

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)  
CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1908

By: Liotta of the House

and

Campbell of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to junk dealers; amending 59 O.S. 1991, Sections 1401, 1402, 1403, 1408 and 1411, as amended by Section 4, Chapter 89, O.S.L. 1996 (59 O.S. Supp. 1996, Section 1411), which relate to junk dealers; modifying and adding definitions; deleting certain licensure requirements and related fees; requiring junk dealers to obtain certain sales tax permits; requiring the Oklahoma Tax Commission to maintain certain list and make list available upon request; clarifying and conforming language; making certain disciplinary procedures and penalties applicable to junk dealers engaging in certain transactions; specifying that each separate transaction in violation is a separate offense; establishing records to be maintained and procedures to be followed subsequent to certain purchases; providing for certain exemptions; repealing 59 O.S. 1991, Section 1404, which relates to junk dealers; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1401, is amended to read as follows:

Section 1401. As used in this act, the following terms shall have the meanings indicated:

~~(a)~~ 1. "Copper material" means the metal copper or copper alloy or anything made of either copper or copper alloy~~;~~;

~~(b)~~ 2. "Aluminum material" means the metal aluminum or aluminum alloy or anything made of either aluminum or aluminum alloy, except aluminum cans~~;~~;

~~(c)~~ 3. "Junk dealer" means any person, firm or corporation being an owner, keeper or proprietor of a junk shop, junk store, salvage yard or scrap processor handling copper material; a collector or dealer in junk, salvage or other property made of copper material or aluminum metal; ~~or anyone purchasing or handling copper material for remelting purposes;~~ or anyone purchasing, handling or transferring vehicles for purposes of crushing, baling, shredding, flattening, recycling and reselling as bulk or processed metal;

~~(d)~~ 4. "Yard" means the place where any junk dealer stores copper material or keeps the same for purpose of sale; and

5. "Vehicle" means vehicle as defined in Section 1-186 of Title 47 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1402, is amended to read as follows:

Section 1402. ~~(a)~~ A. Any junk dealer ~~being engaged in business when this act becomes effective shall, within thirty (30) days thereafter,~~ and any ~~other~~ person, firm ~~or,~~ corporation or other legal entity desiring to become a junk dealer shall prior to the commencement of business file a verified application and obtain a license sales tax permit, as provided by Section 1364 of Title 68 of the Oklahoma Statutes, from the Oklahoma Tax Commission. ~~Each junk dealer shall pay an annual license fee to the State of Oklahoma in the sum of Thirty-five Dollars (\$35.00).~~ Each junk dealer shall maintain at least one yard and, if such junk dealer maintains or desires to maintain more than one yard, ~~said~~ the junk dealer shall obtain, in addition to ~~his~~ the original license sales tax permit, a duplicate license sales tax permit for each additional yard. ~~An annual fee of Fifteen Dollars (\$15.00) shall be paid by the junk dealer for each duplicate license. Licensed junk dealers may, at any time after they have obtained an original license and before its expiration, obtain duplicate licenses for additional yards by payment to the Oklahoma Tax Commission of a fee of Fifteen Dollars (\$15.00) for each duplicate license. The application for license shall be on a form provided by and approved by the Oklahoma Tax Commission. Such form shall~~

~~state the name of the junk dealer; the location of his principal yard; the location of all other yards maintained by him within the state; the name or style of the firm under which such business is being conducted; the names and addresses of persons interested in the business as principals, copartners, officers and directors, specifying as to each his capacity and title. Provided that any junk dealer who shall feel aggrieved by the action of the Oklahoma Tax Commission, that it has acted unreasonably or arbitrarily in refusing to grant a license or in suspending or revoking his license may appeal from the action of said Commission to the Supreme Court of the state for a review of any such alleged unreasonable and arbitrary action; and the decision of said Court shall be final and binding upon said Commission; provided that any such order of said Commission shall be binding upon any such junk dealer until reversed by said Court.~~

~~(b) A certificate of license shall be furnished by the Oklahoma Tax Commission to every person whose application to become a junk dealer has been filed and approved. Such certificate shall be nonassignable and shall designate the name and address of licensee, the location of the yard and the fact that he is authorized to engage in the business of a junk dealer to handle copper material and shall be signed by the Oklahoma Tax Commission. Each junk dealer shall keep such certificate of license in a prominent and conspicuous place in his yard. In the case of a junk dealer having more than one yard, a duplicate license shall be on display in a conspicuous and prominent place in each such yard.~~

~~(c) The license or duplicate license herein provided for shall be renewable on the first day of January of each year upon application to the Oklahoma Tax Commission and upon payment of the fees herein provided for~~

B. The Oklahoma Tax Commission shall maintain a list of junk dealers to whom sales tax permits have been issued. The list shall be made available to the public upon request.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1403, is amended to read as follows:

Section 1403. A. Any ~~license sales tax permit~~, issued pursuant to Section ~~1402 1364~~ of ~~this title~~ Title 68 of the Oklahoma Statutes, to any junk dealer who violates any of the provisions of Sections 1401 through this section and Sections 1405 through 1408 of this title relating to the purchase of copper materials, may be canceled or suspended for a period not to exceed thirty (30) days by the Oklahoma Tax Commission. The Oklahoma Tax Commission may refuse the issuance of or extension or reinstatement of any ~~license permit~~ where the applicant or ~~licensee holder of the permit~~ shall have violated any provisions of this act or existing laws. ~~Provided that such~~ Such cancellation or refusal shall be mandatory as to any junk dealer having been convicted of three separate violations of this act. ~~Provided, further, that~~ However, before the Oklahoma Tax Commission may cancel or suspend any ~~license permit~~ or refuse the issuance, reinstatement or extension thereof, ~~said the~~ the Oklahoma Tax Commission shall give each ~~licensee holder of a permit~~ or applicant ten (10) days' notice of a hearing before ~~said the~~ the Oklahoma Tax Commission, granting such person an opportunity to show cause why such action should not be taken. ~~Provided, further, that upon~~ Upon notice given to any junk dealer by the Oklahoma Tax Commission of its intention to cancel or suspend any ~~license permit~~ or to refuse the issuance, reinstatement or extension thereof, the Oklahoma Tax Commission shall have the authority to enter its order suspending such ~~license permit~~ or prohibiting the applicant from doing business without a ~~license permit~~ pending the final hearing before it as ~~herein~~ provided for and, after in this section.

B. 1. After notice of ~~such the~~ the order of suspension or prohibition from doing business, it shall be unlawful for ~~such the~~ the junk dealer to further engage in the business of a junk dealer, as defined herein, ~~and in.~~ In the event any such person shall conduct or at any time continue such unlawful operation, after notice of suspension or prohibition from doing business, the Oklahoma Tax Commission may institute or cause to be brought against such person or persons proceedings for injunction in any

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court of competent jurisdiction to enjoin and restrain such person or persons from doing business pending the order of the Oklahoma Tax Commission.

2. Upon cancellation of a ~~license~~ permit by the Oklahoma Tax Commission, no new ~~license~~ permit shall be issued to such dealer for a period of one (1) year from the date of cancellation.

3. In all cases where proceedings are brought for injunction under this act, no bond for injunction shall be required and in all such cases, after notice of suspension has been given, no further notice shall be required before the issuance of a temporary restraining order on any proceeding for injunction.

C. If an appeal is taken from the order of the Oklahoma Tax Commission issued pursuant to this section, the junk dealer, in order to conduct business as a junk dealer pending outcome of the appeal, shall be required to post a bond in the amount of Five Thousand Dollars (\$5,000.00).

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1408, is amended to read as follows:

Section 1408. ~~(a)~~ A. Anyone acting as a junk dealer without a ~~license~~ permit, as required by Section ~~2~~ 1402 of this ~~act~~ title, is guilty of a misdemeanor and, upon conviction thereof, is subject to a fine of Fifty Dollars (\$50.00); provided that each day's operation without a license constitutes a separate offense.

~~(b)~~ B. Any junk dealer failing to maintain records, as required by Section ~~6~~ 1406 of this ~~act~~ title and Section 6 of this act, and any junk dealer failing to hold copper material, as required by Section ~~7~~ 1407 of this ~~act~~ title, is guilty of a misdemeanor and, upon conviction thereof, is subject to a fine of Five Hundred Dollars (\$500.00). Each separate purchase or transfer of a vehicle in violation of Section 6 of this act shall be considered a separate violation of this section.

~~(c)~~ C. Any person who knowingly gives false information with respect to the information required in Section ~~6~~ 1406 of this ~~act~~ title and in Section 6 of this act is guilty of a misdemeanor and, upon conviction thereof, is subject to a fine not to exceed Five Hundred Dollars (\$500.00).

~~(d)~~ D. Each conviction of a junk dealer for violation of any provision of this act shall be reported to the Oklahoma Tax Commission by the clerk of the court rendering such verdict.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1411, as amended by Section 4, Chapter 89, O.S.L. 1996 (59 O.S. Supp. 1996, Section 1411), is amended to read as follows:

Section 1411. A. Any ~~license permit~~, issued pursuant to Section ~~1402~~ 1364 of ~~this title~~ Title 68 of the Oklahoma Statutes, to any junk dealer who violates any of the provisions of Section 1410 of this title relating to purchases of aluminum material, or of Section 6 of this act relating to maintenance of records of purchased vehicles and procedures related thereto, may be canceled or suspended for a period not to exceed thirty (30) days by the Oklahoma Tax Commission. The Oklahoma Tax Commission may refuse the issuance of or extension or reinstatement of any ~~license permit~~ where the applicant or ~~licensee~~ holder of the permit has violated any of the provisions of Section 1410 of this title or existing laws. Before the Oklahoma Tax Commission may cancel or suspend any ~~license permit~~ or refuse the issuance, reinstatement or extension of a ~~license permit~~, the Oklahoma Tax Commission shall give each ~~licensee~~ holder of a permit or applicant ten (10) days' notice of a hearing before the Oklahoma Tax Commission, granting the person an opportunity to show cause why such action should not be taken. Upon notice given to any junk dealer by the Oklahoma Tax Commission of its intention to cancel or suspend any ~~license permit~~ or to refuse the issuance, reinstatement or extension of a ~~license permit~~, the Oklahoma Tax Commission may enter its order suspending such ~~license permit~~ or prohibiting the applicant from doing business without a ~~license permit~~ pending the final hearing before it as provided for in this section ~~and~~, after.

B. 1. After notice of ~~such~~ the order of suspension or prohibition from doing business, it shall be unlawful for ~~such~~ the junk dealer to further engage in the business of a junk dealer. If any such person shall conduct or at any time continue such unlawful operation, after notice of suspension or prohibition from

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doing business, the Oklahoma Tax Commission may institute or cause to be brought against such person or persons proceedings for injunction in any court of competent jurisdiction to enjoin and restrain such person or persons from doing business pending the order of the Oklahoma Tax Commission.

2. Upon cancellation of a ~~license~~ permit by the Oklahoma Tax Commission, no new ~~license~~ permit shall be issued to such dealer for a period of one (1) year from the date of the cancellation.

3. In all cases where proceedings are brought for injunction pursuant to this section, no bond for injunction shall be required and in all such cases, after notice of suspension has been given, no further notice shall be required before the issuance of a temporary restraining order on any proceeding for injunction.

C. If an appeal is taken from the order of the Oklahoma Tax Commission issued pursuant to this section, the junk dealer, in order to conduct business as a junk dealer pending the outcome of the appeal, shall be required to post a bond in the amount of Five Thousand Dollars (\$5,000.00).

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1406A of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Every junk dealer shall keep a separate book or register in which the junk dealer shall enter the following information: name, address, age, driver license number, or, if driver license is not available, similar definite identification, as approved by rule of the Oklahoma Tax Commission, of the person or persons from whom a vehicle is purchased; license tag number of vehicle or conveyance in which delivered; the date and place of each purchase of a vehicle; and a description of the vehicle purchased including make, model, vehicle identification number and license tag number. The person selling the vehicle shall be required to present to the junk dealer the title of the vehicle verifying ownership of the vehicle or a verified bill of sale from the owner of the vehicle or other proof of ownership. Such book or register shall be made available to any law enforcement official for inspection at any time.

B. Any purchases, transfers or handling between junk dealers with permits and/or licensed automotive dismantlers and parts recyclers shall be exempt from the provisions of this section.

SECTION 7. REPEALER 59 O.S. 1991, Section 1404, is hereby repealed.

SECTION 8. This act shall become effective November 1, 1997.

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