

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2100

By: Dunegan, Adair, Stites,
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(John), Nance, Perry,
Miller, Piatt, Askins,
Gilbert, Hutchison and
McCarter of the House

and

Wilkerson, Helton, Herbert,
Smith, Rozell, Long, Weedn
and Crutchfield of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 2-110, as amended by Section 1, Chapter 80, O.S.L. 1999 and 2-111 (47 O.S. Supp. 1999, Section 2-110), which relate to records of the Department of Public Safety; making personal information confidential except under certain circumstances; defining term; authorizing information to be reproduced or stored in certain formats; amending 47 O.S. 1991, Sections 6-101, as last amended by Section 10 of Enrolled House Bill No. 2711 of the 2nd Session of the 47th Oklahoma Legislature, 6-106, as last amended by Section 1 of Enrolled House Bill No. 1960 of the 2nd Session of the 47th Oklahoma Legislature, 6-111, as last amended by Section 1 of Enrolled House Bill No. 2660 of the 2nd Session of the 47th Oklahoma Legislature, 6-115 and 6-117, as last amended by Section 2, Chapter 80, O.S.L. 1999 (47 O.S. Supp. 1999, Section 6-117), which relate to driver licenses; authorizing release of certain information to driver license agencies of other states; modifying information to be provided on driver license application form; authorizing use of computerized signature and image on driver license; eliminating restriction for obtaining driver license without a photo; modifying terms; eliminating requirements that certain records be maintained on film; making personal information confidential except under certain circumstances; modifying provisions regarding Department of Public Safety Revolving Fund; amending 51 O.S. 1991, Section 24A.5, as last amended by Section 3, Chapter 209, O.S.L. 1996 (51 O.S. Supp. 1999, Section 24A.5), which relates to inspection and copying of public records; adding exception for certain driver records; amending Section 3, Chapter

137, O.S.L. 1994, as amended by Section 1, Chapter 144, O.S.L. 1996 and Section 4, Chapter 137, O.S.L. 1994, as last amended by Section 1, Chapter 171, O.S.L. 1997 (37 O.S. Supp. 1999, Sections 600.2 and 600.3), which relate to the Prevention of Youth Access to Tobacco Act; adding definitions; establishing defense regarding sale of tobacco products to persons under eighteen years of age; 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 2-110, as amended by Section 1, Chapter 80, O.S.L. 1999 (47 O.S. Supp. 1999, Section 2-110), is amended to read as follows:

Section 2-110. A. 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.

B. The Commissioner and such officers of the Department as the Commissioner 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) for each record so certified, and every such certified copy shall be admissible in any proceeding in any court in like manner as the original thereof. A certification fee shall be charged:

1. Only if the person requesting the record specifically requests that the record be certified; and

2. In addition to the copying and reproduction fees provided by the Oklahoma Open Records Act or any other applicable law.

C. The Commissioner and any other officers of the Department as the Commissioner may designate are hereby authorized to provide a copy of any record required to be maintained by the Department at no charge to any of the following government agencies when requested in the performance of official governmental duties:

1. The driver license agency of any other state;

2. Any court, court clerk, district attorney or municipal prosecutor in this state or any other state;

3. Any law enforcement agency in this state or any other state or any federal agency empowered by law to make arrests for public offenses;

4. Any public school district in this state for purposes of verifying the driving record of a currently employed school bus driver or person making application for employment as a school bus driver; or

5. Any state agency in this state.

D. Any record required to be maintained by the Department may be released to any other entity free of charge when the release of the record would be for the benefit of the public, as determined by the Commissioner or a designee of the Commissioner.

E. The provisions of subsections B and D of this section and the Open Records Act shall not apply to the release of personal information on the driving record of any person or application for an original, renewal, or replacement driver license or identification card. Such personal information shall be confidential except as provided for in this subsection or in the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725. Upon written request to the Commissioner of Public Safety by a law enforcement agency or another state's or country's driver licensing agency for personal information on a specific individual, as named or otherwise identified in the written request, to be used in the official capacity of the agency, the Commissioner may release such personal information to the agency pursuant to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725. For the purposes of this subsection, "personal information" means information which identifies a person, including but not limited to a photograph or image in computerized format of the

person, signature or signature in computerized format, social security number, residence address, mailing address, and medical or disability information.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 2-111, is amended to read as follows:

Section 2-111. ~~(a)~~ A. All records of the Department, other than those declared by law to be confidential for the use of the Department, shall be open to public inspection during office hours.

~~(b)~~ B. The Commissioner may destroy any records of the Department which have been maintained on file for five (5) years which he may deem obsolete and of no further service in carrying out the powers and duties of the Department.

C. 1. The Commissioner may cause any or all records kept by the Department of Public Safety to be photographed, microphotographed, photostated, reproduced on film, or stored on computer storage medium. The film or reproducing material shall be of durable material, and the device used to reproduce the records on the film or reproducing material shall accurately reproduce and perpetuate the original records in all detail.

2. The photostatic copy, photograph, microphotograph, photographic film or computerized image of the original records shall be deemed to be an original record for all purposes and shall be admissible as 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.

3. The photostatic copies, photographs, microphotographs, reproductions on film, or computerized images shall be placed in conveniently accessible files and provisions made for preserving, examining, and using such copies, photographs, microphotographs, reproductions on film and computerized images. The Commissioner of

Public Safety is empowered to authorize the disposal, archival storage, or destruction of the original records or papers.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 6-101, as last amended by Section 10 of Enrolled House Bill No. 2711 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 6-101. A. No person, except those hereinafter expressly exempted in Section 6-102 of this title, shall operate any motor vehicle upon a highway in this state unless the person has a valid Oklahoma driver license for the class of vehicle being operated under the provisions of this title. No person shall be permitted to possess more than one valid license at any time.

B. 1. No person shall operate a Class A commercial motor vehicle unless the person is eighteen (18) years of age or older and holds a valid Class A commercial license, except as provided in paragraph 5 of this subsection. Any person holding a valid Class A commercial license shall be permitted to operate motor vehicles in Classes A, B, C, and D, except as provided for in paragraph 4 of this subsection.

2. No person shall operate a Class B commercial motor vehicle unless the person is eighteen (18) years of age or older and holds a valid Class B commercial license. Any person holding a valid Class B commercial license shall be permitted to operate motor vehicles in Classes B, C, and D, except as provided for in paragraph 4 of this subsection.

3. No person shall operate a Class C commercial motor vehicle unless the person is eighteen (18) years of age or older and holds a valid Class C commercial license. Any person holding a valid Class C commercial license shall be permitted to operate motor vehicles in Classes C and D, except as provided for in paragraph 4 of this subsection.

4. No person under twenty-one (21) years of age shall be licensed to operate any motor vehicle which is required to be placarded for hazardous materials pursuant to 49 C.F.R., Part 172, subpart F; provided, the Department of Public Safety shall provide by rule promulgated pursuant to the Administrative Procedures Act that a person under twenty-one (21) years of age may be licensed to operate a farm vehicle or, if such person is the operator of or employed by the operator of a farm retail outlet, any vehicle which is required to be placarded for hazardous materials pursuant to 49 C.F.R., Part 172, subpart F, if such licensure will not result in the loss of federal funds to this state pursuant to federal law or regulation.

5. A person at least seventeen (17) years of age who successfully completes all examinations required by law may be issued by the Department:

- a. a restricted Class A commercial license which shall grant to the licensee the privilege to operate a Class A or Class B commercial motor vehicle for harvest purposes or a Class D motor vehicle, or
- b. a restricted Class B commercial license which shall grant to the licensee the privilege to operate a Class B commercial motor vehicle for harvest purposes or a Class D motor vehicle.

6. No person shall operate a Class D motor vehicle unless the person is sixteen (16) years of age or older and holds a valid Class D license, except as provided for in Section 6-102 or 6-105 of this title. Any person holding a valid Class D license shall be permitted to operate motor vehicles in Class D only.

C. Any person issued a driver license pursuant to this section may exercise the privilege thereby granted upon all streets and highways in this state.

D. No person shall operate a motorcycle, motor-driven cycle, or a motorized bicycle without having a valid Class A, B, C, or D license with a motorcycle endorsement. Except as otherwise provided by law, any new applicant for an original driver license shall be required to successfully complete a written examination, vision examination, and driving examination for a motorcycle as prescribed by the Department of Public Safety to be eligible for a motorcycle endorsement thereon. The driving examination for a motorcycle may be waived by the Department of Public Safety upon verification that the person has completed a certified Motorcycle Safety Foundation rider course approved by the Department.

E. Except as otherwise provided by law, any person who lawfully possesses a valid Oklahoma driver license which is eligible for renewal shall be required to successfully complete a written examination, vision examination, and driving examination for a motorcycle as prescribed by the Department to be eligible for a motorcycle endorsement; provided, however, the Department may waive all such examinations until July 1, 2000, upon satisfactory proof that the applicant has regularly operated a motorcycle, motor-driven cycle, or motorized bicycle for a minimum of two (2) years immediately preceding the application.

F. 1. Any person eighteen (18) years of age or older may apply for a restricted Class A, B, or C commercial license. The Department, after the applicant has passed all parts of the examination for and has been issued a Class D license and has successfully passed all parts of the examination for a Class A, B, or C commercial license other than the driving examination, may issue to the applicant a restricted driver license which shall entitle the applicant having immediate possession of the license to operate a Class A, B, or C commercial motor vehicle upon the public highways solely for the purpose of behind-the-wheel training in accordance with rules promulgated by the Department.

2. This restricted driver license shall be issued for a period as determined by federal regulation and shall be nonrenewable; provided, such restricted license may be suspended, revoked, canceled, or denied at the discretion of the Department for violation of the restrictions, for failing to give the required or correct information on the application, or for violation of any traffic laws of this state pertaining to the operation of a motor vehicle. Except as otherwise provided, the lawful possessor of a restricted license who has been issued a restricted license for a minimum of thirty (30) days may have the restriction requiring an accompanying driver removed by satisfactorily completing a driver's examination; provided, the removal of a restriction shall not authorize the operation of a Class A, B, or C commercial motor vehicle if such operation is otherwise prohibited by law. The Department shall cause an examination to be conducted not more than three times during the first six (6) months after the date of issuance of the restricted license and not more than one time every three (3) months thereafter upon request of the lawful possessor thereof.

G. 1. The fee charged for an approved application for an original Oklahoma driver license or an approved application for the addition of an endorsement to a current valid Oklahoma driver license shall be assessed in accordance with the following schedule:

Class A Commercial License	\$25.00
Class B Commercial License	\$15.00
Class C Commercial License	\$15.00
Class D License	\$ 4.00
Motorcycle Examination	\$ 4.00

2. Notwithstanding the provisions of Section 1104 of this title, all monies collected from the fees charged for Class A, B, and C commercial licenses pursuant to the provisions of this

subsection shall be deposited in the General Revenue Fund of this state.

H. The fee charged for any failed examination shall be Four Dollars (\$4.00) for any license classification. Notwithstanding the provisions of Section 1104 of this title, all monies collected from such examination fees pursuant to the provisions of this subsection shall be deposited in the General Revenue Fund of this state.

I. In addition to any fee charged pursuant to the provisions of subsection G of this section, the fee charged for the issuance or renewal of an Oklahoma license shall be in accordance with the following schedule:

Class A Commercial License	\$39.00
Class B Commercial License	\$39.00
Class C Commercial License	\$29.00
Class D License	\$19.00

Four Dollars (\$4.00) of each fee charged pursuant to the provisions of this subsection shall be deposited to the Trauma Care Assistance Revolving Fund created in Section 330.97 of Title 63 of the Oklahoma Statutes.

J. All original and renewal driver licenses shall expire four (4) years from the last day of the month in which the license was issued.

K. Any person sixty-two (62) years of age or older during the calendar year of issuance or renewal of a Class D license or motorcycle endorsement shall be charged the following prorated fee:

Age 62	\$11.25
Age 63	\$ 7.50
Age 64	\$ 3.75
Age 65	-0-

L. The Department of Public Safety and the Oklahoma Tax Commission are authorized to promulgate rules for the issuance and renewal of driver licenses authorized pursuant to the provisions of

Sections 6-101 through 6-309 of this title. Applications, upon forms approved by the Department of Public Safety, for such licenses shall be handled by the motor license agents; provided, the Department of Public Safety is authorized to assume these duties in any county of this state. Each motor license agent accepting applications for driver licenses shall receive Two Dollars (\$2.00) to be deducted from the total collected for each license or renewal application accepted. The two-dollar fee received by the motor license agent shall be used for operating expenses.

M. Notwithstanding the provisions of Section 1104 of this title and subsection L of this section and except as provided in subsections G and I of this section, the first Sixty Thousand Dollars (\$60,000.00) of all monies collected pursuant to this section shall be paid by the Oklahoma Tax Commission to the State Treasurer to be deposited in the General Revenue Fund of the State Treasury.

The next Five Hundred Thousand Dollars (\$500,000.00) of monies collected pursuant to this section shall be paid by the Tax Commission to the State Treasurer to be deposited each fiscal year under the provisions of this section to the credit of the Department of Public Safety Revolving Fund for the purpose of the Statewide Law Enforcement Communications System. All other monies collected in excess of Five Hundred Sixty Thousand Dollars (\$560,000.00) each fiscal year shall be apportioned as provided in Section 1104 of this title, except as otherwise provided in this section.

N. ~~If funds are appropriated for purposes specified by this subsection, the~~ The Department of Public Safety ~~may~~ shall implement a procedure whereby images displayed on licenses and identification cards issued pursuant to the provisions of Sections 6-101 through 6-309 of this title ~~can be~~ are maintained by the Department to create photographs or computerized images which may be used only ~~by:~~

1. By a law enforcement agency for purposes of criminal investigations, missing person investigations, or any law enforcement purpose which is deemed necessary by the Commissioner of Public Safety;

2. By the driver licensing agency of another state for its official purpose; and

3. As provided in Section 2-110 of this title.

The computer system and related equipment acquired for this purpose must conform to industry standards for interoperability and open architecture. The Department of Public Safety may promulgate rules to implement the provisions of this subsection.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 6-106, as last amended by Section 1 of Enrolled House Bill No. 1960 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 6-106. A. Every application for a driver license shall be made by the applicant upon a form furnished by the Department of Public Safety.

B. Every ~~application~~ applicant for a driver license shall state upon the application the full following information:

1. Full name, ~~date;~~

2. Date of birth, ~~sex and residence;~~

3. Sex;

4. Residence address of the applicant, ~~whether~~ and mailing address, if different than the residence address;

5. Medical information, as determined by the Department, which shall assure the Department that the person is not prohibited from being licensed as provided by paragraph 7 of subsection A of Section 6-103 of this title;

6. Whether the applicant is deaf or hard-of-hearing, ~~the;~~

7. The license plate number and state by which the license plate is issued for up to two (2) vehicles owned by the applicant, ~~and shall briefly describe;~~

8. A brief description of the applicant. ~~The application shall also state whether,~~ as determined by the Department;

9. Whether the applicant has previously been licensed, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal. ~~Every application for a driver license shall contain the applicant's social; and~~

10. Social security number.

The Department may use the social security number as the driver license number only when requested to do so by the applicant. There will be no charge assessed to replace the social security number with another number.

C. Whenever application is received from a person previously licensed in another jurisdiction, the Department shall request a copy of the driving record from such other jurisdiction. When received, the driving record shall become a part of the ~~driver's~~ driving record of the person in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

D. Whenever the Department receives a request for a ~~driver's~~ driving record from another licensing jurisdiction, the record shall be forwarded without charge.

E. If an applicant for a driver license owns a vehicle which is not currently registered pursuant to the Oklahoma Vehicle License and Registration Act, the application shall be denied ~~unless the applicant submits an affidavit to the effect that the applicant is not a resident of this state.~~ The Department of Public Safety and

the Oklahoma Tax Commission shall promulgate rules to administer the provisions of this subsection.

SECTION 5. AMENDATORY 47 O.S. 1991, Section 6-111, as last amended by Section 1 of Enrolled House Bill No. 2660 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 6-111. A. The Department of Public Safety shall, upon payment of the required fee, issue to every applicant qualifying therefor a Class A, B, C or D driver license or identification card as applied for, which license or card shall bear thereon a distinguishing number assigned to the licensee or cardholder, date of issuance and date of expiration of the license or card, the full name, signature or computerized signature, date of birth, mailing address, sex, ~~and~~ a color photograph or computerized image of the licensee or cardholder and security features as determined by the Department. The Department may cancel the distinguishing number, when that distinguishing number is another person's Social Security number, assign a new distinguishing number, and issue a new license or identification card without charge to the licensee or cardholder. The Department may promulgate rules for inclusion of the height and a brief description of the licensee or cardholder on the face of the card or license, and for the provision of a small decal for attachment to the card or license, identifying the licensee or cardholder as deaf or hard-of-hearing. The Department shall promulgate rules for provision of a small decal for attachment to the card or license, identifying the licensee or cardholder as having executed an Advance Directive for Health Care and/or a Do Not Resuscitate order pursuant to Section 3101.4 of Title 63 of the Oklahoma Statutes. The Department of Public Safety may authorize all motor license agents to accept applications for the license or card immediately upon payment of the required fee in accordance with the rules promulgated by the Department of Public Safety. The

Department of Public Safety shall develop an alternative procedure whereby an individual applying for a new or renewal Class D license who satisfactorily demonstrates to the Department the inability to appear personally to be photographed, shall be issued a license or card bearing the words "Valid Without Photo"; ~~provided, however,~~ ~~only persons with legitimate religious objection to being photographed may be issued a new or renewal Class A, B or C license without a photograph and bearing the words "Valid Without Photo".~~

B. The Department may issue a temporary permit to an applicant for a driver license permitting such applicant to operate a motor vehicle while the Department is completing its investigation and determination of all facts relative to such applicant's privilege to receive a license. Such permit must be in the immediate possession of the driver while operating a motor vehicle, and it shall be invalid when the applicant's driver license has been issued or for good cause has been refused.

C. 1. The Department may issue a restricted commercial driver license to seasonal drivers eighteen (18) years of age or older for any of the following specific farm-related service industries:

~~1. Farm~~

a. farm retail outlets and suppliers~~†~~

~~2. Agri-chemical~~

b. agri-chemical businesses~~†~~

~~3. Custom~~

c. custom harvesters~~†~~ and

~~4. Livestock~~

d. livestock feeders.

The applicant shall hold a valid Oklahoma driver license and shall meet all the requirements for a commercial driver license except for the commercial driver license skills and knowledge tests. The restricted commercial driver license shall not exceed a total of one hundred eighty (180) days within any twelve-month period.

2. The restricted commercial driver license shall not be valid for operators of commercial motor vehicles beyond one hundred fifty (150) miles from the place of business or the farm currently being served. Such license shall be limited to Class B and Class C vehicles. Holders of such licenses who transport hazardous materials which are required to be placarded shall be limited to the following:

~~1. Diesel~~

a. diesel fuel in quantities of one thousand (1,000) gallons or less~~+~~L

~~2. Liquid~~

b. liquid fertilizers in vehicles with total capacities of three thousand (3,000) gallons or less~~+~~L and

~~3. Solid~~

c. solid fertilizers that are not mixed with any organic substance.

No other placarded hazardous materials shall be transported by holders of such licenses.

SECTION 6. AMENDATORY 47 O.S. 1991, Section 6-115, is amended to read as follows:

Section 6-115. Every ~~driver's~~ driver license shall be issued for a period of four (4) years. The expiration date of the license shall be four (4) years from the last day of the month of issuance for an initial license, and shall be four (4) years from the last day of the month of expiration of the previous license for a renewed license. Every such ~~driver's~~ driver license shall be renewable upon application and payment of the required fee. All applicants for renewals of ~~driver's~~ driver licenses who have proven ~~accident~~ collision records or apparent physical defects may be required to take an examination as specified by the Commissioner of Public Safety.

SECTION 7. AMENDATORY 47 O.S. 1991, Section 6-117, as last amended by Section 2, Chapter 80, O.S.L. 1999 (47 O.S. Supp. 1999, Section 6-117), is amended to read as follows:

Section 6-117. A. The Department of Public Safety shall file every application for a driver 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 person whose driving privilege 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 person's driving privilege for reason of nonpayment of a fine shall be removed from the record after the person has paid the fine and the person's driving privilege reinstated as provided for by law.

B. The Department shall file all collision 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 a person showing the convictions of such person and the traffic collisions in which the person has been involved shall be readily ascertainable and available for the consideration of the Department of Public Safety upon any application for a driver license or renewal of a driver 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 a person shall not include any collision reports and abstracts of court records involving a collision in which the person was not issued a citation or if a citation is issued and said person 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 the Commissioner may designate are hereby authorized to prepare under the seal of the Department and deliver upon request a copy of any collision report on file with the Department, charging a fee of Seven Dollars (\$7.00). However, the Department shall not be required to furnish personal information from a driver record contrary to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725.~~

~~H. D. The Department of Public Safety or any motor license agent upon request shall prepare and furnish a summary to any person~~

of the ~~traffic~~ driving record of any person subject to the provisions of the motor vehicle laws of this state. However, the Department shall not be required to furnish personal information from a driving record contrary to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725. Said summary shall include the enumeration of any motor vehicle collisions, 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. Persons sixty-five (65) years of age or older shall not be required to pay a fee for their own ~~traffic~~ driving record summary furnished by the Department or a motor license agent.

~~F.~~ E. 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~~ 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 purpose of the Department of Public Safety.~~

F. All monies received by the Commissioner of Public Safety and the officers and employees of the Department shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury except as otherwise provided for in this section.

SECTION 8. AMENDATORY 51 O.S. 1991, Section 24A.5, as last amended by Section 3, Chapter 209, O.S.L. 1996 (51 O.S. Supp. 1999, Section 24A.5), is amended to read as follows:

Section 24A.5 All records of public bodies and public officials shall be open to any person for inspection, copying, and/or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act, Section 24A.1 et seq. of this title, does not apply to records specifically required by law to be kept confidential including:

- a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges, or
- b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, or
- c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions, provided however, the Oklahoma Department of Public Safety shall not be required to assemble for the requesting person specific information requested from the Oklahoma Department of Public Safety's Driver License file relating to persons whose names and dates of birth or whose driver license numbers are not furnished by the requesting person. The Oklahoma State Bureau of Investigation shall not be required to assemble for the requesting person any criminal history records relating to persons whose names and dates of birth are not furnished by the requesting person.

3. Any request for a record which contains individual records of persons and the cost of copying, reproducing or certifying such individual record which is otherwise prescribed by state law, the

cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of document copying, or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no instance shall said document copying fee exceed twenty-five cents (\$0.25) per page for documents having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One Dollar (\$1.00) per copied page for a certified copy. However, if the request:

- a. is solely for commercial purpose, or
- b. would clearly cause excessive disruption of the public body's essential functions,

then the public body may charge a reasonable fee to recover the direct cost of document search; however, publication in a newspaper or broadcast by news media for news purposes shall not constitute a resale or use of data for trade or commercial purpose and charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copy.

Any public body establishing fees under this act shall post a written schedule of said fees at its principal office and with the county clerk.

In no case shall a search fee be charged when the release of said documents is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

The fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.

4. The land description tract index of all recorded instruments concerning real property required to be kept by the county clerk of

any county shall be available for inspection or copying in accordance with the provisions of the Oklahoma Open Records Act; provided, however, such index shall not be copied and/or mechanically reproduced for the purpose of sale of such information.

5. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

6. A public body shall designate certain persons who are authorized to release records of the public body for inspection, copying, or mechanical reproduction. At least one such person shall be available at all times to release records during the regular business hours of the public body.

SECTION 9. AMENDATORY Section 3, Chapter 137, O.S.L. 1994, as amended by Section 1, Chapter 144, O.S.L. 1996 (37 O.S. Supp. 1999, Section 600.2), is amended to read as follows:

Section 600.2 As used in the Prevention of Youth Access to Tobacco Act:

1. "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;

2. "Proof of age" means a driver license, license for identification only, or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid;

3. "Sample" means a tobacco product distributed to members of the public at no cost for the purpose of promoting the product;

4. "Sampling" means the distribution of samples to members of the public in a public place; ~~and~~

5. "Tobacco product" means any product that contains tobacco and is intended for human consumption;

6. "Transaction scan" means the process by which a seller checks, by means of a transaction scan device, the validity of a driver license or other government-issued photo identification; and

7. "Transaction scan device" means any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver license or other government-issued photo identification.

SECTION 10. AMENDATORY Section 4, Chapter 137, O.S.L. 1994, as last amended by Section 1, Chapter 171, O.S.L. 1997 (37 O.S. Supp. 1999, Section 600.3), is amended to read as follows:

Section 600.3 A. It is unlawful for any person to sell or furnish in any manner any tobacco product to another person who is under eighteen (18) years of age, or to purchase in any manner a tobacco product on behalf of any such person. It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.

B. A person engaged in the sale or distribution of tobacco products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under eighteen (18) years of age.

If an individual engaged in the sale or distribution of tobacco products has demanded proof of age from a prospective purchaser or recipient who is not under eighteen (18) years of age, the failure to subsequently require proof of age shall not constitute a violation of subsection B of this section.

C. 1. When a person violates subsection A or B of this section, the Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose an administrative fine of:

- a. not more than One Hundred Dollars (\$100.00) for the first offense,
- b. not more than Two Hundred Dollars (\$200.00) for the second offense within a one-year period following the first offense,
- c. not more than Three Hundred Dollars (\$300.00), or not more than fifteen (15) days suspension of the store's license to sell tobacco products, or both such fine and suspension for a third offense within a one-year period following the first offense, or
- d. not more than Three Hundred Dollars (\$300.00), or not more than thirty (30) days suspension of the store's license to sell tobacco products, or both such fine and suspension for a fourth or subsequent offense within a one-year period following the first offense.

2. When it has been determined that a penalty shall include a license suspension, the ABLE Commission shall notify the Oklahoma Tax Commission, and the Oklahoma Tax Commission shall suspend the store's license to sell tobacco products at the location where the offense occurred for the period of time prescribed by the ABLE Commission.

3. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought pursuant to this ~~subsection~~ section. A person cited for violating this section shall be deemed to have reasonably relied upon proof of age, and that person shall not be found guilty of a violation of this section if the person proves that:

- a. the individual who purchased or received the tobacco product presented a driver license or other government-issued photo identification purporting to establish that the individual was eighteen (18) years of age or older, and

b. the person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by the individual by performing a transaction scan by means of a transaction scan device.

This defense shall not relieve from liability any person cited for a violation of this section if the person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

D. If the sale is made by an employee of the owner of a store at which tobacco products are sold at retail, the employee shall be guilty of the violation and shall be subject to the fine. If the sale is made by an employee who has previously been twice found to be in violation of this section, the owner of the store, if the owner knew of the employee's previous violations, shall also be found to be in violation and shall be subject to an identical fine.

E. On or before December 15, 1997, the ABLE Commission shall adopt rules establishing a method of notification of storeowners when one of their employees has been determined to be in violation of this section by the ABLE Commission or convicted of a violation by a municipality.

F. 1. Upon failure of the employee to pay the administrative fine within ninety (90) days of the day of the assessment of such fine, the ABLE Commission shall notify the Department of Public Safety and the Department shall suspend or not issue a driver license to the employee until proof of payment has been furnished to the Department of Public Safety.

2. Upon failure of a storeowner to pay the administrative fine within ninety (90) days of the assessment of the fine, the ABLE Commission shall notify the Oklahoma Tax Commission and the Oklahoma Tax Commission shall suspend the store's license to sell tobacco products until proof of payment has been furnished to the Oklahoma Tax Commission.

G. For purposes of determining the liability of a person controlling franchises or business operations in multiple locations for any violation of subsection A or B of this section, each individual franchise or business location shall be deemed a separate entity.

H. Cities and towns may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under provisions of this section, but the provisions of such ordinances shall be the same as provided for in this section, and the enforcement provisions under such ordinances shall not be more stringent than those of this section.

SECTION 11. This act shall become effective July 1, 2000.

SECTION 12. 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.

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