

and

Littlefield of the Senate

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 4009, as last amended by Section 8, Chapter 146, O.S.L. 1997, 4016, 4017, as last amended by Sections 9 and 10, Chapter 146, O.S.L. 1997 and 4021 (63 O.S. Supp. 1998, Sections 4009, 4016 and 4017), which relate to the Oklahoma Vessel and Motor Registration Act; requiring certain information be provided for vessel and motor registration; requiring visual inspection of certain vessels and motors; requiring verification of certain numbers; allowing designation of persons to perform certain inspections; specifying number of registration decals to be used; specifying type of motors to be registered; adding fee for repossessed vessels and motors; making fee an in lieu of fee; amending 63 O.S. 1991, Section 4030, as last amended by Section 1, Chapter 199, O.S.L. 1997 (63 O.S. Supp. 1998, Section 4030), which relates to permanent number display on vessels; requiring display of registration decals on certain motors; providing for promulgation of rules; prohibiting certain conduct relating to motor registration; stating penalty; authorizing seizure of motors under certain circumstances; amending 63 O.S. 1991, Section 4211, as amended by Section 51, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1998, Section 4211), which relates to diving; stating restrictions for resurfacing after diving; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 4009, as last amended by Section 8, Chapter 146, O.S.L. 1997 (63 O.S. Supp. 1998, Section 4009), is amended to read as follows:

Section 4009. A. The application for a certificate of title and registration for a vessel ~~and/or~~ or an outboard motor shall be upon a form furnished by the Oklahoma Tax Commission and shall contain:

1. A full description of the vessel ~~and~~ or outboard motor;
2. The manufacturer's serial and model number or other identification number;
3. The length of the vessel;
4. The date on which first sold by the manufacturer or dealer to the owner;
5. Any distinguishing marks;
6. A statement of the applicant's source of title;
7. Whether the vessel is a documented vessel and the number assigned to such vessel;
8. Any security interest upon said vessel or outboard motor, or vessel and motor; and
9. Such other information as the Commission may require.

Every original or duplicate certificate of title and registration for a vessel or an outboard motor shall contain all items listed in this subsection.

B. To obtain an original certificate of title for a vessel or outboard motor that is being registered for the first time in this state or for a vessel or outboard motor that has not been previously registered in any other state, the applicant shall be required to deliver, as evidence of ownership, a manufacturer's certificate of origin or at the discretion of the Commission a copy of the manufacturer's certificate of origin properly assigned by the manufacturer, distributor, or dealer licensed in this or any other state shown thereon to be the last transferee to the applicant upon a form to be prescribed and approved by the Commission. A visual inspection, as prescribed by the Oklahoma Tax Commission, shall also be made of any out-of-state vessel or outboard motor to be registered and titled in this state. A manufacturer's certificate of origin shall contain:

1. The manufacturer's serial or other identification number;
2. Date on which first sold by the manufacturer to the dealer;

3. Any distinguishing marks including model and the year same was made;

4. A statement of any security interests upon said vessel or outboard motor, or vessel and motor; and

5. Such other information as the Commission may require.

C. In the absence of a dealer's or manufacturer's number, the Commission may assign such identifying number to the vessel or outboard motor, which shall be permanently stamped, burned or pressed into or attached onto such vessel or outboard motor.

D. Every dealer selling new or used vessels or outboard motors and every individual not licensed as a dealer who sells a new or used vessel or outboard motor shall verify the hull identification number or serial number is the same as the number on the current registration of the vessel or outboard motor. The seller of the vessel or outboard motor shall sign an affidavit, under penalty of perjury, affirming the numbers are the same.

E. 1. Before a homemade vessel is issued a hull identification number from the Commission, the vessel and the motor shall be inspected by a commissioned officer of the Oklahoma ~~Lake~~ Highway Patrol Division of the Department of Public Safety or by any other employee of the Department or any other law enforcement officer of the state as the Commissioner of Public Safety may designate, pursuant to the rules promulgated by the Commissioner of Public Safety. For the purposes of this act, "homemade vessel" means any vessel not allotted a hull identification number (HIN) by a manufacturer, and specifically excludes any vessel upon which the hull identification number has been covered, altered, defaced, destroyed, or removed.

2. The Department of Public Safety is hereby granted authority and jurisdiction, pursuant to Article 1 of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma

Statutes, to promulgate, administer and enforce all necessary rules deemed necessary to implement the provisions of this section.

3. The Department of Public Safety shall prescribe all forms deemed necessary to implement the provisions of this section.

~~E.~~ F. It shall be unlawful to:

1. Improperly display or fail to display a vessel's hull identification number;

2. Operate or possess a vessel on which the hull identification number has been removed; or

3. Operate or possess a motor on which the serial number has been removed.

~~F.~~ G. When registering in this state, a vessel which was titled in another state and which title contains the name of a secured party on the face of the other state certificate of title, the Oklahoma Tax Commission or the motor license agent shall complete a lien entry form as prescribed by said Commission. A statement of the lien or encumbrance shall be included on the Oklahoma certificate of title and the lien or encumbrance shall be deemed continuously perfected as though it had been perfected pursuant to Section 4013 of this title. For completing the lien entry form and recording the security interest on the certificate of title, the Commission or the motor license agent shall collect a fee of Three Dollars (\$3.00) which shall be in addition to other fees provided by the Oklahoma Vessel and Motor Registration Act.

~~G.~~ H. Upon payment of all fees and taxes, a certificate of title ~~and, a certificate of registration and, for a vessel, two registration decals or, for an outboard motor, one registration decal~~ shall be delivered to the applicant.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 4016, as last amended by Section 9, Chapter 146, O.S.L. 1997 (63 O.S. Supp. 1998, Section 4016), is amended to read as follows:

Section 4016. A. Every owner of a vessel, when making application for registration, shall furnish the following information:

1. A full description of the vessel including the manufacturer's serial, model, or other identification number, the manufacturer's factory delivered price, and the total delivered price of said vessel;

2. The correct name and address, the name of the city, county and state in which the person in whose name the vessel is to be registered resides;

3. The county of location of the vessel; and

4. Such other information as may be prescribed by the Commission.

B. Upon the filing of a registration application for a vessel and the payment of the fees provided for in the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, the Oklahoma Tax Commission shall issue the owner of the vessel a certificate of registration and two registration decals and shall also assign a permanent number for the vessel described in the application. The registration decals and the permanent number shall be recorded on the annual registration certificate covering such vessel. The permanent number shall be displayed upon the vessel as required by Section 4030 of this title.

C. The current certificate of registration shall be legible and available for inspection at all times.

D. On all new and used vessels, prior to receipt of the certificate of registration and the registration decals, the dealer's bill of sale shall be available for inspection at all times for the first thirty (30) calendar days from the date of purchase. Thereafter, prior to receipt of the certificate of registration and the registration decals, the official registration receipt from the

Commission or a motor license agent shall be available for inspection at all times.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 4017, as last amended by Section 10, Chapter 146, O.S.L. 1997 (63 O.S. Supp. 1998, Section 4017), is amended to read as follows:

Section 4017. A. Every owner of an outboard motor in excess of ten (10) horsepower, when making application for registration, shall furnish the following information:

1. A full description of the outboard motor including the manufacturer's serial, model, or other identification number, the manufacturer's factory delivered price, and the total delivered price of said outboard motor;

2. The correct name and address, and the name of the city, county and state in which the person in whose name the outboard motor is to be registered resides;

3. The county of location of such outboard motor; and

4. Such other information as may be prescribed by the Oklahoma Tax Commission.

B. Upon the filing of a registration application for ~~a~~ an outboard motor and the payment of the fees provided for in the Oklahoma Vessel and Motor Registration Act, the Commission shall issue the owner of the outboard motor a certificate of registration and a registration decal.

C. The current certificate of registration shall be legible and available for inspection at all times.

D. On all new and used outboard motors, prior to receipt of the certificate of registration and the registration decal, the dealer's bill of sale shall be available for inspection at all times for the first thirty (30) calendar days from the date of purchase. Thereafter, prior to receipt of the certificate of registration and the registration decal, the official registration receipt from the

Commission or a motor license agent shall be available for inspection at all times.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 4021, is amended to read as follows:

Section 4021. A. The application required for the initial and annual registration of a vessel or a motor shall be accompanied by payment of the following fees:

1. Where the manufacturer's factory delivered price, or in the absence of such price being published in a recognized publication for the use of marine dealers and/or for purposes of insurance and financing firms, where the provable original or new cost of all materials, is One Hundred Fifty Dollars (\$150.00) or less, the registration and license fee for the first and for each succeeding year's registration shall be One Dollar (\$1.00).

2. Where the manufacturer's factory delivered price, or in the absence of such price being published as provided in paragraph 1 of this section, where the value of such vessel or motor is determined and fixed as above required and, is in excess of One Hundred Fifty Dollars (\$150.00), there shall be added to the fee of One Dollar (\$1.00), the sum of One Dollar (\$1.00) for each One Hundred Dollars (\$100.00) or any fraction thereof, in excess of One Hundred Fifty Dollars (\$150.00) provided such fee shall not exceed One Hundred Fifty Dollars (\$150.00).

3. After the first year's registration in this state under this act of any new vessel or new motor under paragraph 2 of this section, the registration for the second year shall be ninety percent (90%) of the fee computed and assessed hereunder for the first year, and thereafter, such fee shall be computed and assessed at ninety percent (90%) of the previous year's fee and shall be so computed and assessed for the next nine (9) successive years provided such fee shall not exceed One Hundred Fifty Dollars (\$150.00).

4. a. (1) The initial and annual registration fee for any vessel which is a part of a fleet used for lodging and for which a rental fee and sales tax are collected shall be Forty Dollars (\$40.00) in lieu of the fees required by paragraphs 1 through 3 of this section.

(2) For the purpose of this paragraph, "fleet" means twenty or more vessels operated by a business organization from a single anchorage.

b. The fee provided for in this paragraph may be reduced annually to zero until the total reduction equals the difference between the sum of the fees paid pursuant to paragraphs 1 through 3 of this subsection for the two registration years preceding the effective date of this act and the fee provided for in this paragraph.

5. Any vessel or motor owned and numbered, registered or licensed prior to the effective date of this act in this or any other state, or in the absence of such registration upon proof of the year, model and age of same, the registration fee shall be computed and assessed at the rate hereinabove provided for a new vessel or motor based on the value thereof determined as provided in this subsection, but reduced as though same had been registered for each prior year of its existence. Except as provided in paragraph 1 of this subsection, the registration fee for the eleventh year computed in accordance with the provisions of this subsection shall be the amount of the fee to be assessed for such eleventh year and shall be the minimum annual registration fee for such vessel or motor for any subsequent year.

6. As used herein the manufacturer's factory delivered price shall represent the recommended retail selling price and shall not mean the wholesale price to a dealer.

7. The initial and annual registration fee for any vessel or motor which is not being used in a trade or business or for any commercial purpose and is owned by:

- a. a nonresident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,
- b. a resident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,
- c. the spouse, who resides in Oklahoma, of a resident or nonresident member of the Armed Forces of the United States serving in a foreign country, or
- d. any Oklahoma resident who is stationed out of state due to an official assignment of the Armed Forces of the United States,

shall be the lesser of either a Fifteen Dollar (\$15.00) registration fee or the fee computed and assessed for vessels or motors of similar age and model pursuant to this section.

8. The Tax Commission shall assess the registration fees and penalties for the year or years a vessel or motor was not registered as provided in the Oklahoma Vessel and Motor Registration Act. For vessels or motors not registered for two (2) or more years, the registration fees and penalties shall be due only for the current year and one (1) previous year.

9. Upon each vessel or motor repossessed by a mortgagee, a fee of Forty-six Dollars (\$46.00) shall be assessed. This fee shall be in lieu of any applicable vessel or motor excise tax and registration fees. Each motor license agent accepting applications for certificates of title for such vessel or motors shall receive Seven Dollars (\$7.00) to be deducted from the license fee specified in this paragraph for each application accepted.

B. All vessels or motors owned by the State of Oklahoma, its agencies or departments, or political subdivisions thereof, or which under the law would be exempt from direct ad valorem taxation, shall be registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act for an annual fee of Two Dollars and twenty-five cents (\$2.25) irrespective of whether registered by a motor license agent or the Tax Commission.

C. All vessels and motors owned by Boy Scouts of America, Girl Scouts of U.S.A., and the Campfire Girls, devoted exclusively to youth programs emphasizing physical fitness, character development and citizenship training, are hereby exempt from the payment of registration fees required by this section. Provided all of said vessels or motors shall be registered and shall otherwise comply with the provisions of the Oklahoma Vessel and Motor Registration Act.

D. A credit shall be allowed with respect to the fee for registration of any new vessel or new motor, when such new vessel or motor is a replacement for:

1. a new original vessel or new original motor which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vessel or new original motor as certified by a police report or other documentation as required by the Commission; or

2. a defective new original vessel or new original motor returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original vessel or new original motor as certified by the manufacturer.

Said credit shall be in the amount of the fee for registration which was paid for the new original vessel or new original motor and shall be applied to the registration fee for the replacement vessel or motor. In no event will said credit be refunded.

E. Upon proper proof of a lost certificate of registration being made to the Commission or one of its motor license agents, accompanied by an application therefor and payment of the fees required by the Oklahoma Vessel and Motor Registration Act, a duplicate certificate of registration shall be issued to said applicant. The charge for such duplicate certificate of registration shall be Two Dollars and twenty-five cents (\$2.25), which charge shall be in addition to any other fees imposed by Section 22 of this act for any such vessel or motor.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 4030, as last amended by Section 1, Chapter 199, O.S.L. 1997 (63 O.S. Supp. 1998, Section 4030), is amended to read as follows:

Section 4030. A. Except as otherwise provided by this section, every vessel on the waters of this state shall display the permanent number assigned to it by the Oklahoma Tax Commission which number shall not be obliterated, erased, mutilated, removed or missing.

B. The vessels authorized to display a number other than that required by the provisions of the Oklahoma Vessel and Motor Registration Act are:

1. A documented vessel, provided that such vessel is currently registered, is displaying ~~a~~ both current registration ~~decal~~ decals, and the name, hailing port and official federal documentation number assigned to it are displayed on the vessel according to federal law or federal rules and regulations;

2. A vessel from a country other than the United States temporarily using the waters of this state;

3. A vessel from another state owned by an out-of-state resident using the waters of this state;

4. A vessel whose owner is the United States, a state or a subdivision thereof; provided, however, if such vessel is used for recreational or rental purposes on the public waters of this state,

said vessel shall display the permanent number assigned to it by the Commission;

5. A vessel that is used exclusively and solely for racing purposes;

6. A vessel that is used exclusively and solely as a lifeboat; and

7. A commercial flotation device which is assigned a permit by the Oklahoma Scenic Rivers Commission pursuant to the provisions of Sections 1461 et seq. of Title 82 of the Oklahoma Statutes.

C. Except as otherwise provided for in this section, every vessel and every outboard motor on the waters of this state shall display the current registration decals or decal assigned to it by the Oklahoma Tax Commission.

D. The owner of any vessel issued a permanent number pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, shall place on or attach to the vessel said permanent number in such manner as may be prescribed by the rules of the Commission, in order that it may be clearly visible. The number shall be maintained in legible condition.

~~D.~~ E. The provisions of this section shall not apply to sailboards.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4009.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. 1. The Department of Public Safety shall promulgate rules specifying the location and manner in which serial numbers for outboard motors shall be affixed. In promulgating such rules, the Department shall consider the existence of voluntary industry standards, the current state of technology and the overall process of reducing vessel and motor thefts in this state.

2. Any outboard motor manufactured on or after October 1, 1985, which is for sale in this state shall comply with the rules promulgated pursuant to this section.

3. Any person, firm or corporation which sells or offers to sell any outboard motor or outboard motor part manufactured on or after October 1, 1985, which does not comply with this subsection shall be, upon conviction, guilty of a misdemeanor, punishable by a fine of up to Five Hundred Dollars (\$500.00), imprisonment in the county jail for a period of up to one (1) year, or both such fine and imprisonment.

B. 1. It is unlawful for any person to knowingly possess any outboard motor or outboard motor part upon which the serial number required by subsection A of this section has been removed, erased, defaced or otherwise altered to prevent identification.

2. It is unlawful for any person to knowingly possess, manufacture, sell or exchange, offer to sell or exchange, aid in sale or exchange, supply in blank, authorize or direct, give away, or to conspire to or attempt to commit any of the previously mentioned acts, any counterfeit manufacturer's outboard motor or outboard motor part serial number plate or decal, used for the purpose of identification of any outboard motor or outboard motor part, or to conspire or attempt to commit any of these acts.

3. Any person violating any provision of this subsection shall be, upon conviction, guilty of a felony.

C. If any serial number required by this section to identify ownership of an outboard motor or outboard motor part does not exist or has been removed, erased, defaced or otherwise altered to prevent identification, and the true identity cannot be determined, the outboard motor or outboard motor part may be seized by any peace officer in this state and shall be subject to forfeiture pursuant to the procedures established for the law enforcement agency by which the seizing officer is employed. Such outboard motor or outboard

motor part may not be sold or used to propel a vessel on the waters of this state unless and until the Department of Public Safety is directed by the Oklahoma Tax Commission to issue to the outboard motor or outboard motor part a replacement identifying number which shall be affixed to the motor or part and shall thereafter be used for identification purposes of the motor or part.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 4211, as amended by Section 51, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1998, Section 4211), is amended to read as follows:

Section 4211. A. Any person diving or submerging in a body of water with the aid of any mechanical diving or breathing device or suit shall place a buoy with a flag in the water at or near the point of submergence or fly a flag from a vessel indicating divers are present, in the following manner:

1. Either the nationally recognized diver's flag or Alpha flag may be flown;

2. When flown from a vessel, at least one flag shall be flown not less than one (1) meter above the highest point of the vessel and shall be visible from a three-hundred-sixty-degree circle;

3. The buoy, flag or flags shall be in place only while actual diving operations are in progress;

4. No diving buoys may be closer than three hundred (300) yards to each other or closer than three hundred (300) yards to any dock, functional boat ramp or designated swimming area; and

5. The flag or flags shall be in good condition and legible, and the flag shall be in the extended position so as to be visible to any other vessel.

B. Any person diving or submerging in a body of water with the aid of any mechanical diving or breathing device or suit shall surface or resurface within one hundred fifty (150) feet of any diving buoy, flag or flags placed at the point of submergence, as

required in subsection A of this section, unless an emergency exists that endangers the life or safety of the diver.

C. It shall be unlawful for any person to operate a vessel within one hundred fifty (150) feet of a diving buoy except while engaged in the rescue of a person in such area. The operator of a vessel shall not be liable for the injury to a diver who surfaces or resurfaces more than one hundred fifty (150) feet from a buoy, flag or flags placed at the point of submergence, as required by subsection A of this section, unless such operator caused the injury as a result of the negligent operation of the vessel.

SECTION 8. This act shall become effective November 1, 1999.

Passed the House of Representatives the 22nd day of February, 1999.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1999.

President of the Senate