

SECOND ENROLLED HOUSE
BILL NO. 1476

By: Tyler of the House

and

Stipe of the Senate

An Act relating to roads, bridges and ferries; creating the Oklahoma Highway Construction Materials Technician Registration Act; setting forth short title; defining terms; creating the Highway Construction Materials Technician Certification Board; setting forth membership; providing for appointment of Board members; establishing term of membership; authorizing selection of vice-chair; setting forth meeting requirements; authorizing the promulgation of rules; setting forth the powers and duties of the Board; creating certificate of registration and setting forth procedures therefor; providing for examinations and requirements therefor; permitting additional examinations; establishing duration of certification; requiring certain additional training; permitting certification through reciprocity; prohibiting transferability of registrations; authorizing use of certain title; granting Board power to revoke or suspend certificate and setting forth reasons therefor; providing legislative intent; authorizing certain fees; requiring certain fees to be deposited into certain revolving fund; creating the Highway Construction Materials Technician Certification Board Revolving Fund; setting forth requirements of fund and providing for appropriation and expenditure of funds; protecting Board against certain proceedings or damages; repealing Section 2, Chapter 298, O.S.L. 1994, as amended by Section 1, Chapter 71, O.S.L. 1997 (69 O.S. Supp. 1998, Section 708), which relates to certification of engineering technicians; providing for codification; providing an effective date; 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 1951 of Title 69, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Highway Construction Materials Technician Registration Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1952 of Title 69, unless there is created a duplication in numbering, reads as follows:

For the purposes of the Oklahoma Highway Construction Materials Technician Registration Act:

1. "Authority" means the Oklahoma Turnpike Authority;
2. "Board" means the Highway Construction Materials Technician Certification Board;
3. "Construction materials technician" means a person uniquely qualified by education, specialized training and documented field experience and who possesses certification issued by the Board to take samples and conduct tests of materials used in the construction of highways and bridges;
4. "Department" means the Department of Transportation;
5. "Program Director" means the person designated by the Director of the Department of Transportation to administer the training and examination activities of the Oklahoma Highway Construction Materials Technician Registration Act; and
6. "Registration" means a certificate issued pursuant to the Oklahoma Highway Construction Materials Technician Registration Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1953 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Highway Construction Materials Technician Certification Board which shall consist of eleven (11) members to be appointed by the Governor and confirmed by the Senate as follows:

1. The chair and three members may be appointed from a list of nine persons submitted by the Director of the Department of Transportation;
2. One member may be appointed from a list of three persons submitted by the Director of the Oklahoma Turnpike Authority;
3. One member may be appointed from a list of three persons submitted by the Association of County Commissioners of Oklahoma;
4. Two members may be appointed from a list of six persons submitted by the Association of Oklahoma General Contractors;
5. One member may be appointed from a list of three persons submitted by the Oklahoma Asphalt Pavement Association;
6. One member may be appointed from a list of three persons submitted by the Oklahoma Chapter of the American Concrete Pavement Association; and
7. One member may be appointed from a list of three persons submitted by the Federal Highway Administration.

B. The chair and all other Board members appointed in subsection A of this section shall serve three-year terms and shall serve at the pleasure of the Governor. Members may be appointed for subsequent three-year terms.

C. The Board shall select from its membership a vice-chair and other officers as needed to serve one-year terms. The chair or vice-chair shall preside at all meetings.

D. A majority of Board members shall constitute a quorum to transact official business.

E. The Board shall meet quarterly. In addition, the Board shall meet when called by the chair or the vice-chair in the absence of the chair.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1954 of Title 69, unless there is created a duplication in numbering, reads as follows:

The Highway Construction Materials Technician Certification Board shall be authorized to promulgate rules governing the examination and registration of highway construction materials technicians and the defining of categories and limitations for such registration and providing requirements for the renewal of registration.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1955 of Title 69, unless there is created a duplication in numbering, reads as follows:

Pursuant to the Oklahoma Highway Construction Materials Technician Registration Act, the Board shall have the power and duty to:

1. Provide policy and administrative guidance to the Program Director in the administration and development of training and examination of applicants for registration pursuant to this act;
2. Approve the registration of applicants pursuant to this act;
3. Suspend or revoke the certificate of registration of any registrant pursuant to this act;
4. Hear appeals and adjudicate disputes pursuant to this act; and
5. Have such other powers and duties as are necessary to implement this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1956 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. Applicants for a certificate of registration as a highway construction materials technician may be approved for registration by the Board upon compliance with the following:

1. Satisfy the Program Director that the applicant has sufficient education and experience and skills to pass the prescribed examination;
2. Pass an examination prescribed by the Board demonstrating knowledge and understanding of the principles of construction materials sampling and testing;

3. Demonstrate the required procedures in accordance with the established standards;

4. Not be subject to debarment or suspension in this state, by an agency of another state, or by an agency of the federal government; and

5. Pay applicable examination and registration fees.

B. Upon compliance with subsection A of this section, the Board shall issue a certificate of registration as a registered highway construction materials technician. The area of specialization, if any, shall be designated on the certification.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1957 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. Examinations shall be uniform and practical in nature and shall be sufficiently strict to test the qualifications and fitness of the applicant for registration. Examinations shall be in part in writing and in part practical demonstration of the ability of the applicant to perform the prescribed test procedures.

B. Any applicant initially failing to pass the written examination shall be given one opportunity to take another examination within thirty (30) days from the date of the failure notification letter. There shall be no additional fee charged for the reexamination.

C. Any applicant initially failing to demonstrate the ability to successfully perform a test may be allowed one retest of procedures at the convenience of the evaluator prior to completion of the examination.

D. Failure to pass the written examination within the above thirty-day period or to demonstrate the ability to successfully perform all of the required tests within the examination period shall be considered as failing the entire examination.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1958 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. Certification shall be valid for five (5) years from the date of original certification or subsequent recertification.

B. Substantive changes in test procedures may require retraining or recertification prior to expiration of a certification. The Highway Construction Materials Technician Certification Board shall provide, by rule, the requirements of continuing training. To facilitate notification of changes, it shall be the responsibility of the certified technician to keep a current address on file with the Board. Failure to do so shall relieve the Board of the responsibility for contacting the certified technician for any reason, including notification of retraining and recertification course schedules.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1959 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. The Highway Construction Materials Technician Certification Board shall issue a certificate as a highway construction materials technician to any person who:

1. Has been certified by the Board as having a current valid registration in good standing issued by another entity with registration requirements similar to but not less than those provided in the Oklahoma Highway Construction Materials Technician Registration Act; and

2. Has paid the registration fee and otherwise complied with the provisions of the Oklahoma Highway Construction Materials Technician Registration Act.

B. Such registration shall be subject to the condition that the other entity agrees to issue a similar certificate of registration to the holder of a registration pursuant to the Oklahoma Highway Construction Materials Technician Registration Act under substantially the same conditions.

C. All registrations shall be nontransferable. It shall be a misdemeanor punishable by a fine of up to One Thousand Dollars (\$1,000.00) for any person registered pursuant to the provisions of the Oklahoma Highway Construction Materials Technician Registration Act to loan or allow the use of such registration by any other person and for any person to use the registration of another person registered under the provisions of this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1960 of Title 69, unless there is created a duplication in numbering, reads as follows:

Only a person who has qualified as a registered construction materials technician and who holds a valid current registration certificate for use in this state shall have the right and privilege of using the title Registered Highway Construction Materials Technician and to use the abbreviation RHCMT after the name of such person. Any person who violates the provisions of this section, upon conviction, shall be guilty of a misdemeanor punishable by a fine of up to One Thousand Dollars (\$1,000.00).

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1961 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. The Highway Construction Materials Technician Certification Board shall have the power to revoke or suspend the certificate of registration of any registrant pursuant to this section.

B. The Board shall revoke, suspend, or not renew any registration for:

1. Fraud or deceit in obtaining a registration;

2. Making a material misstatement in the application for a registration or the renewal of a registration;

3. Loaning or illegally using a registration;

4. Demonstrating incompetence by gross negligence or misconduct in the duties of a registered highway construction materials technician;

5. Commission of an act or aiding in the commission of an act which would be grounds for debarment or suspension of a company or individual under the Administrative Procedures Act; or

6. Violating any provisions of the Oklahoma Highway Construction Materials Technician Registration Act, or any rule or order prescribed by the Board.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1962 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. It is the intent of the Legislature that the Highway Construction Materials Technician Certification Board created pursuant to the provisions of the Oklahoma Highway Construction Materials Technician Registration Act shall be independent of, but shall receive administrative and financial support from, the Department of Transportation.

B. Fees collected pursuant to the provisions of the Oklahoma Highway Construction Materials Technician Registration Act shall be determined by the Board pursuant to Article I of the Administrative Procedures Act. All such fees collected shall be deposited in the Highway Construction Materials Technician Certification Board Revolving Fund.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1963 of Title 69, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund to be designated the "Highway Construction Materials Technician Certification Board Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Board for deposit in the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Board for the purpose of conducting training and examination and the execution of the powers and duties of the Board as set forth in this act. Expenditures from the 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.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1964 of Title 69, unless there is created a duplication in numbering, reads as follows:

No actions or other legal proceedings for damages shall be instituted against the Highway Construction Materials Technician Certification Board or against any Board member or others acting under the direction of the Board for any act done in good faith and in the performance of any power granted under this act or for any neglect or default in the performance or exercise in good faith of any such duty or power.

SECTION 15. REPEALER Section 2, Chapter 298, O.S.L. 1994, as amended by Section 1, Chapter 71, O.S.L. 1997 (69 O.S. Supp. 1998, Section 708), is hereby repealed.

SECTION 16. This act shall become effective July 1, 1999.

SECTION 17. 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.

Passed the House of Representatives the 19th day of May, 1999.

Speaker of the House of
Representatives

Passed the Senate the 17th day of May, 1999.

President of the Senate