

EHB 1476

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THE STATE SENATE
Wednesday, March 24, 1999

ENGROSSED

House Bill No. 1476

ENGROSSED 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-chairperson; 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:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1951 of Title 69, unless there
3 is created a duplication in numbering, reads as follows:

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

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

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

- 11 1. "Authority" means the Oklahoma Turnpike Authority;
- 12 2. "Board" means the Highway Construction Materials Technician
13 Certification Board;
- 14 3. "Construction materials technician" means a person uniquely
15 qualified by education, specialized training and documented field
16 experience and who possesses certification issued by the Board to
17 take samples and conduct tests of materials used in the construction
18 of highways and bridges;
- 19 4. "Department" means the Oklahoma Department of
20 Transportation;
- 21 5. "Program Director" means the person designated by the
22 Director of the Oklahoma Department of Transportation to administer

1 the training and examination activities of the Oklahoma Highway
2 Construction Materials Technician Registration Act; and

3 6. "Registration" means a certificate issued pursuant to the
4 Oklahoma Highway Construction Materials Technician Registration Act.

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

8 A. There is hereby created the Highway Construction Materials
9 Technician Certification Board which shall consist of eleven (11)
10 members to be appointed as follows:

11 1. The chairperson and three members shall be appointed by the
12 Oklahoma Department of Transportation Assistant Director of
13 Operations;

14 2. One member shall be appointed by the Chief Engineer of the
15 Oklahoma Turnpike Authority;

16 3. One member shall be appointed by the Association of County
17 Commissioners of Oklahoma;

18 4. Two members shall be appointed by the Association of
19 Oklahoma General Contractors;

20 5. One member shall be appointed by the Oklahoma Asphalt
21 Pavement Association;

22 6. One member shall be appointed by the Oklahoma Chapter of the
23 American Concrete Pavement Association; and

1 7. One member shall be appointed by the Federal Highway
2 Administration.

3 B. The chairperson and all other Board members appointed in
4 subsection A of this section shall serve three-year terms and shall
5 serve at the pleasure of their appointing authority. Members may be
6 appointed for subsequent three-year terms.

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

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

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

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

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

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

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

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

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

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

1 1. Satisfy the Program Director that the applicant has
2 sufficient education and experience and skills to pass the
3 prescribed examination;

4 2. Pass an examination prescribed by the Board demonstrating
5 knowledge and understanding of the principles of construction
6 materials sampling and testing;

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

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

12 5. Pay applicable examination and registration fees.

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

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

20 A. Examinations shall be uniform and practical in nature and
21 shall be sufficiently strict to test the qualifications and fitness
22 of the applicant for registration. Examinations shall be in part in

1 writing and in part practical demonstration of the ability of the
2 applicant to perform the prescribed test procedures.

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

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

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

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

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

21 B. Substantive changes in test procedures may require
22 retraining or recertification prior to expiration of a
23 certification. The Board shall provide, by rule, the requirements

1 of continuing training. To facilitate notification of changes, it
2 shall be the responsibility of the certified technician to keep a
3 current address on file with the Board. Failure to do so shall
4 relieve the Board of the responsibility for contacting the certified
5 technician for any reason, including notification of retraining and
6 recertification course schedules.

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

10 A. The Board shall issue a certificate as a highway
11 construction materials technician to any person who:

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

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

20 B. Such registration shall be subject to the condition that the
21 other entity agrees to issue a similar certificate of registration
22 to the holder of a registration pursuant to the Oklahoma Highway

1 Construction Materials Technician Registration Act under
2 substantially the same conditions.

3 C. All registrations shall be nontransferable. It shall be a
4 misdemeanor punishable by a fine of up to One Thousand Dollars
5 (\$1,000.00) for any person registered pursuant to the provisions of
6 the Oklahoma Highway Construction Materials Technician Registration
7 Act to loan or allow the use of such registration by any other
8 person and for any person to use the registration of another person
9 registered under the provisions of this act.

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

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

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

1 A. The Board shall have the power to revoke or suspend the
2 certificate of registration of any registrant pursuant to this
3 section.

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

6 1. Fraud or deceit in obtaining a registration;

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

9 3. Loaning or illegally using a registration;

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

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

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

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

22 A. It is the intent of the Legislature that the Highway
23 Construction Materials Technician Certification Board created

1 pursuant to the provisions of the Oklahoma Highway Construction
2 Materials Technician Registration Act shall be independent of, but
3 shall receive administrative and financial support from, the
4 Oklahoma Department of Transportation.

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

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

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

1 against claims filed as prescribed by law with the Director of State
2 Finance for approval and payment.

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

6 No actions or other legal proceedings for damages shall be
7 instituted against the Board or against any Board member or others
8 acting under the direction of the Board for any act done in good
9 faith and in the performance of any power granted under this act or
10 for any neglect or default in the performance or exercise in good
11 faith of any such duty or power.

12 SECTION 15. REPEALER Section 2, Chapter 298, O.S.L.
13 1994, as amended by Section 1, Chapter 71, O.S.L. 1997 (69 O.S.
14 Supp. 1998, Section 708), is hereby repealed.

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

16 SECTION 17. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

20 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 3-23-99 - DO
21 PASS.