

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2509

By: Dunegan, Askins, Bonny,
Braddock, Covey, Erwin,
Glover and Wells of the
House

and

Long of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; establishing Department of Motor Carriers; establishing revolving fund; transferring certain personnel, duties and responsibilities to the Department of Motor Carriers; stating conditions under which personnel shall transfer; stating goals for Department of Motor Carriers to work toward; establishing the Oklahoma Motor Carriers Commission; stating membership; establishing powers, duties and responsibilities of Commission; authorizing appointment of Director of Department of Motor Carriers; establishing qualifications; establishing Task Force on Motor Carriers Regulatory Services; establishing membership of Task Force; establishing method for appointment of chair; providing reimbursement of travel expenses; stating duties of Task Force; requiring Task Force to make certain reports and recommendations to the Governor and Legislature; amending 47 O.S. 1991, Section 116.13, as amended by Section 4, Chapter 146, O.S.L. 1993 (47 O.S. Supp. 1999, Section 116.13), which relates to revenue enforcement officers of the Oklahoma Tax Commission; stating officers shall not duplicate enforcement efforts of the Department of Public Safety; prohibiting appointment of revenue officers after certain date; authorizing Tax Commission to commission peace officers; prohibiting officers from carrying firearms; allowing certain officers to be certified by the Council on Law Enforcement Education and Training as peace officers; authorizing officers to detain vehicle that does not have necessary documentation; providing for codification; providing effective dates; and declaring an emergency.

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 1611 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Department of Motor Carriers.

B. Within its jurisdictional areas of motor carrier enforcement, the Department of Motor Carriers shall perform such duties as are required by law.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1612 of Title 47, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund to be known as the "Department of Motor Carriers Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies appropriated or transferred to the fund and any monies contributed to the fund from any other source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended for any function or purpose related to the Department of Motor Carriers.

Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims signed by an authorized state employee and filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1613 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other provision of law, the Transportation Division of the Oklahoma Corporation Commission, except for the Railroad Section, and the Motor Vehicle Enforcement Section of the Oklahoma Tax Commission are hereby abolished. The powers, duties and responsibilities exercised by the entities listed in this section pursuant to law shall be transferred to the Department of Motor Carriers. All records, property, matters

pending and funds of any of the entities listed in this section shall be transferred to the Department of Motor Carriers pursuant to the provisions of this section.

B. All the employees of the Oklahoma Tax Commission and Oklahoma Corporation Commission whose duties are transferred under this act shall be transferred to the Department of Motor Carriers or may accept another position, if available, with the agency by which they are currently employed. Personnel transferred pursuant to the provisions of this act shall not be required to accept a lesser grade or salary than presently received. No entrance exam shall be required for persons so transferred. All persons transferred shall retain leave, sick and annual time earned and any retirement benefits which have accrued during their tenure with the agency from which transferred. The transfer of personnel among the agencies shall be coordinated with the Office of Personnel Management.

C. Employees of the Department of Motor Carriers shall be in the classified service and shall be members of the Oklahoma Public Employees Retirement System.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1614 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Unless otherwise provided by law, the Oklahoma Tax Commission and the Oklahoma Corporation Commission shall do all things necessary to administer and implement the consolidation of motor carrier size, weight and safety requirements pursuant to Title 47 of the Oklahoma Statutes or applicable federal regulations. However, none of the duties consolidated shall duplicate duties performed by the Department of Public Safety unless approved by the Commissioner of the Department of Public safety.

1. The Oklahoma Tax Commission and the Oklahoma Corporation Commission shall be responsible for working toward a "one-stop

shop", which shall include, but not be limited to, the administration and issuance of documents relating to:

- a. size and weight permits,
- b. single state registration, and
- c. intrastate carrier licensing.

2. The Department of Motor Carriers shall work toward having the responsibility for the administration and operation of fixed-site scale facilities.

3. The Department of Motor Carriers shall work toward having audit responsibility over motor carriers including:

- a. size and weight violations, and
- b. insurance.

4. The Department of Motor Carriers shall work toward being responsible for the enforcement of appropriate statutes and rules governing motor carriers including, but not limited to:

- a. size and weights,
- b. permits,
- c. single state registration,
- d. insurance, and
- e. cargo manifests.

B. All records, property, matters pending and funds of the entities abolished in Section 3 of this act relating to the powers, duties and responsibilities enumerated in subsection A of this section shall be transferred to the Department of Motor Carriers. However, none of these duties and responsibilities shall duplicate duties and responsibilities performed by the Department of Public Safety unless authorized by the Commissioner of the Department of Public Safety.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1615 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created an Oklahoma Motor Carriers Commission which shall consist of seven (7) members, not more than two of whom shall be from the same Congressional District. Three of the members shall be appointed by the Governor, two of the members shall be appointed by the President Pro Tempore of the Senate and two of the members shall be appointed by the Speaker of the House of Representatives. The term of office of each member shall be seven (7) years. The first appointments made by the Governor shall be one member for a term of one (1) year, one member for a term of two (2) years, and one member for a term of three (3) years; the first appointments made by the President Pro Tempore of the Senate shall be one member for a term of four (4) years and one member for a term of five (5) years; the first appointments made by the Speaker of the House of Representatives shall be one member for a term of six (6) years and one member for a term of seven (7) years. A member may serve more than one term on the Commission. Each member shall continue to serve so long as qualified until a successor has been appointed. Vacancies occurring during a term shall be filled for the unexpired portion of the term by the same appointing authority used to make the regular appointments.

B. Annually, the Commission shall select one of the Commission members to serve as Chair and one member to serve as Vice-chair. The Commission shall meet at least quarterly. The Chair shall preside at all meetings of the Commission and shall have the power to call meetings of the Commission. In addition, meetings of the Commission may be called by a majority of the members of the Commission. The Vice-chair shall perform those functions in the absence or incapacity of the Chair. A quorum of four members of the Commission shall be necessary to conduct any official business. All actions taken by the Commission shall be by a simple majority vote of a quorum. The Commission shall promulgate rules for the orderly performance of its functions. Members of the Commission shall serve

without compensation but may be reimbursed for necessary travel by the appointing authority, pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

C. The Commission shall have the following powers, duties and responsibilities:

1. To appoint the Director of the Department of Motor Carriers, whose compensation shall be determined by the Legislature;

2. To be the rulemaking authority for the Motor Carrier Enforcement Department;

3. Review and approve the budget requests of the Department of Motor Carriers;

4. Assist the Department in developing goals, objectives, priorities and policies of the Department;

5. Provide a public forum for receiving comments and disseminating information to the public and members of the industries regulated by the Department; and

6. Review and evaluate the need for amendments or additions to the Oklahoma Statutes regarding the functions of the Department and make recommendations to the Legislature.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1616 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Director of the Department of Motor Carriers shall be appointed by the Oklahoma Motor Carriers Commission. The director shall, at the time of appointment, have a baccalaureate degree from an accredited college or university and shall have at least five (5) years of experience in motor carrier enforcement or shall have at least ten (10) years experience in motor carrier enforcement if the person does not possess a baccalaureate degree.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1617 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created until February 1, 2001, the Task Force on Motor Carriers Regulatory Services.

B. The Task Force shall be composed of eleven (11) members as follows:

1. A representative of the Oklahoma Tax Commission;
2. A representative of the Oklahoma Corporation Commission;
3. A representative of the Oklahoma Department of Public Safety;
4. Two persons appointed by the Governor, representing the trucking industry;
5. Three members of the Oklahoma House of Representatives appointed by the Speaker of the House of Representatives; and
6. Three members of the Oklahoma State Senate appointed by the President Pro Tempore of the Senate.

C. The chair of the Task Force shall serve a term of one (1) year. On or before August 1, 2000, the chair shall be appointed by the Speaker of the House of Representatives and thereafter the appointing authority shall alternate between the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The chair shall convene the first meeting of the Task Force on or before September 1, 2000. The members of the Task Force shall elect any other officers during the first meeting and upon a vacancy in any office. The Task Force shall meet as often as necessary. Task Force members employed by the state shall be reimbursed travel expenses related to their service on the Task Force by their respective agencies pursuant to the provisions of the State Travel Reimbursement Act. Legislative members of the Task Force shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes. Remaining Task Force members shall be reimbursed travel expenses related to their

service on the Task Force by their appointing authorities pursuant to the provisions of the State Travel Reimbursement Act.

D. Administrative support for the Task Force, including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Task Force, shall be provided by the staff of the House of Representatives and the Senate. All participating state agencies shall provide for any administrative support requested by the Task Force.

E. The Task Force shall:

1. Make recommendations regarding the cooperative and coordinated delivery of motor carrier regulatory services by state agencies responsible for providing such services. In making such recommendations, the Task Force shall conduct a review which includes, but is not limited to:

- a. identification of all services currently offered and persons actually served,
- b. identification of barriers to services,
- c. assessment of the quality of services offered and recommendations to improve the quality of services offered,
- d. the extent of duplication of effort between state agencies and recommendations for integration and appropriate streamlining of service delivery,
- e. cost analysis of provided services,
- f. analysis of how to fund adequate services while ensuring quality,
- g. identification of any other problem areas related to delivery of motor carrier regulatory services,
- h. recommendations for development of a system to deliver motor carrier regulatory services, and

- i. review of professional qualifications of employees of the agency responsible for motor carrier regulatory services; and

2. Submit any legislative proposals necessary to implement the findings of the Task Force on or before December 1 of each year.

F. The Task Force shall make regular, but not less than semiannual, reports to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the appropriate committees of the State Senate and the House of Representatives. The reports shall be prepared by the administrative staff of the affected agencies.

SECTION 8. AMENDATORY 47 O.S. 1991, Section 116.13, as amended by Section 4, Chapter 146, O.S.L. 1993 (47 O.S. Supp. 1999, Section 116.13), is amended to read as follows:

Section 116.13 ~~(a)~~ A. It shall be the duty of the Oklahoma Tax Commission to assign revenue enforcement officers to work with, but not duplicate the efforts of, members of the Oklahoma Highway Patrol in the enforcement of Sections 14-101 et seq. of this title and other acts regulating the usage of the highways of the state and in the enforcement of the motor vehicle license and registration laws of the state.

~~(b)~~ B. The Oklahoma Tax Commission shall not appoint any revenue enforcement officers after July 1, 2000.

C. The Oklahoma Tax Commission shall have the authority to designate and commission revenue enforcement officers as peace officers for the purpose of regulating the usage of the highways of the state and enforcing the motor vehicle license and registration laws of the state. Revenue enforcement officers shall not be authorized to carry firearms.

D. Any commissioned revenue enforcement officer shall be eligible to become certified as a peace officer by the Council on Law Enforcement Education and Training, pursuant to Section 3311 of

Title 70 of the Oklahoma Statutes, within twelve (12) months of the effective date of this section, upon a written request of the officer to the Chair of the Tax Commission. Any officer who does not submit a written request to become a certified peace officer shall remain a civilian revenue enforcement officer.

E. Each employee of the Tax Commission assigned as a revenue enforcement officer, as herein provided, shall at all times while on duty be required to be dressed in a distinctive uniform and display a badge of office, both of which shall be completely different and distinguishable from those of the Oklahoma Highway Patrol. All such badges shall be furnished by the Tax Commission and each badge shall display a distinctive serial number. The type and detail of said uniforms shall be designated by the Tax Commission and the Tax Commission shall furnish said uniforms and replace them when necessary. An expense allowance of One Hundred Dollars (\$100.00) per month for maintenance and cleaning of uniforms shall be paid to each revenue enforcement officer of the Tax Commission.

~~(e)~~ F. Any person who without authority wears the badge or uniform of an Oklahoma Tax Commission revenue enforcement officer, or who without authority impersonates such an officer, with intent to deceive anyone, shall be guilty of a misdemeanor.

G. All revenue enforcement officers employed by the Oklahoma Tax Commission shall have the authority to detain any vehicle that does not possess the necessary documentation for traveling the highways of this state.

SECTION 9. The effective date for Sections 1, 2, 3, 4, 5 and 6 of this act shall be July 1, 2001.

SECTION 10. The effective date for Sections 7 and 8 of this act shall be July 1, 2000.

SECTION 11. 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.

47-2-9594 LAC 6/11/15