

ENROLLED HOUSE  
BILL NO. 1117

By: Turner of the House

and

Henry of the Senate

An Act relating to motor vehicles; providing for licensure and training of vehicle inspectors; providing for promulgation of rules; authorizing certain agreements; establishing procedures for suspension or revocation of license; amending 47 O.S. 1991, Section 856.1, as last amended by Section 1, Chapter 243, O.S.L. 1996 (47 O.S. Supp. 1998, Section 856.1), which relates to emission control equipment; modifying training provisions; amending 47 O.S. 1991, Section 1110, as last amended by Section 1, Chapter 38, O.S.L. 1996 (47 O.S. Supp. 1998, Section 1110), which relates to security interests in vehicles; modifying and clarifying requirements for release of security interest forms; providing for codification; and providing an effective date.

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

A. 1. The Commissioner of Public Safety shall designate official inspectors and shall issue licenses for and furnish instructions and all necessary forms to said official inspectors for the inspection of vehicles and the issuance of official certificates of inspection or rejection.

2. Application for a license as an official inspector shall be made upon an official form and shall be granted only when the Commissioner of Public Safety, after appropriate training, examination and investigation, is satisfied that the applicant is eligible in accordance with the requirements as prescribed by the Commissioner to make such inspections. The Commissioner shall prescribe by rule the training requirements for all official inspectors, and the applicant shall complete all training requirements, including any subsequent additional training requirements which the Commissioner deems necessary for licensed official inspectors.

3. The Commissioner and the Oklahoma Department of Vocational and Technical Education may enter into an interlocal agreement to carry out the requirements of this subsection.

B. Any employee of a station, facility or conversion center which converts motor vehicles to have the capability of being fueled by alternative fuels, as defined by Section 130.2 of Title 74 of the Oklahoma Statutes, may be authorized by the Commissioner to perform inspections as provided in Chapter 70 of Title 47 of the Oklahoma Statutes. Subject to the application requirements specified in this section, the Commissioner of Public Safety shall issue an official inspector license to any such person who qualifies for a license as an official inspector.

C. The Commissioner of Public Safety shall properly supervise and cause inspections to be made of the performance of persons licensed under this section and shall suspend or revoke and require the surrender of the license issued to the person who is not properly conducting inspections.

D. No license shall be revoked or suspended except upon notice to the licensee and to the employer of the licensee and after an opportunity to be heard by the Commissioner. A license may be temporarily suspended without notice pending any investigation or hearing. Whenever any license has been revoked, no license shall be reissued to an applicant until after the expiration of a period of one (1) year from the date of such revocation.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 856.1, as last amended by Section 1, Chapter 243, O.S.L. 1996 (47 O.S. Supp. 1998, Section 856.1), is amended to read as follows:

Section 856.1 A. 1. Any person who owns and drives a ~~motor~~ vehicle as that term is defined by the Oklahoma Vehicle License and Registration Act, Section 1101 et seq. of this title, and resides within a county with a population of five hundred thousand (500,000) or more according to the 1980 Federal Decennial Census where there exists a U.S. Environmental Protection Agency designated air quality nonattainment area for auto-related pollutants, or resides within a twenty-five (25) mile radius of the centroid of the area of such a county, shall have said vehicle inspected within that area and shall maintain on the vehicle in good working order the federally required emission control equipment required by the Commissioner of Public Safety pursuant to recommendations of the Department of Environmental Quality. When any portion of a municipality is included within said twenty-five (25) mile radius, the entire municipality shall be subject to the provisions of this chapter.

2. ~~On and after January 1, 1986, any~~ Any person who owns and drives a ~~motor~~ vehicle, as that term is defined by the Oklahoma Vehicle License and Registration Act, Section 1101 et seq. of this title, and resides within a county with a population of less than five hundred thousand (500,000) according to the 1980 Federal Decennial Census where there exists a U.S. Environmental Protection Agency designated air quality nonattainment area for auto-related pollutants, or resides within a metropolitan transportation study area as that term is defined by the Department of Transportation and approved by the United States Department of Transportation which includes said county, shall have said vehicle inspected within that area and shall maintain on the vehicle in good working order the federally required emission control equipment required by the Commissioner of Public Safety pursuant to recommendations of the Department of Environmental Quality. When any portion of a municipality is included within said metropolitan transportation

study area, the entire municipality shall be subject to the provisions of this chapter.

B. The Commissioner of Public Safety shall require a visual inspection of the federally required emission control equipment required on vehicles by the provisions of subsection A of this section in counties where there exists a U.S. Environmental Protection Agency designated air quality nonattainment area for auto-related pollutants.

C. In addition to the vehicle mechanical equipment required to be inspected pursuant to the provisions of Section 856 of this title, each person operating an official inspection station shall visually inspect the original manufacturer's automotive emission control equipment or proper replacements for said equipment installed on vehicles when required by the Commissioner of Public Safety pursuant to the provisions of subsection B of this section.

D. It is the intent of the Legislature that local governmental entities implement federal mandates in a manner that:

1. Is the least disruptive for local businesses; and
2. Permits local governmental entities to have control in lieu of federal intervention.

When there is a violation, as that term is defined by the United States Environmental Protection Agency, of the National Ambient Air Quality Standard for ozone in a metropolitan transportation study area described in subsection A of this section, the Oklahoma Department of Environmental Quality shall notify the Department of Public Safety and the Metropolitan Planning Organization (MPO), otherwise known as the Local Councils of Government (COG). The MPO shall notify all local governments in the metropolitan study area in which the violation has occurred. Municipal and county governments in such a metropolitan transportation study area may by ordinance or resolution include the gas cap integrity test in the annual vehicle inspection. For the purposes of including a gas cap integrity test in the annual vehicle inspection, resolutions by counties shall have the same force and effect as ordinances by municipalities. The municipalities or counties shall contract with the MPO to provide all equipment and training required for gas cap integrity testing for the entire area described in subsection A of this section in which a violation of the National Ambient Air Quality Standard for ozone has occurred. The gas cap integrity testing shall begin no later than January 1 of the second year following the violation of air quality standards.

When all the municipal and county governments in the transportation study area in which the violation has occurred adopt ordinances or resolutions including the gas cap integrity test in the annual vehicle inspection, the Commissioner of Public Safety by rule shall require that gas cap integrity testing be performed by official inspection stations designated by the Department of Public Safety and that the testing be performed at the same time as the annual vehicle emissions inspection required under subsections A, B and C of this section. Certificates of inspection and approval, as required by subsection D of Section 854 of this title for emissions inspections, shall also be used to indicate compliance with gas cap integrity testing.

E. No official inspection station shall be required to purchase equipment to implement provisions of this section. ~~Training shall be provided at no cost to the official inspection station.~~ An official inspection station may retain, as determined by the MPO, a reasonable portion of any monies collected as compensation for providing the gas cap integrity tests. The remainder of any monies collected for providing the gas cap integrity test shall be remitted to the MPO for the area in violation and shall be used for expenses related to the provision of the gas cap integrity testing, including purchasing and maintaining test equipment, providing training to inspection officials, performing program audits and improving air quality in the area of violation. The Department of Public Safety shall not be responsible for collecting any monies for the gas cap integrity test. This section shall not modify the amount of monies required to be remitted to the Commissioner of Public Safety by official inspection stations pursuant to Section 858 of this title.

F. The provisions of subsection D of this section shall not apply to vehicles which were manufactured prior to 1979 or to motor vehicles manufactured in the current model year that meet all Environmental Protection Agency standards. Active duty military personnel permanently assigned to a duty station outside of the State of Oklahoma, but still claiming Oklahoma residency, may register their vehicles in Oklahoma without a vehicle inspection if the state they reside in does not require a vehicle inspection.

G. The Metropolitan Planning Organization shall take steps to ensure that the price of gas caps remains stable. This could include, but is not limited to, publishing the price of gas caps for selected car models before and after the initiation of any testing or the signing of voluntary agreements with parts retailers.

H. Any inspection of automotive emission control equipment required pursuant to the provisions of this section shall apply to emission control equipment installed on vehicles of a model year required by the Commissioner of Public Safety pursuant to recommendations of the Department of Environmental Quality as is necessary to accommodate the resolution of the defined air pollution problem of the specific nonattainment area.

I. The provisions of this section shall not be construed to apply to:

1. Trucks or truck-tractors owned and operated by one or more farmers and used primarily for farm use, and not for commercial or industrial purposes, or trucks or truck-tractors used primarily for the transportation of logs, ties, stove bolts, and posts direct from the forest to mill, first market, or railroad shipping points, which are licensed pursuant to law; or

2. Motor vehicles or motor vehicle engines for which liquefied petroleum gas is used as a fuel.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 1110, as last amended by Section 1, Chapter 38, O.S.L. 1996 (47 O.S. Supp. 1998, Section 1110), is amended to read as follows:

Section 1110. A. 1. Except for a security interest in vehicles held by a dealer for sale or lease, as defined in Section

1-112 of this title and a vehicle being registered in this state which was previously registered in another state and which title contains the name of a secured party on the face of the other state certificate or title, a security interest, as defined in Section 1-201 of Title 12A of the Oklahoma Statutes, in a vehicle as to which a certificate of title may be properly issued by the Oklahoma Tax Commission shall be perfected only when a lien entry form, and the existing certificate of title, if any, or application for a certificate of title and manufacturer's certificate of origin containing the name and address of the secured party and the date of the security agreement and the required fee are delivered to the Commission or to a motor license agent. When a vehicle title is presented to a motor license agent for transferring or registering and the documents reflect a lien holder, the motor license agent shall perfect the lien pursuant to subsection G of Section 1105 of Title 47 of the Oklahoma Statutes. For the purposes of this section, the term "vehicle" shall not include special mobilized machinery, machinery used in highway construction or road material construction and rubber-tired road construction vehicles including rubber-tired cranes. The filing and duration of perfection of a security interest, pursuant to the provisions of Title 12A of the Oklahoma Statutes, including, but not limited to, Section 9-302 of Title 12A of the Oklahoma Statutes, shall not be applicable to perfection of security interests in vehicles as to which a certificate of title may be properly issued by the Commission, except as to vehicles held by a dealer for sale or lease and except as provided in subsection D of this section. In all other respects Title 12A of the Oklahoma Statutes shall be applicable to such security interests in vehicles as to which a certificate of title may be properly issued by the Commission.

2. Whenever a person creates a security interest in a vehicle, the person shall surrender to the secured party the certificate of title or the signed application for a new certificate of title, on the form prescribed by the Commission, and the manufacturer's certificate of origin. The secured party shall deliver the lien entry form and the required lien filing fee within twenty (20) days as provided hereafter with certificate of title or the application for certificate of title and the manufacturer's certificate of origin to the Commission or to a motor license agent. If the lien entry form, the lien filing fee and the certificate of title or application for certificate of title and the manufacturer's certificate of origin are delivered to the Commission or to a motor license agent within twenty (20) days after the date of the lien entry form, perfection of the security interest shall begin from the date of the execution of the lien entry form, but, otherwise, perfection of the security interest shall begin from the date of the delivery to the Commission or to a motor license agent.

3. a. For each security interest recorded on a certificate of title, or manufacturer's certificate of origin, such person shall pay a fee of Ten Dollars (\$10.00), which shall be in addition to other fees provided for in the Oklahoma Vehicle License and Registration Act. Upon the receipt of the lien entry form and the required fees with either the certificate of title or an application for certificate of title and manufacturer's certificate of origin, a motor license agent shall, by placement of a clearly distinguishing mark, record the date and number shown in a

conspicuous place, on each of these instruments. Of the ten-dollar fee, the motor license agent shall retain Two Dollars (\$2.00) for recording the security interest lien.

- b. It shall be unlawful for any person to solicit, accept or receive any gratuity or compensation for acting as a messenger and for acting as the agent or representative of another person in applying for the recording of a security interest or for the registration of a motor vehicle and obtaining the license plates or for the issuance of a certificate of title therefor unless the Commission has appointed and approved the person to perform such acts; and before acting as a messenger, any such person shall furnish to the Commission a surety bond in such amount as the Commission shall determine appropriate.

4. The certificate of title or the application for certificate of title and manufacturer's certificate of origin with the record of the date of receipt clearly marked thereon shall be returned to the debtor together with a notice that the debtor is required to register and pay all additional fees and taxes due within thirty (30) days from the date of purchase of the vehicle.

5. Any person creating a security interest in a vehicle that has been previously registered in the debtor's name and on which all taxes due the state have been paid shall surrender the certificate of ownership to the secured party. The secured party shall have the duty to record the security interest as provided in this section and shall, at the same time, obtain a new certificate of title which shall show the secured interest on the face of the certificate of title.

6. The lien entry form with the date and assigned number thereof clearly marked thereon shall be returned to the secured party. If the lien entry form is received and authenticated, as herein provided, by a motor license agent, the agent shall make a report thereof to the Commission upon the forms and in the manner as may be prescribed by the Commission.

7. The Commission shall have the duty to record the lien upon the face of the certificate of title issued at the time of registering and paying all fees and taxes due on the vehicle.

B. 1. A secured party shall, within seven (7) business days after the satisfaction of the security interest, furnish directly or by mail a release of a security interest to the Commission and mail a copy thereof to the last-known address of the debtor. If the security interest has been satisfied by payment from a licensed used motor vehicle dealer to whom the motor vehicle has been transferred, the secured party shall also, within seven (7) business days after such satisfaction, mail an additional copy of the release to the dealer. If the secured party fails to furnish the release as required, the secured party shall be liable to the debtor for a penalty of One Hundred Dollars (\$100.00) and, in addition, any loss caused to the debtor by such failure.

2. Upon release of a security interest the owner may obtain a new certificate of title omitting reference to the security

interest, by submitting to the Commission or to a motor license agent:

- a. a release signed by the secured party, an application for new certificate of title and the proper fees, or
- b. by submitting to the Commission or the motor license agent an affidavit, supported by such documentation as the Commission may require, by the owner on a form prescribed by the Commission stating that the security interest has been satisfied and stating the reasons why a release cannot be obtained, an application for a new certificate of title and the proper fees.

Upon receiving such affidavit that the security interest has been satisfied, the Commission shall issue a new certificate of title eliminating the satisfied security interest and the name and address of the secured parties who have been paid and satisfied. The Commission shall accept a release of a security interest in any form that identifies the debtor, the secured party, and the vehicle, and contains the signature of the secured party. The Commission shall not require any particular form for the release of a security interest.

The words "security interest" when used in this act do not include liens dependent upon possession.

C. The Commission shall file and index certificates of title so that at all times it will be possible to trace a certificate of title to the vehicle designated therein, identify the lien entry form, and the names and addresses of secured parties, or their assignees, so that all or any part of such information may be made readily available to those who make legitimate inquiry of the Commission as to the existence or nonexistence of security interest in the vehicle.

D. Any security interest in a vehicle properly perfected prior to July 1, 1979, may be continued as to its effectiveness or duration as provided by subsection (3) of Section 9-401 and subsection (3) of Section 9-403 of Title 12A of the Oklahoma Statutes, or may be terminated, assigned or released as provided by Sections 9-404, 9-405 and 9-406 of Title 12A of the Oklahoma Statutes, as fully as if this section had not been enacted, or, at the option of the secured party, may also be perfected under this section, and, if so perfected, the time of perfection under this section shall be the date the security interest was originally perfected under the prior law. Upon request of the secured party, the debtor or any other holder of the certificate of title shall surrender the certificate of title to the secured party and shall do such other acts as may be required to perfect the security interest under this section.

E. The priority of a valid security interest in a manufactured home, including without limitation a mobile home or sectional home, perfected pursuant to this section, shall not be affected by reason of the manufactured home becoming a fixture or otherwise being permanently attached to real property after the date of perfection of the security interest. A security interest in a manufactured home perfected pursuant to this section shall have priority over a conflicting interest of a mortgagee or other lien encumbrancer, or

the owner of the real property upon which the manufactured home became affixed or otherwise permanently attached. The holder of the security interest in the manufactured home, upon default, may remove the manufactured home from such real property. The holder of the security interest in the manufactured home shall reimburse the owner of the real property who is not the debtor and who has not otherwise agreed to access the real property for the cost of repair of any physical injury to the real property, but shall not be liable for any diminution in value to the real property caused by the removal of the manufactured home, trespass, or any other damages caused by the removal. The debtor shall notify the holder of the security interest in the manufactured home of the street address, if any, and the legal description of the real property upon which the manufactured home is affixed or otherwise permanently attached and shall sign such other documents, including any appropriate mortgage, as may reasonably be requested by the holder of such security interest.

F. In the case of motor vehicles or trailers, notwithstanding any other provision of law, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

SECTION 4. This act shall become effective November 1, 1999.

Passed the House of Representatives the 12th day of April, 1999.

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Speaker of the House of  
Representatives

Passed the Senate the 5th day of April, 1999.

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President of the Senate