ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 84 By: Capps of the Senate

and

Braddock of the House

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 1102, as last amended by Section 7, Chapter 150, O.S.L. 2000, 1114.2, 1133.1, as last amended by Section 1, Chapter 19, O.S.L. 1994, and 1141.1, as last amended by Section 6, Chapter 250, O.S.L. 2000 (47 O.S. Supp. 2000, Sections 1102, 1133.1 and 1141.1), which relate to the Oklahoma Vehicle License and Registration Act; modifying lettering requirement for certain commercial vehicles; * * * and providing an effective date.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 1102, as last amended by Section 25 of Enrolled House Bill No. 1965 of the 1st Session of the 48th Oklahoma Legislature, 1114.2, 1133.1, as last amended by Section 1, Chapter 19, O.S.L. 1994, and 1141.1, as last amended by Section 6, Chapter 250, O.S.L. 2000 (47 O.S. Supp. 2000, Sections 1133.1 and 1141.1), which relate to the Oklahoma Vehicle License and Registration Act; modifying lettering requirement for certain commercial vehicles; modifying definitions; modifying residency requirements for motor license agents; construing provisions of section; deleting requirement for certain inspection; deleting fee for such inspection; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 1102, as last amended by Section 25 of Enrolled House Bill No. 1965 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 1102. As used in this act:

1. "Carrying capacity" means the carrying capacity of a vehicle as determined or declared in tons of cargo or payload by the owner, provided, that such declared capacity shall not be less than the minimum tonnage capacity fixed, listed or advertised by the manufacturer of any vehicle;

2. "Certificate of title" means a document which is proof of legal ownership of a motor vehicle as described and provided for in Section 1105 of this title;

3. "Chips and oil" or the term "road oil and crushed rock" means, with respect to materials authorized for use in the surfacing of roads or highways in this title or in any equivalent statute pertaining to road or highway surfacing in the State of Oklahoma, any asphaltic materials. Wherever chips and oil or road oil and crushed rock are authorized for use in the surfacing of roads or highways in this state, whether by the Department of Transportation, or by the county commissioners, or other road building authority subject to ~~this act~~ the Oklahoma Vehicle License and Registration Act, asphaltic materials are also authorized for use in such surfacing and construction;

4. "Combined laden weight" means the weight of a truck or station wagon and its cargo or payload transported thereon, or the weight of a truck or truck-tractor plus the weight of any trailers or semitrailers together with the cargo or payload transported thereon;

5. "Commercial trailer" means any trailer, as defined in Section 1-180 of this title, or semitrailer, as defined in Section 1-162 of this title, when such trailer or semitrailer is used primarily for business or commercial purposes;

6. "Commercial trailer dealer" means any person, firm or corporation engaged in the business of selling any new and unused, or used, or both new and used commercial trailers;

7. "Commercial vehicle" means any vehicle over eight thousand (8,000) pounds combined laden weight used primarily for business or commercial purposes. Each motor vehicle being registered pursuant to the provisions of this section shall have the name of the commercial establishment or the words "Commercial Vehicle" permanently and prominently displayed upon the outside of the vehicle in letters not less than two (2) inches high ~~and two (2) inches wide~~. Such letters shall be in sharp contrast to the background and shall be of sufficient shape and color as to be readily legible during daylight hours, from a distance of fifty (50) feet while the vehicle is not in motion. ~~The Commission or its motor license agents shall make physical inspections of commercial vehicles as provided for in Section 1133.1 of this title, if by law said vehicles are required to be inspected to verify that said lettering is permanently displayed as required by this paragraph. A fee of fifty cents ($0.50) shall be charged for making such inspection. Any commercial vehicle with a combined laden weight of over twenty-six thousand (26,000) pounds registered pursuant to the provisions of Section 1133 of this title shall not be subject to physical inspection by the Commission or its motor license agents. Any commercial vehicle with a combined laden weight of twenty-six thousand (26,000) pounds or less registered pursuant to Section 1133 or 1133.1 of this title shall be subject to physical inspection by the Commission or its motor license agent only at the time the vehicle is first registered in this state and upon the transfer of ownership of such vehicle;~~

8. "Commission" <u>or "Tax Commission"</u> means the Oklahoma Tax Commission;

9. "Dealer" means any person, firm, association, corporation or trust who sells, solicits or advertises the sale of new and unused motor vehicles and holds a bona fide contract or franchise in effect

with a manufacturer or distributor of a particular make of new or unused motor vehicle or vehicles for the sale of same;

10. "Interstate commerce" means any commerce moving between any place in a state and any place in another state or between places in the same state through another state;

11. "Laden weight" means the combined weight of a vehicle when fully equipped for use and the cargo or payload transported thereon; provided that in no event shall the laden weight be less than the unladen weight of the vehicle fully equipped for use, plus the manufacturer's rated carrying capacity;

12. "Local authorities" means every county, municipality or local board or body having authority to adopt police regulations under the Constitution and laws of this state;

13. "Manufactured home" means a residential dwelling built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq., and rules promulgated pursuant thereto and the rules promulgated by the Oklahoma Used Motor Vehicle and Parts Commission pursuant to Section 582 of this title;

14. "Manufactured home dealer" means any person, firm or corporation engaged in the business of selling any new and unused, or used, or both new and used manufactured homes. Such information and a valid franchise letter as proof of authorization to sell any such new manufactured home product line or lines shall be attached to said application for a dealer license to sell manufactured homes. "Manufactured home dealer" shall not include any person, firm or corporation who sells or contracts for the sale of ~~his~~ the dealer's own personally titled manufactured home or homes. No person, firm or corporation shall be considered a manufactured home dealer as to any manufactured home purchased or acquired by such person, firm or corporation for purposes other than resale; provided, that the restriction set forth in this sentence shall not prevent an

otherwise qualified person, firm or corporation from utilizing a single manufactured home as a sales office;

15. "Motor license agent" means any person appointed, designated or authorized by the Oklahoma Tax Commission to collect the fees and to enforce the provisions provided for in ~~this act~~ the Oklahoma Vehicle License and Registration Act;

16. "New vehicle" or "unused vehicle" means a vehicle which has been in the possession of the manufacturer, distributor or wholesaler or has been sold only by the manufacturer, distributor or wholesaler to a dealer;

17. "Nonresident" means any person who is not a resident of this state;

18. "Owner" means any person owning, operating or possessing any vehicle herein defined;

19. "Person" means any individual, copartner, joint venture, association, corporation, limited liability company, estate, trust, business trust, syndicate, the State of Oklahoma, or any county, city, municipality, school district or other political subdivision thereof, or any group or combination acting as a unit, or any receiver appointed by the state or federal court;

20. "Recreational vehicle" means every vehicle which is built on or permanently attached to a self-propelled motor chassis or chassis cab which becomes an integral part of the completed vehicle and is capable of being operated on the highways. In order to qualify as a recreational vehicle pursuant to this paragraph such vehicle shall be permanently constructed and equipped for human habitation, having its own sleeping and kitchen facilities, including permanently affixed cooking facilities, water tanks and holding tank with permanent toilet facilities. Recreational vehicle shall not include manufactured homes or any vehicle with portable sleeping, toilet and kitchen facilities which are designed to be removed from such vehicle;

21. "Remanufactured vehicle" means a vehicle which has been assembled by a vehicle remanufacturer using a new body and which may include original, reconditioned, or remanufactured parts, and which is not a salvage, rebuilt, or junked vehicle as defined by paragraphs 1, 2, and 5, respectively, of subsection A of Section 1105 of this title;

22. "Rental trailer" means all small or utility trailers or semitrailers constructed and suitable for towing by a passenger automobile and designed only for carrying property, when said trailers or semitrailers are owned by, or are in the possession of, any person engaged in renting or leasing such trailers or semitrailers for intrastate or interstate use or combined intrastate and interstate use;

23. "Special mobilized machinery" means special purpose machines, either self-propelled or drawn as trailers or semitrailers, which derive no revenue from the transportation of persons or property, whose use of the highway is only incidental, and whose useful revenue producing service is performed at destinations in an area away from the traveled surface of an established open highway;

24. "State" means the State of Oklahoma;

25. "Station wagon" means any passenger vehicle which does not have a separate luggage compartment or trunk and which does not have open beds, and has one or more rear seats readily lifted out or folded, whether same is called a station wagon or ranch wagon;

26. "Travel trailer" means any vehicular portable structure built on a chassis, used as a temporary dwelling for travel, recreational or vacational use, and, when factory-equipped for the road, it shall have a body width not exceeding eight (8) feet and an overall length not exceeding forty (40) feet, including the hitch or coupling;

27. "Travel trailer dealer" means any person, firm or corporation engaged in the business of selling any new and unused, or used, or both new and used travel trailers. Such information and a valid franchise letter as proof of authorization to sell any such new travel trailer product line or lines shall be attached to said application for a dealer license to sell travel trailers. "Travel trailer dealer" shall not include any person, firm or corporation who sells or contracts for the sale of his or her own personally titled travel trailer or trailers. No person, firm or corporation shall be considered as a travel trailer dealer as to any travel trailer purchased or acquired by such person, firm or corporation for purposes other than resale;

28. "Used motor vehicle dealer" means "used motor vehicle dealer" as defined in Section 581 of this title;

29. "Used vehicle" means any vehicle which has been sold, bargained, exchanged or given away, or used to the extent that it has become what is commonly known, and generally recognized, as a "secondhand" vehicle. This shall also include any vehicle other than a remanufactured vehicle, regardless of age, owned by any person who is not a dealer;

30. "Vehicle" means any type of conveyance or device in, upon or by which a person or property is or may be transported from one location to another upon the avenues of public access within the state. "Vehicle" does not include bicycles, trailers except travel trailers and rental trailers, or implements of husbandry as defined in Section 1-125 of this title. All implements of husbandry used as conveyances shall be required to display the owner's driver's license number or license plate number of any vehicle owned by the owner of the implement of husbandry on the rear of the implement in numbers not less than two (2) inches in height. The use of the owner's social security number on the rear of the implement of husbandry shall not be required; and

31. "Vehicle remanufacturer" means a commercial entity which assembles remanufactured vehicles.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 1114.2, is amended to read as follows:

Section 1114.2. Any motor license agent appointed according to the provisions of Section 1140 of ~~Title 47 of the Oklahoma Statutes~~ this title shall have been a resident of the county in which ~~his~~ the agency is located for a period of six (6) months prior to ~~his~~ appointment. ~~Provided, that if~~ If a motor license agent moves his or her residence to a place outside ~~said~~ the county in which the agency is located, ~~he~~ the agent shall forfeit ~~his~~ the appointment. Provided, if the incorporated limits of a municipality encompass an area in more than one county, the provisions of this section shall not prohibit a motor license agent from moving the agency to a county in which the agent does not reside, with the consent of the Oklahoma Tax Commission, as long as the agency continues to be located in the same municipality and as long as other requirements of this title applicable to motor license agents are met.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 1133.1, as last amended by Section 1, Chapter 19, O.S.L. 1994 (47 O.S. Supp. 2000, Section 1133.1), is amended to read as follows:

Section 1133.1 A. Any vehicle, including a station wagon as defined in paragraph ~~22~~ 24 of Section 1102 of this title, which has a combined laden weight of eight thousand (8,000) pounds or less and is used primarily for business or commercial purposes may be registered, pursuant to Section 1133 of this title, as a commercial vehicle having a combined laden weight over eight thousand (8,000) pounds and less than fifteen thousand and one (15,001) pounds. ~~Said~~ The registration application shall state that such vehicle or station wagon is used for business or commercial purposes. Such vehicles or station wagons registered pursuant to this section shall

be assessed the license fees for such commercial vehicle pursuant to Section 1133 of this title.

B. Any person claiming the right to register a vehicle or station wagon pursuant to subsection A of this section shall sign an affidavit attesting to the fact that such person conducts a business or commercial enterprise or is employed by a person conducting a business or commercial enterprise that uses ~~said~~ the vehicle or station wagon primarily for the use of that business or commercial enterprise. Any person who signs ~~said~~ the affidavit as required by this subsection when such person does not believe the information in ~~said~~ the affidavit is true or knows that it is not true, upon conviction, shall be guilty of perjury and shall be punished as provided for by law.

C. Upon initial registration by a person of a vehicle or station wagon pursuant to the provisions of this section, and upon transfer of ownership of any such vehicle or station wagon, any person claiming the right to register a vehicle or station wagon pursuant to subsection A of this section shall make further proof that the person does in fact conduct a business or commercial enterprise or is employed by a person conducting a business or commercial enterprise that uses ~~said~~ the vehicle or station wagon primarily for the use of that business or commercial enterprise by presenting a permit to do business pursuant to Section 1364 of Title 68 of the Oklahoma Statutes or a Federal Employers Identification Number or, if a sole proprietor, a copy of Schedule C from their most recent federal income tax return. Any person claiming the right to re-register a vehicle or station wagon identified by the words "Commercial Vehicle" pursuant to subsection D of this section shall offer the same proof required by this subsection for initial registration or transfer of ownership. Such proof shall not be necessary if the name of the business or commercial enterprise is

permanently and prominently displayed upon the outside of said vehicle or station wagon.

D. ~~Upon initial registration by a person of a vehicle or station wagon pursuant to the provisions of this section, and upon transfer of ownership of any such vehicle or station wagon the Commission or its motor license agents shall physically inspect such vehicles or station wagons to verify that the name of the business or commercial enterprise is permanently and prominently displayed upon the outside of said vehicle or station wagon or said vehicle or station wagon is identified by the words "Commercial Vehicle" permanently and prominently displayed upon the outside of the vehicle or station wagon in letters not less than two (2) inches high and two (2) inches wide. Such letters shall be in sharp contrast to the background and shall be of sufficient shape and color as to be readily legible during daylight hours from a distance of fifty (50) feet while the vehicle or station wagon is not in motion. The Commission or its motor license agent shall receive the fee provided for in paragraph 5 of Section 1102 of this title for making such inspection.~~

~~E.~~ The failure of any owner of a vehicle or station wagon to properly label the vehicle or station wagon or to properly utilize the vehicle or station wagon for the purposes required by this section shall result in the issuance of a new license plate at the rate specified in Section 1132 of this title and in addition a penalty of fifty percent (50%) of the cost of such license shall be assessed against the owner.

~~F.~~ E. In addition to the requirements of Section 1133 of this title, any commercial vehicle having a combined laden weight over eight thousand (8,000) pounds and less than fifteen thousand and one (15,001) pounds shall be subject to the requirements of this section.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 1141.1, as last amended by Section 6, Chapter 250, O.S.L. 2000 (47 O.S. Supp. 2000, Section 1141.1), is amended to read as follows:

Section 1141.1 A. Each motor license agent shall be entitled to retain the following amounts from the taxes and fees collected by such agent to be used to fund the operation of the office of such motor license agent subject to the provisions of Sections 1140 through 1147 of this title:

1. ~~Beginning October 1, 2000,~~ Two Dollars and fifty-six cents ($2.56) for each vehicle registered and for each special license plate issued pursuant to the Oklahoma Vehicle License and Registration Act~~, each motor license agent shall be entitled to retain Two Dollars and fifty-six cents ($2.56) for each vehicle registered and for each special license plate issued~~;

2. One Dollar and twenty-five cents ($1.25) for each certificate of title issued for boats and motors pursuant to the Oklahoma Statutes;

3. For each certificate of registration issued for boats and motors pursuant to the Oklahoma Statutes, an amount determined pursuant to the provisions of subsection B of this section~~. However, until January 1, 1998, each motor license agent shall be entitled to retain One Dollar and twenty-five cents ($1.25) for each certificate of registration issued for boats and motors~~;

4. Two Dollars and twenty-five cents ($2.25) for each certificate of title issued pursuant to the Oklahoma Vehicle License and Registration Act;

5. Beginning October 1, 2000, three percent (3%) of the vehicle excise tax collected pursuant to Section 2103 of Title 68 of the Oklahoma Statutes. Beginning July 1, 2001, each motor license agent shall be entitled to retain three and one hundred twenty-five one-thousandths percent (3.125%) of the vehicle excise tax collected pursuant to Section 2103 of Title 68 of the Oklahoma Statutes.

Beginning July 1, 2002, and for all subsequent years, each motor license agent shall be entitled to retain three and twenty-five one-hundredths percent (3.25%) of the vehicle excise tax collected pursuant to Section 2103 of Title 68 of the Oklahoma Statutes. However, beginning July 1, 2003, the Legislature shall annually review the percentage to be retained by the motor license agents pursuant to this paragraph to determine whether such percentage should be adjusted;

6. Four percent (4%) of the excise tax collected on the transfer of boats and motors pursuant to the Oklahoma Statutes;

7. Two Dollars ($2.00) for each driver license, endorsement, identification license, or renewal or duplicate issued pursuant to Section 6-101 et seq. of this title;

8. Two Dollars ($2.00) for the recording of security interests as provided in Section 1110 of this title;

9. Two Dollars ($2.00) for each inspection conducted pursuant to subsection L of Section 1105 of this title;

10. ~~Fifty cents ($0.50) for each inspection conducted pursuant to paragraph 7 of Section 1102 of this title;~~

~~11.~~ Three Dollars ($3.00) for each inspection conducted pursuant to subsection M of Section 1105 of this title;

~~12.~~ 11. One Dollar ($1.00) for each certificate of ownership filed pursuant to subsection Q of Section 1105 of this title;

~~13.~~ 12. One Dollar ($1.00) for each temporary permit issued pursuant to Section 1124 of this title;

~~14.~~ 13. One Dollar and fifty cents ($1.50) for processing each proof of financial responsibility, driver license information, insurance verification information, and other additional information as provided in Section 7-602 of this title;

~~15.~~ 14. The mailing fees and registration fees provided in Sections 1131 and 1140 of this title;

~~16.~~ 15. The notary fee provided in Section 1143 of this title;

~~17.~~ 16. Three Dollars ($3.00) for each lien entry form completed and recorded on a certificate of title pursuant to subsection G of Section 1105 of this title;

~~18.~~ 17. Seven Dollars ($7.00) for each certificate of title or each certificate of registration issued for repossessed vehicles pursuant to Section 1126 of this title; and

~~19.~~ 18. Any amount specifically authorized by law to be retained by the motor license agent for the furnishing of a summary of a traffic record.

The balance of the funds collected shall be remitted to the Oklahoma Tax Commission as provided in Section 1142 of this title to be apportioned pursuant to Section 1104 of this title.

B. For each certificate of registration issued for boats and motors, each motor license agent shall be entitled to retain the greater of One Dollar and twenty-five cents ($1.25) or an amount to be determined by the ~~Oklahoma~~ Tax Commission according to the provisions of this subsection. At the end of fiscal year 1997 and each fiscal year thereafter, the Tax Commission shall compute the average amount of registration fees for all boats and motors registered in this state during the fiscal year and shall multiply the result by six and twenty-two one-hundredths percent (6.22%). The resulting product shall be the amount which may be retained by each motor license agent for each certificate of registration for boats and motors issued during the following calendar year.

SECTION 5. This act shall become effective November 1, 2001."

Passed the House of Representatives the 9th day of April, 2001.

_____
Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2001.

_____
Presiding Officer of the Senate