified copy of any record of the Department, charging a fee of Three Dollars (\$3.00) per sheet, photograph, or any part of a sheet or photograph of any such document or similar document so certified. The certified copy shall be admissible in any proceeding in any court in like manner as the original thereof.

H. The Department of Public Safety or any motor license agent upon request shall prepare and furnish a summary to any person of the traffic record of any person subject to the provisions of the motor vehicle laws of this state. Said summary shall include the enumeration of any motor vehicle accidents, reference to convictions for violations of motor vehicle laws, and any action taken against the person's privilege to operate a motor vehicle, as shown by the files of the Department for the three (3) years preceding the date of the request. For each summary furnished by the Department of

Public Safety, the Department shall collect the sum of Ten Dollars (\$10.00). For each summary furnished by a motor license agent, the agent shall collect the sum of Ten Dollars (\$10.00), Eight Dollars (\$8.00) of which shall be paid to the Oklahoma Tax Commission for deposit in the General Revenue Fund in the State Treasury and Two Dollars (\$2.00) of which shall be retained by the motor license agent.

I. There is hereby created in the State Treasury a revolving fund for the Department of Public Safety to be designated the Department of Public Safety Revolving Fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all money received by the Department of Public Safety from sale of surplus property, insurance and other reimbursements for damaged, lost or stolen property, for the services of Department personnel as approved by the Department if such personnel are representing the Department or are in any uniform of the Department, turnpike enforcement, reimbursement for supplies or facsimile or data transmissions or for contractual services or products not otherwise provided by law, fees and costs paid by subscribers to the Oklahoma Law Enforcement Telecommunications Systems, refund of federal gasoline tax, court-ordered forfeitures, salvage vehicle inspection and certification fees, fees provided for in subsection H of Section 1111 of this title, reimbursements by federal, state and municipal government agencies for the use of Department of Public Safety airplanes, fees from users of the Robert R. Lester Law Enforcement Training Academy facilities and federal funds unless otherwise provided by federal law or regulation. Except as provided for in subsection J of this section, all monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Public Safety for the operating

expenses of the Department and for vehicles, equipment, personnel and other operating expenses for turnpike enforcement. The Director of State Finance shall provide a distinct numbering system for the identification and tracking of the expenditures of the various programs budgeted from the Revolving Fund. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

J. All monies accruing to the credit of the Department of Public Safety Revolving Fund from inspection fees provided for in subsection H of Section 1111 of this title shall be budgeted and expended for ~~any~~ the purpose of inspections and examinations performed by the Department of Public Safety as provided for in Section 1111 of this title.

All monies received by the Commissioner of Public Safety, ~~or~~ or his or her officers and ~~his~~ employees shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury except as otherwise provided in this section.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 1111, as last amended by Section 2, Chapter 324, O.S.L. 1995 (47 O.S. Supp. 1995, Section 1111), is amended to read as follows:

Section 1111. A. As used in this section:

1. "Loss" means the cost, in dollars, to repair or replace a vehicle which has been damaged by collision or other occurrence. The amount paid by an insurer to a holder of the certificate of title for repair of a damaged vehicle shall be prima facie evidence of the amount of the loss. The amount paid by an insurer to a holder of the certificate of title for replacement of a damaged vehicle less the resale value of the damaged vehicle shall be prima facie evidence of the amount of the loss;

2. "Fair market value" means the value of a vehicle as listed in the current National Auto Dealers Association guidebook or other similar guidebook or the actual cash value, whichever is greater;

3. "Resale value" means the amount, in dollars, paid to the holder of a certificate of title by a willing buyer for a vehicle damaged by collision or other occurrence or recovered from theft;

4. "Total loss" means a loss which is equal to the fair market value of the vehicle immediately prior to the damage to or theft of the vehicle; and

5. "Vehicle" means a vehicle, as defined in paragraph 29 of Section 1102 of this title, which is within the last seven (7) model years.

B. Any insurance company that pays a total loss on a claim for any vehicle including, but not limited to, a flood-damaged vehicle or recovered-theft vehicle, any junk dealer who receives a motor vehicle which is to be used for junk or for parts, or any other person permanently dismantling or junking a vehicle shall receive the certificate of title from the current holder of the certificate of title, shall detach the license plate from such vehicle, and shall return the license plate and the certificate of title to the Oklahoma Tax Commission or a motor license agent within thirty (30) days from receipt of the certificate. The Commission shall cancel the certificate of title to the vehicle used for junk or parts and shall preserve the vehicle identification numbers on the certificate of title in the computer files for at least five (5) years. The Commission shall transfer ownership of a stolen vehicle, not recovered from theft at the time of transfer, by salvage title to the insurer. The Commission shall transfer ownership of a vehicle damaged by flooding or other occurrence to the insurer by an original title, salvage title, or junked title, as may be

appropriate, based upon an estimate of the amount of loss submitted, by the insurer. All license plates surrendered to the Commission shall be destroyed.

C. 1. If an insurance company pays a claim for a loss which is less than a total loss but the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of the fair market value of the vehicle, or if any vehicle not insured is damaged to the extent that the cost of repair for safe operation on the highway exceeds sixty percent (60%) of the fair market value of the vehicle, any holder of the certificate of title for the vehicle shall return the certificate of title to the Oklahoma Tax Commission or a motor license agent within thirty (30) days from receipt of payment for the loss.

2. Upon receipt of the certificate, the Commission or motor license agent shall issue a salvage title for the vehicle. The title for any vehicle damaged by flooding shall be stamped with the words "Flood Damaged", and for any such vehicle which was recovered from a theft, the salvage title or rebuilt title shall be stamped with the words "Recovered Theft". A licensed dealer subject to the provisions of the Automotive Dismantlers and Parts Recycler Act, Section 591.1 et seq. of this title, shall not be required to pay registration fees, excise taxes, back taxes or penalties on a vehicle as a prerequisite to obtaining a salvage title.

~~3. If the actual documented cost of repairing the vehicle for safe operation on the highway does not exceed sixty percent (60%) of the fair market value of the vehicle as defined in this act, the certificate of title shall be reissued to the holder and the vehicle shall not be subject to inspection as required under this section. The actual documented cost of repairing the vehicle pursuant to this~~

~~paragraph shall be certified by the insurance company paying the loss.~~

D. ~~If~~ When a motor vehicle with a salvage title is placed in operative condition, as provided for in subsection E of this section, an application shall be made to the Commission or a motor license agent for a rebuilt title. ~~A visual inspection of the vehicle and examination of the vehicle identification numbers shall be conducted prior to the issuance of a rebuilt title.~~ At the time of ~~such~~ the issuance of the rebuilt title, the salvage title shall be returned to the Commission by the owner, or by the motor license agent if the motor license agent issues the rebuilt title. ~~A visual inspection shall also be made of any out-of-state vehicle to be registered and titled in this state, if the vehicle is within the class of vehicles for which a rebuilt title is required and a similar inspection has not been conducted by another state.~~ The certificate of title for the rebuilt vehicle shall be ~~stamped~~ printed with the words, "This Rebuilt Vehicle Has Been Inspected By The Appropriate State Official".

E. The owner of a motor vehicle which has been issued a salvage title by the Commission and upon which all vehicle damage has been repaired shall make an application to the Department of Public Safety for an appointment to have the vehicle visually inspected and examined for the purpose of placing the vehicle in operative condition. The visual inspections inspection of the vehicle and examination of vehicle identification numbers shall include, but not be limited to:

1. Comparison of the vehicle identification numbers with the number recorded on the ownership records;

2. Inspection of the vehicle identification numbers and the ~~VIN~~ vehicle identification number plate to detect possible alteration or other fraud;

3. Interpretation of the vehicle identification number recorded on the ownership documents to assure that it accurately describes the motor vehicle in question; ~~and~~

4. Inspection of the odometer of the vehicle to detect rollback or alteration; and

5. Inspection of the motor vehicle as required by Section 851 et seq. of this title and issuance of a vehicle inspection sticker.

~~All vehicle damage shall be repaired before the examination is conducted.~~ The following paperwork shall be presented to the ~~motor license agent~~ Department by the owner at the time of the inspection and examination: the salvage title and original receipts for all parts placed on the vehicle. Components such as doors, motor and transmission shall indicate the serial number of the part or the ~~VIN~~ (vehicle identification number) of the ~~auto~~ vehicle from which the part was purchased ~~from~~ or ~~parts removed from the auto.~~

~~The motor license agent shall require documentation that the inspection required by Section 851 et seq. of this title has been performed on the vehicle within thirty (30) days of the motor license agent's inspection. Such inspection shall not be required for any motor vehicle registered pursuant to the provisions of Section 1120 of this title or any trailer or semitrailer registered pursuant to the provisions of Section 1133 of this title.~~

F. The visual inspection and vehicle identification numbers examination shall be performed by a ~~motor license agent~~ the Department at ~~the~~ a location designated by the ~~motor license agent~~ Department. ~~If the location of the inspection is not the place of business of the rebuilder, the motor license agent~~ The Department

shall issue a permit authorizing the ~~applicant~~ owner or the owner's agent to operate the vehicle upon the public streets, roads, and highways ~~in route~~ to and from the designated location for the inspection and examination. The inspection and examination shall be performed within ten (10) working days after the Department has received and approved the application submitted by the owner of the vehicle ~~requests the inspection and examination~~. Requests Applications shall be made by completing the ~~request~~ application form prescribed and provided by the ~~Oklahoma Tax Commission~~ Department.

G. Inspection and examination of a rebuilt vehicle shall be performed by persons employed by ~~a motor license agent~~ the Department. The Department shall promulgate rules for the implementation and administration of subsections E, F, G and H of this section.

H. The fee for the inspection and examination by the ~~motor license agent~~ Department shall be ~~Twenty-five Dollars (\$25.00)~~ Fifty Dollars (\$50.00), which shall be paid at the time of ~~issuance of the certificate of title for the rebuilt vehicle~~ application for an appointment for the inspection and examination required by subsection E of this section. The fee shall be paid to the Department and shall not be refundable unless the Department is notified of cancellation of the appointment at least twenty-four (24) hours prior to the scheduled appointment. The ~~motor license agent~~ shall retain ~~Five Dollars (\$5.00)~~ and shall remit ~~Twenty Dollars (\$20.00)~~ to the ~~Oklahoma Tax Commission~~ which shall retain ~~Ten Dollars (\$10.00)~~ and Department shall transmit ~~Ten Dollars (\$10.00)~~ the fee to the State Treasurer for deposit in the Department of Public Safety Revolving Fund, as established in Section 6-117 of this title. The ~~motor license agent~~ Department and

its employees ~~and agents~~ may not be sued for and shall not be liable for any damages allegedly arising out of the inspection of a vehicle or any acts or omissions in the performance of the inspection. The ~~motor license agent~~ Department may be held liable for any damages to the vehicle caused by the negligent acts or omissions in the performance of the inspection. Any person may be liable for any damages to a vehicle caused by the intentional acts or omissions in the performance of the inspection.

I. The rebuilt title and any subsequent transfers of such title shall also reflect that the vehicle was a salvage vehicle, flood-damaged vehicle or recovered-theft vehicle, if applicable, and also shall include the salvage date.

J. Any title for a motor vehicle issued pursuant to the laws of any other state which reflects that such vehicle is a salvage vehicle, a rebuilt vehicle or a junked vehicle or has any other brand or classification notation by that state shall be retained on the new title issued by the Oklahoma Tax Commission.

K. When the insurance company pays a loss, as defined in this section, on a vehicle which is registered at the time of mishap, accident, burning or flooding, the appropriate certificate of title shall be issued without the payment of additional registration fees or excise taxes, upon the submission of a police report or insurance adjuster's report and a declaration by the insurer that the vehicle is held for sale to a dealer. If the owner or insured of the vehicle retains ownership of the damaged vehicle, the Oklahoma Tax Commission shall notify the owner or insured of the requirements of this section.

L. Any insurance company that pays a claim for a loss where the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of the market value of the vehicle or

pays a claim for a flood-damaged vehicle as defined in Section 1105 of this title shall notify, in writing, the holder of the certificate of title of the requirements of this section and shall notify the Oklahoma Tax Commission of the payment of such claim. The insurance company shall also send a copy of the notification to the holder of the title. The Oklahoma Tax Commission shall notify the owner of the vehicle in writing to surrender the title along with the fee to the Commission or one of its motor license agents within thirty (30) days from the receipt of notice for the issuance of the appropriate title based on the amount of loss. The Commission shall reissue the appropriate title with the words "Flood Damaged" on the face of the title in the case of a flood-damaged vehicle. Provided, no insurance company shall pay a claim for less than the amount to which the holder of the certificate of title is rightfully entitled in order to avoid compliance with this section.

M. Except as provided for in subsection N of this section, any person, firm, or corporation convicted of violating any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than Three Hundred Dollars (\$300.00) or by incarceration in the county jail for not more than six (6) months, or by both the fine or incarceration.

N. Any owner of a titled vehicle who has knowledge that the title is not the proper type for the vehicle, and with intent to misrepresent the vehicle, fails to make the appropriate title changes shall be guilty of a misdemeanor. Any person who has knowledge that the title is not the proper type for the vehicle, and with intent to misrepresent the vehicle, buys or receives any vehicle for which the appropriate title changes have not been made as required by ~~this act~~ Section 591.8 and Sections 1105 through 1111 of this title shall be guilty of a misdemeanor. Any person found

guilty in accordance with the provisions of this subsection shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) for the first offense or Five Thousand Dollars (\$5,000.00) for the second or subsequent offense, or by imprisonment in the county jail for a term not exceeding six (6) months, or by both such fine and imprisonment.

O. ~~Upon the effective date of this act, the~~ The Oklahoma Tax Commission shall notify any insurance companies, and the Oklahoma Used Motor Vehicle and Parts Commission shall notify any salvage pools, salvage dealers and others, who may be holders of titles of salvage vehicles as defined in Section 1105 of this title of the requirements of ~~this act~~ the Oklahoma Vehicle License and Registration Act. Any owner of a vehicle with an Oklahoma certificate of title which is no longer an appropriate certificate of title, before October 2, 1989, may submit the certificate of title to the Oklahoma Tax Commission for issuance of the appropriate type of title without any cost or fee. Any owner of a salvage or junked vehicle shall submit the certificate of title to the Oklahoma Tax Commission or motor license agent for issuance of an appropriate title. Any holder of a certificate of title issued by this state, to a vehicle which no longer exists, shall surrender the certificate of title to the Oklahoma Tax Commission for cancellation. The vehicle identification number on the canceled certificate of title shall be preserved in the computer of the Oklahoma Tax Commission for at least five (5) years.

Any person who fails to make the title changes or to surrender the title as required herein on or before June 1, 1990, shall be assessed a penalty by the Oklahoma Tax Commission in an amount not to exceed Fifty Dollars (\$50.00), which shall be apportioned in the same manner as the fees and taxes levied by the Oklahoma Vehicle

License and Registration Act. Nothing in this section shall be construed to prevent the transfer of ownership of a vehicle by assignment of the title to a used car dealer, wholesale used car dealer, or a licensed automotive dismantler or parts recycler.

SECTION 3. This act shall become effective July 1, 1996.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-2-2269

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