

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2284

By: Erwin

COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; providing short title; creating the Oklahoma Motor Carrier Act; declaring public policy and interest; providing for application of the act; creating powers and duties of the Corporation Commission under the Oklahoma Motor Carrier Act; providing definitions; providing for motor carrier license; establishing certain guidelines for granting certain license; providing for revocation or suspension of certain license; providing exceptions to licensing; authorizing the Corporation Commission to adopt certain rules to comply with certain federal acts regarding certain intrastate motor carriers; authorizing the Corporation Commission to adopt certain rules necessary for certain programs for interstate carriers; providing for liability insurance policy or bond as condition to certain license; providing for filing of certain insurance policy or bond; providing claims procedure for certain motor carriers; providing for additional insurance policy regarding carriers of household goods; providing for suspension; providing procedures for reinstatement; providing notice of cancellation; providing for issuance of identification devices to motor carriers; declaring certain operation of vehicles unlawful; providing that identification devices are subject to confiscation; providing request procedures for identification devices; prohibiting transfer of devices; authorizing Corporation Commission to collect certain fee; providing permit requirements for transport of certain deleterious substances; providing exceptions; requiring Corporation Commission to maintain list of permits; declaring certain acts of transport of deleterious substances unlawful; providing for procedure of prosecution for certain violations; authorizing Corporation Commission to initiate certain proceedings for violations; providing penalties; providing definitions; providing procedures for motor carriers using leased equipment; providing for requirements of the lease; requiring a bill of lading for certain motor carriers; providing for violations; requiring motor carriers to maintain current address with the Corporation Commission; considering certain license personal to the holder; providing contempt procedures for certain violators; providing for filing of complaint; providing for notice and hearing on complaint; authorizing Corporation Commission to exercise certain powers necessary for investigations of act; providing for certain fees paid to witnesses;

providing for service of process; providing for final findings; providing for revocation; providing for appeal; requiring the Department of Public Safety to notify Corporation Commission of certain overweight vehicle violations; providing that overweight vehicle violations be considered contempt; providing that violations be grounds for audit; providing penalty; providing penalty for certain acts; requiring Corporation Commission report certain violations to the Attorney General and district attorney of the proper county; authorizing criminal prosecution for certain violations; providing penalty for contempt; providing for monies to be deposited in certain revolving fund; providing for monies to be expended for certain purposes; authorizing the employment of certain persons; declaring enforcement officers as peace officers; providing powers of enforcement officers; prohibiting enforcement officers from certain powers; provide that enforcement officers be under the exclusive control of the Corporation Commission; requiring oath; providing qualifications for officers; requiring certain records be maintained authorizing the Corporation Commission to enter into certain compacts and agreements with other states; declaring the enforcement of the Oklahoma Motor Carrier Act a duty of certain persons of this state; stating that remedies and rights of action not be deprived; providing applicability; allowing persons to bring certain causes of action against motor carriers; providing remedy for any conflicts with the Constitution of the State of Oklahoma; amending 17 O.S. 2001, Section 40, which relates to the Transportation Division; updating references; amending 36 O.S. 2001, Section 3637, which relates to exceptions of motor vehicles; updating references; amending 40 O.S. 2001, Section 1-208A, which relates to motor carriers that are not employer or lessor; updating reference; amending 47 O.S. 2001, Sections 14-119, 953 and 230.15, which relate to load capacity violations, licenses and fees, and to reports of violations to Corporation Commission; updating references; modifying filing fee to license fee; amending 47 O.S. 2001, Section 1133.2, which relates to commercial vehicles displays; adjusting vehicle weight; clarifying type of weight; modifying vehicle lettering requirements; deleting specific reference to interstate motor carriers; replacing type of number to be displayed; deleting certain exemption; amending 17 O.S. 2001, Section 35, which relates to the Data Processing Division of the Corporation Commission; deleting certain salary cap requirement; repealing 17 O.S. 2001, Section 180.5, which relates to motor carriers; 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 240.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

The provisions of this act shall be known and may be cited as the "Oklahoma Motor Carrier Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. It is hereby declared that it is necessary in the public interest to regulate transportation by motor carriers in such manner as to recognize the need to require all motor carriers to have adequate liability insurance; for motor carriers to provide service and conduct their operations in a safe manner; to educate the carriers as to their regulatory responsibilities; to ensure motor carriers of household goods provide consumer oriented service without discriminations; to establish that the operations of motor carriers will not have a detrimental impact on the environment; to preserve a highway transportation system properly adapted to needs of the State of Oklahoma; and cooperate with the government of the United States, the departments of the State of Oklahoma, regulatory bodies of other states, and the duly authorized officials thereof and with any organization of motor carriers in the administration and enforcement of this act.

B. The provisions of this act, except as hereinafter specifically limited, shall apply to motor carriers over public highways of this state; and the regulations of such transportation, and the procurement thereof and the provisions of facilities therefor, is hereby vested in the Corporation Commission.

C. Nothing herein shall be construed to interfere with the exercise by agencies of the government of the United States of its power of regulation of interstate commerce.

D. The terms and provisions of this act shall apply to commerce with foreign nations, or commerce among the several states of this Union, insofar as such application may be permitted under the provisions of the Constitution of the United States, the Acts of Congress and the federal government.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Commission is hereby vested with power and authority, and it shall be its duty:

1. To supervise and regulate every motor carrier operating in interstate or intrastate commerce in this state;

2. To protect the shipping and general public by supervising and requiring insurance of all motor carriers;

3. To supervise and regulate the services of intrastate motor carriers of household goods to ensure consumers are adequately informed of the services available, that procedures are in place to resolve disputes and to afford consumers' protection against unscrupulous or unlawful practices;

4. To ensure motor carriers are complying with the size and weight laws of this state and safety regulations;

5. To participate in or administer registration systems for interstate motor carriers;

6. To participate in or administer the USDOT identification numbering system for interstate and intrastate carriers;

7. To participate in or administer a motor carrier hazardous waste or materials transportation program consistent with the program administered by the Alliance for Uniform Hazardous Materials Transportation; and

8. To supervise and regulate motor carriers in all other matters affecting the relationship between such carriers and the

traveling and shipping public provided those matters do not exceed federal standards as they apply to this state.

B. The Commission shall have the power and authority to promulgate rules and set fees for the administration and enforcement of this act to any or all interstate and intrastate motor carriers as applicable. The Commission may additionally accept filings in an electronic format pursuant to the Electronic Records and Signature Act.

C. The Commission shall ensure its administration and enforcement of the federal motor carrier safety regulations for intrastate motor carriers do not exceed those as adopted by the state.

D. Nothing herein shall be construed to interfere with the exercise by any federal agency of regulation of interstate commerce.

E. The terms and provisions of this act shall apply to commerce with foreign nations, or commerce among the several states of this Union, insofar as such application may be permitted under the provisions of the Constitution of the United States and the Acts of Congress.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Authority" means a general term referring to permission issued by the Commission to a motor carrier authorizing the carrier to perform operations under the jurisdiction of the Corporation Commission;

2. "Commercial motor vehicle" means any self-propelled or towed motor vehicle used on a public highway as set forth in Title 49 of the Code of Federal Regulations;

3. "Corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent

corporation owns directly or indirectly one hundred percent (100%) interest;

4. "Deleterious substance" means salt water, drilling mud, mineral brines or other oilfield related waste intended for reclamation or disposal;

5. "Commission" means the Oklahoma Corporation Commission;

6. "For hire motor carrier" means a person engaged in the transportation of property or passengers for compensation or consideration;

7. "Household goods" means the used personal effects and property of a dwelling;

8. "Identification device" means the motor carrier vehicle identification stamp or a sticker or other document issued by the Commission under the provisions of this act for identifying motor vehicles operated under the provisions of this act;

9. "Intercompany hauling" means the transportation of passengers or property, by a motor carrier that is a member of a corporate family, as defined in this act, when the transportation is provided for other members of the corporate family;

10. "Interstate" means transporting a shipment having an origin or a destination into, out of or through two or more states;

11. "Interstate Registration Certificate" (IRC) means a document issued by the Commission granting permission to operate upon the highways of the State of Oklahoma in interstate commerce exempt from federal motor carrier authority regulation;

12. "Intrastate" means transporting a shipment having both an origin and a destination within Oklahoma;

13. "License" means the nontransferable authorization issued by the Commission granting permission to conduct operations as a motor carrier in intrastate commerce for a specified period of time;

14. "Motor carrier" means a for-hire motor carrier or a private motor carrier operating in interstate or intrastate commerce;

15. "Person" means any individual, firm, copartnership, limited partnership, corporation, limited liability corporation, company, association, or joint-stock association and includes any trustee, receiver, assignee, or personal representative thereof;

16. "Private motor carrier" means a person who operates a commercial motor vehicle and is not a for-hire motor carrier;

17. "Public highway" means every public street, road, highway, or thoroughfare in this state used by the public, whether actually dedicated and accepted by the authorities for use as a public highway or not; and

18. "Trip permit" means a temporary authorization issued by the Commission granting permission to conduct operations as a motor carrier in intrastate and/or interstate commerce.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. No intrastate motor carrier, unless otherwise provided by this act, shall conduct operations in this state without having first obtained a license from the Commission.

B. The Commission may issue trip permits to intrastate motor carriers, provided however, a trip permit may only be issued to a motor carrier of household goods if the carrier currently holds an active interstate authority and the carrier certifies it will comply with intrastate laws and rules regarding intrastate transportation.

C. Upon application, the Commission shall have power, and it shall be its duty to issue a license as prayed for, or refuse to issue a license within ninety (90) days of filing. The Commission may issue a license for the partial exercise only of said privilege sought or may attach to the exercise of the rights granted by such license such terms and conditions as in its judgment the public interest may require. The mere filing of an application does not authorize any person to operate as a motor carrier.

D. Denial to issue the license for any reason other than the deficiency of the applicant to complete the application properly, pay proper filing fees or to obtain a current rule book shall require a full hearing.

E. In granting applications for licenses, the Commission shall take into consideration the reliability of the applicant; the carrier's equipment meeting minimum safety criteria; the carrier's compliance with the state statutes, the Commission's rules and the federal motor carrier safety regulations as well as the applicant's sense of responsibility toward the public and the environment.

F. In an application to transport household goods, the Commission must additionally take into consideration the carrier's dispute settlement program, its customer complaint and inquiry handling procedures and its method of furnishing estimates to shippers.

G. The Commission may, at any time after a public hearing and for good cause, suspend or revoke any license. Provided, the record owner of the license shall be entitled to have ten (10) days' written notice by certified mail from the Commission of any hearing affecting the license, except as otherwise provided in this act. The right of appeal from such order or orders shall be given as in other cases appealed from orders of the Commission.

H. The Commission shall be authorized to exercise any additional power that may from time to time be conferred to the state or allowed by any Act of Congress or federal regulation. The Commission shall adopt rules prescribing the manner and form in which motor carriers shall apply for licenses required by this act.

I. Among other rules adopted, an application for a license shall be in writing, notarized, accompanied by a filing fee as established by the Commission, and shall set forth the following facts:

1. The name and address of the applicant and the names and addresses of its officers, if any;

2. Full information concerning the physical properties of the applicant and whether the equipment to be operated is owned or leased, and if equipment is leased, a copy of the lease agreement(s) shall accompany the application showing full compliance with the leasing provisions as required in this act;

3. The carrier's USDOT number, if any; and

4. Verification by the applicant for a household goods license that it will comply with the provisions of the household goods tariff as adopted by the Commission;

5. Proper showing of the carrier's compliance with safety regulations; and

6. Such other information as the Commission may consider pertinent to the application.

J. Applicants meeting all requirements of the Commission shall be issued a license under a modified format. All other applications shall be set for hearing and published on the Commission's own docket at least fifteen (15) days prior to the date of hearing and shall show:

1. The time and place of the hearing;

2. The name and address of the applicant; and

3. Such other information as the Commission may consider pertinent to such notice.

K. Upon written request and payment of a fee to the Commission, the docket shall immediately be furnished by mail or other method to any person by the Commission. The fee shall be set by the Commission at reasonable cost and shall not exceed the actual expense of publication.

L. Motor carrier licenses shall be filed under the carrier's USDOT number, if any. Motor carriers filing an application for authority without a USDOT number shall simultaneously request the

number from either the United States Department of Transportation or from the Commission. Subsequent applications to the motor carrier's original file shall be filed under the carrier's USDOT number with a subnumber assigned.

M. Licenses shall be issued for a period not to exceed three (3) years. An annual update of the carrier's status shall be required when renewing the annual identification devices. A more thorough carrier update shall be required a minimum of once every three (3) years. License renewals may be accomplished electronically in conjunction with interstate authority renewal.

N. A license shall not be required of motor carriers conducting intrastate operations as follows:

1. Any person or governmental authority furnishing transportation for school children to and from public schools or to and from public-school-related extracurricular activities under contract with, and sponsored by, a public school board; provided, that motor vehicles and equipment operated for the purposes shall qualify in all respects for the transportation of school children under the Oklahoma School Code and the rules of the State Board of Education adopted pursuant thereto. Provided, this exemption shall apply only to such vehicles while they are being used for such transportation;

2. The transportation of livestock and farm products in the raw state, when any of such commodities move to or from farm to market on a vehicle owned or operated by a bona fide farmer not engaged in motor vehicle transportation on a commercial scale. The term market denotes the point at which livestock and farm products in the raw state were first delivered by the producer of the livestock and farm products in the raw state, upon the sale thereof;

3. Buses operating on an irregular route;

4. Taxicabs engaged in the transportation of passengers and their baggage, not operated between two or more cities and towns,

when duly licensed by a municipal corporation in which they might be doing business;

5. Motor carriers transporting liquefied petroleum gases properly licensed by the Oklahoma Liquefied Petroleum Gas Regulation Act;

6. Carpools or ride-sharing operations as defined by Section 1002 of Title 47 of the Oklahoma Statutes;

7. Motor carriers performing wrecker or towing services properly licensed by the Department of Public Safety under Section 951 et seq. of Title 47 of the Oklahoma Statutes;

8. Recreational vehicles for personal use;

9. Shipments transported intracity;

10. Shipments transported under a government contract by the motor carrier issued the contract;

11. Transporters of equipment used in service operations where the transporter is the service provider; or

12. Any other operations deemed exempt by the Commission.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.6 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Commission shall promulgate rules applicable to intrastate motor carriers of household goods consistent with the federal motor carrier regulations. The rules shall set forth the duties and responsibilities of the motor carrier to the shipper to ensure that:

1. Consumers are adequately informed of the services and rates available;

2. Procedures are in place to resolve disputes and loss or damage claims; and

3. Protection is afforded to consumers against unscrupulous or unlawful practices.

B. The rules shall additionally set forth the duties and responsibilities of the Commission to the motor carrier and the shipper to ensure that:

1. The motor carrier's regulatory dissimilarities between federal and state requirements are minimized; and

2. Tariffs are adopted with flexibility allowed for both the motor carrier and the consumer.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.7 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Commission is authorized to promulgate all rules necessary to enable the State of Oklahoma to administer or participate in registration programs of interstate carriers.

B. The Commission may issue trip permits to interstate motor carriers, provided however, a trip permit may only be issued if the motor carrier is in good standing with the United States Department of Transportation and the carrier certifies it will comply with applicable state laws and rules of the Commission.

C. Applications shall be accompanied by a filing fee as established by the Commission. The mere filing of an application does not authorize any person to operate as a motor carrier.

D. Motor carriers operating in interstate commerce are required to comply with all applicable provisions of this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.8 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. No authority shall be issued by the Commission to any motor carrier until after such motor carrier shall have filed with the Commission a certificate of insurance attesting to the existence of liability insurance policy or bond covering public liability and property damage, issued by some insurance or bonding company or insurance carrier authorized as set forth below, and which has

complied with all of the requirements of the Commission, which bond or policy shall be approved by the Commission, and shall be in such sum and amount as established by the Commission; and such liability and property damage insurance policy or bond shall bind the obligor thereunder to make compensation for injuries to, or death of, persons, and loss or damage to property, resulting from the operation of any such motor carrier for which such carrier is legally liable. A copy of the policy or bond shall be furnished to the Commission upon request.

B. After judgment against the carrier for any damage, the injured party may maintain an action upon the policy or bond to recover the same, and shall be a proper party to maintain such action.

C. A person may not require indemnification from a motor carrier as a condition to the transportation of passengers or property by the motor carrier or as a condition for entrance onto property by the motor carrier for the purpose of loading, unloading or transporting property. This section does not preclude claims arising from the damages or losses from the wrongful or negligent acts or omission of the motor carrier.

D. Every intrastate motor carrier of household goods shall additionally file with the Commission a certificate of insurance attesting to the existence of a cargo insurance policy or bond covering any goods or property being transported, issued by some insurance or bonding company or insurance carrier authorized as set forth below, and which has complied with all of the requirements of the Commission, which certificate of insurance shall be approved by the Commission, and shall be in a sum and amount as established by the Commission. The cargo insurance must be filed with the Commission prior to a license being issued by the Commission.

E. No carrier, whose principal place of business is in Oklahoma, shall conduct any operations in this state unless the

operations are covered by a valid primary bond or insurance policy issued by a provider authorized or approved by the State Insurance Commissioner. No carrier shall conduct any operations in this state unless the operations are covered by a valid bond or insurance policy issued by a provider licensed or approved by the State Insurance Commissioner or the insurance regulatory authority of any other state which is certified by the National Association of Insurance Commissioners.

F. Each motor carrier shall maintain on file, in full force, all insurance required by the laws of the State of Oklahoma and the rules of the Commission during such motor carrier's operation and that the failure for any cause to maintain such coverage in full force and effect shall immediately, without any notice from the Commission, suspend such carrier's rights to operate until proper insurance is provided. Any carrier suspended for failure to maintain proper insurance shall have a reasonable time, not exceeding sixty (60) days, within which to provide proper insurance and to have its authority reactivated, upon showing:

1. No operation during the period in which the carrier did not have insurance; and
2. Furnishing of proper certificates of insurance.

G. Any carrier who fails to reactivate its authority within sixty (60) days after such suspension, as above provided, shall have said authority canceled, by operation of law, without any notice from the Commission. The Commission may, upon proper application of the motor carrier, administratively reinstate the authority of a motor carrier upon proper showing that the motor carrier was actually covered by proper insurance during the suspension or cancellation period, and that failure to file with the Commission was not due to the motor carrier's own negligence. Any carrier desiring to file for administrative reinstatement of its authority shall do so within ninety (90) days of its cancellation by law.

H. Any carrier prohibited from being administratively reinstated may, upon proper application of the motor carrier, request a full hearing. During the hearing, the Administrative Law Judge may take in consideration all evidence presented and may reinstate the authority with whatever penalties the Administrative Law Judge deems proper.

I. Insurance companies filing certificates of insurance shall, upon request of the Commission, furnish an authenticated copy of the policy which the certificate represents.

J. Insurance companies filing certificates of insurance shall furnish to the Commission proper notice of cancellation of the policy of insurance to which the certificate of insurance represents with a minimum of thirty (30) days notice prior to the cancellation or termination of the policy of insurance for any cause.

K. Proper forms for the filing of certificates of insurance and cancellation thereof shall be as prescribed by the Commission.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. It is hereby declared unlawful for any motor carrier to operate a motor vehicle within this state, without the identification device issued by the Commission, said device to be displayed as provided by the rules of the Commission provided that a motor carrier may substitute other forms of documentation in lieu of an identification device as prescribed by the Commission.

B. The identification device shall be the property of the Commission at all times, and shall be subject to seizure and confiscation by the Commission for any good cause and at the will of the Commission.

C. The Commission may seize and confiscate any identification device in use by an unauthorized motor carrier or may issue an order for any other enforcement official to seize, confiscate and return

to the Commission any identification device in use by an unauthorized motor carrier.

D. The Commission, in its discretion, is authorized to provide for decals, cab cards, or other suitable methods of identification to be displayed on or carried in the truck or powered motor vehicle.

E. The Commission is hereby authorized to purchase said identification devices in sufficient amounts to supply the demand, and to purchase such other office supplies and equipment as is necessary to administer and enforce the provisions of this act, and to pay for, or cause the same to be paid for, out of the appropriations provided therefor.

F. Upon written request of any motor carrier holding an authority issued by the Commission, the Commission shall issue to the motor carrier a sufficient number of identification devices so that each motor vehicle owned or to be operated by the motor carrier in the state shall bear one identification device. Any motor carrier operating a powered vehicle without a current identification device shall be in violation of the provisions of this section.

G. It is hereby declared unlawful for any motor carrier, or agents or employees of any motor carrier, to use or transfer an identification device except as provided by rules of the Commission.

H. The Corporation Commission is hereby authorized to collect from motor carriers an identification device fee as determined by the Commission for each of its vehicles operated under the provisions of this act; and the fee shall be in addition to any other fees now provided for by law for the registration of said motor vehicles and shall be deposited in the State Treasury to the credit of the Corporation Commission Revolving Fund.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.10 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. No motor carrier shall engage in the business of transporting any deleterious substance produced from or obtained or used in connection with the drilling, development, producing and operating of oil and gas wells and brine wells, for any valuable consideration whatever, or in any quantity over twenty (20) gallons, without first having obtained authority authorizing such operation and a deleterious substance transport permit issued by the Commission.

B. Shipments of deleterious substances approved by the Corporation Commission for soil farming application are exempt from this section. This exemption is only extended to the transportation in connection with the specific soil farming application as approved by the Commission.

C. No deleterious substance transport permit shall be issued to a motor carrier until the carrier has furnished written proof of access to a suitably permitted disposal well or wells. Said written proof of access shall be provided by the owner of such disposal well. Such disposal well must first be approved by the Corporation Commission as adequate to meet the need for proper disposal of all substances which the applicant may reasonably be expected to transport as a motor carrier. Provided that nothing in this section shall be construed as prohibiting the disposition of such deleterious substances in a disposal well that is owned by a person other than the transporter.

D. The Commission shall maintain a current list of such permits. The Commission shall charge an annual deleterious substance transport permitting fee for each such deleterious substance transport permit. Proceeds from the fees shall be deposited by the Commission in the State Treasury to the credit of the Corporation Commission Revolving Fund. The provisions of this section are supplemental and are in addition to the laws applicable to motor carriers.

E. It shall be unlawful for a motor carrier to dump, disperse, or otherwise release deleterious substances upon a public highway or elsewhere except on property or in wells, reservoirs, or other receptacles owned, held, leased, or otherwise rightfully and legally available to the motor carrier for such use and purpose.

F. It shall be unlawful for any motor truck or tank vehicles used to transport deleterious substances to have a release device found or operated in any manner from within the cab of such a motor vehicle.

G. Any violation of the provisions of this section shall be a misdemeanor. It shall be the duty of the prosecuting attorney of the county in which a violation of the provisions of this section occurs to file and prosecute the aforementioned misdemeanor charge and advise the Commission of such action and the results thereof.

H. The Commission may initiate contempt proceedings for any violation concerning disposal by a carrier of a deleterious substance. The first violation proven by the Commission in any twelve-month period shall result in a motor carrier being warned by the Commission and, upon conviction, fined up to Two Thousand Five Hundred Dollars (\$2,500.00). A second violation proven by the Commission in any twelve-month period shall result in a motor carrier being placed on probation and fined up to Five Thousand Dollars (\$5,000.00) by the Commission. A third violation proven by the Commission in any twelve-month period shall result in a fine of up to Twenty Thousand Dollars (\$20,000.00), and, at the discretion of the Commission, cancellation of the carrier's license for a period up to one (1) year and cancellation of the motor carrier deleterious substance transport permit. The driver of a truck, who is not the owner of the vehicle used in violation of this section or any of the rules and regulations of the Commission, shall be adjudicated a codefendant and subject to a fine equal to ten percent

(10%) of the fine assessed to the owner of such vehicle, up to Five Hundred Dollars (\$500.00).

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.11 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Authorized carrier" means a person or persons authorized by the Commission to engage in intrastate transportation;

2. "Equipment" means a motor vehicle, straight truck, tractor, semitrailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of passengers or property;

3. "Owner" means a person to whom title to equipment has been issued, or who, without title, has the right to exclusive use of equipment;

4. "Lease" means a contract or arrangement in which the owner grants the use of equipment, with or without driver, for a specified period to an authorized carrier for use in the regulated transportation of passengers or property, in exchange for compensation;

5. "Lessor", in a lease, means the party granting the use of equipment, with or without driver, to another;

6. "Lessee", in a lease, means the party acquiring the use of equipment, with or without driver, from another;

7. "Sublease" means a written contract in which the lessee grants the use of leased equipment, with or without driver, to another.

8. "Addendum" means a supplement to an existing lease that is not effective until signed by the lessor and lessee; and

9. "Shipper" means a person who sends or receives property which is transported in intrastate commerce in this state.

B. A motor carrier may perform authorized transportation in equipment it does not own only under the following conditions:

1. There shall be a written lease granting the use of the equipment and meeting the requirements as set forth in subsection C of this section;

2. The authorized carrier acquiring the use of equipment under this section shall identify the equipment in accordance with the requirements of the Commission; and

3. Upon termination of the lease, the authorized carrier shall remove all identification showing it as the operating carrier before giving up possession of the equipment.

C. The written lease required pursuant to subsection B of this section shall contain the following provisions. The required lease provisions shall be adhered to and the following provisions. The required lease provisions shall be adhered to and performed by the authorized carrier as follows:

1. The lease shall be made between the authorized carrier and the owner of the equipment. The lease shall be signed by these parties or by their authorized representatives;

2. The lease shall specify the time and date or the circumstances on which the lease begins and ends and include a description of the equipment which shall be identified by vehicle identification number, make, year, model and current license plate number;

3. The lease shall provide that the authorized carrier lessee shall have exclusive possession, control and use of the equipment for the duration of the lease. The lease shall further provide that the authorized carrier lessee shall assume complete responsibility for the operation of the equipment for the duration of the lease;

4. The lease shall provide as to whether the authorized carrier lessee may sublease the equipment;

5. The amount to be paid by the authorized carrier for equipment and driver's services shall be clearly stated on the face of the lease or in an addendum which is attached to the lease;

6. The lease shall clearly specify the responsibility of each party with respect to the cost of fuel, fuel taxes, empty mileage, permits of all types, tolls, detention and accessorial services, base plates and licenses, and any unused portions of such items. Except when the violation results from the acts or omissions of the lessor, the authorized carrier lessee shall assume the risks and costs of fines for overweight and oversize trailers when the trailers are preloaded, sealed, or the load is containerized, or when the trailer or lading is otherwise outside of the lessor's control, and for improperly permitted over-dimension and overweight loads and shall reimburse the lessor for any fines paid by the lessor. If the authorized carrier is authorized to receive a refund or a credit for base plates purchased by the lessor from, and issued in the name of, the authorized carrier, or if the base plates are authorized to be sold by the authorized carrier to another lessor the authorized carrier shall refund to the initial lessor on whose behalf the base plate was first obtained a prorated share of the amount received;

7. The lease shall specify that payment to the lessor shall be made by the authorized carrier within fifteen (15) days after submission of the necessary delivery documents and other paperwork concerning a trip in the service of the authorized carrier. The paperwork required before the lessor can receive payment is limited to those documents necessary for the authorized carrier to secure payment from the shipper. The authorized carrier may require the submission of additional documents by the lessor but not as a prerequisite to payment;

8. The lease shall clearly specify the right of the lessor, regardless of method of compensation, to examine copies of the documentation of the carrier upon which charges are assessed;

9. The lease shall clearly specify all items that may be initially paid for by the authorized carrier, but ultimately deducted from the compensation of the lessor at the time of payment or settlement together with a recitation as to how the amount of each item is to be computed. The lessor shall be afforded copies of those documents which are necessary to determine the validity of the charge;

10. The lease shall specify that the lessor is not required to purchase or rent any products, equipment, or services from the authorized carrier as a condition of entering into the lease arrangement;

11. As it relates to insurance:

- a. the lease shall clearly specify the legal obligation of the authorized carrier to maintain insurance coverage for the protection of the public, and
- b. the lease shall clearly specify the conditions under which deductions for cargo or property damage may be made from the lessor's settlements. The lease shall further specify that the authorized carrier must provide the lessor with a written explanation and itemization of any deductions for cargo or property damage made from any compensation of money owed to the lessor. The written explanation and itemization must be delivered to the lessor before any deductions are made;

12. An original and two copies of each lease shall be signed by the parties. The authorized carrier shall keep the original and shall place a copy of the lease in the equipment during the period

of the lease. The owner of the equipment shall keep the other copy of the lease; and

13. In lieu of a copy of a lease agreement/contract, the authorized carrier may keep a statement with the equipment during the period of the lease certifying that the equipment is being operated by it. The statement shall also specify the name of the owner, the date and length of the lease, any restrictions in the lease relative to the commodities to be transported and the address at which the original lease is kept by the authority carrier. The statement shall be prepared by the authorized carrier or its authorized representative.

D. The provisions of this section shall apply to the leasing of equipment with which to perform transportation regulated by the Corporation Commission by motor carriers holding an authority from the Commission.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.12 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Every motor carrier, subject to this act, receiving property for transportation in intrastate commerce shall issue a receipt or bill of lading therefore.

B. Any person, motor carrier, or shipper who shall willfully violate any provisions of this act by any means shall be deemed guilty of a misdemeanor and upon conviction thereof be fined as provided by law.

C. Nothing contained in this act shall be construed to authorize the operation of any motor vehicle in excess of its gross weight, axle weight, width, length or height authorized by law.

D. Any person who willfully advertises to perform transportation services for which he does not hold a proper authority shall be in violation of this act and subject to the penalties prescribed for contempt of the Corporation Commission.

E. All licenses or other documents reflecting authority issued by the Commission under any law of the state relating to motor carriers shall contain the provision that the Commission reserves to itself authority to suspend and/or cancel any such authority for the violation, on the part of the applicant or any operator or operators of any motor vehicle to be operated thereunder, of any law of the State of Oklahoma or any rule adopted by the Commission.

F. A motor carrier is required to maintain a current mailing and physical address on file with the Commission.

G. Licenses shall be considered personal to the holder thereof and shall be issued only to some definite legal entity as a motor carrier. The motor carrier may list a single trade name provided the trade name is not a definite legal entity. Authorities are not subject to lease, nor shall the holder thereof sublet or permit the exercise, by another, of the rights or privileges granted thereunder; provided, nothing herein contained shall be construed to prohibit the Commission to grant authority to another motor carrier to render such service, upon compliance with the other provisions of law applicable to other motor carriers.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.13 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. When the Commission, upon complaint, or upon written report of a motor carrier enforcement officer or transportation auditor, has reason to believe that any person, motor carrier, or shipper is or has willfully violated any provision of this act, the Commission shall, upon its own initiative, file a contempt proceeding and set a date for the same to be heard before the Commission, and upon conviction the Commission shall invoke such contempt penalties as provided in Section 15 of this act.

B. Upon any complaint in writing under oath being made by any person, or by the Commission of its own motion, setting forth any

act or thing done or omitted to be done by any person in violation, or claimed violation, of any provision of law, or of any order or rule of the Commission, the Commission shall enter same upon its docket and shall immediately serve a copy thereof upon each defendant together with a notice directed to each defendant.

C. Upon the filing of the complaint herein provided for, the Commission shall set a time and place for the hearing, and notice of the time and place of the hearing shall be served not less than ten (10) days before the time set therefor, unless the Commission shall find that public necessity requires the hearing at an earlier date.

D. The Commission may, in all matters within its jurisdiction, issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings pending before the Commission; may administer oaths, examine witnesses, compel the production of records, books, papers, files, documents, contracts, correspondence, agreements, or accounts necessary for any investigation being conducted, and certify official acts.

E. In case of failure on the part of any person to comply with any lawful order of the Commission, or with any subpoena or subpoena duces tecum, or to testify concerning any matter on which that person may be lawfully interrogated, the Commission may compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena, or of the refusal to testify.

F. Witnesses who are summoned before the Commission shall be paid the same fees and mileage as are paid to witnesses in courts of record. Any party to a proceeding at whose instance a subpoena is issued and served shall pay the costs incident thereto and the fees for mileage of all his witnesses.

G. In the event any process shall be directed to any nonresident who is authorized to do business in this state, the process may be served upon the agent designated by the nonresident

for the service of process, and service upon the agent shall be as sufficient and as effective as if served upon the nonresident.

H. All process issued by the Commission shall extend to all parts of the state and any such process, together with the service of all notices issued by the Commission, as well as copies of complaints, rules, orders and regulations of the Commission, may be served by any person authorized to serve process issued out of courts of record, or by certified mail.

After the conclusion of any hearing, the Commission shall, within sixty (60) days, make and file its findings and order, with its opinion. Its findings shall be in sufficient detail to enable any court in which any action of the Commission is involved to determine the controverted questions presented by the proceeding. A copy of such order, certified under the seal of the Commission, shall be served upon the person against whom it runs, or the attorney of the person, and notice thereof shall be given to the other parties to the proceedings or their attorneys. The order shall take effect and become operative within fifteen (15) days after the service thereof, unless otherwise provided. If an order cannot, in the judgment of the Commission, be complied with within fifteen (15) days, the Commission may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in the order.

I. In the event the Commission finds that the defendant is guilty upon any complaint filed and proceeding had and that the provisions of law, or the rules, regulations or orders of this Commission have been willfully and knowingly violated and the violator holds an authority issued by the Commission, then such authority may also be revoked by the Commission.

J. Where a complaint is instituted by any person other than the Commission of its own motion and in the event the Commission should

find that the complaint was not in good faith, the complaining party shall be required to pay the defendant's attorney fees, the fees to be prescribed by the Commission in accordance with applicable Oklahoma Bar Association standards.

K. Any person aggrieved by any findings and order of the Commission may appeal to the Supreme Court in the way and manner now or hereafter provided for appeals from the district court to the Supreme Court.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.14 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Department of Public Safety, monthly, shall notify the Corporation Commission of any ticket issued for a violation of the provisions of Section 14-119 of Title 47 of the Oklahoma Statutes, or any provisions of Chapter 14 of Title 47 of the Oklahoma Statutes or the terms of any special permit authorized pursuant to the provisions of Chapter 14 of Title 47 of the Oklahoma Statutes concerning overweight or overweight special permits.

B. Truck overweight violations by motor carriers shall be considered contempt of Commission motor carrier rules and regulations. The Commission shall establish a specific rule whereby such overweight violations by motor carriers shall be grounds for an audit of the carrier or shipper and/or issuance of a show-cause order for consideration of temporary or permanent cancellation of an authority. In establishing the rule, consideration shall be given to the frequency of violations, pattern of violations, fleet size, type of operation, amount of overweight, and other such factors that may indicate intent. Any person, firm, or corporation that assists in the commission of such overweight violation or refuses to comply with any rule, regulation, or order of the Commission relating thereto shall be guilty of contempt of the Commission and shall be subject to a fine to be imposed by said Commission in a sum not to

exceed Five Hundred Dollars (\$500.00) on each violation. In the specific instance of an overweight violation, the transportation of each load shall constitute a separate violation. The same fine assessed against the motor carrier shall apply to any other person, firm, or corporation that aids or abets such violations. Provided however, no motor carrier, shipper or person loading or causing a motor vehicle to be loaded shall be subject to a fine for contempt unless the gross weight of the motor vehicle is more than five thousand (5,000) pounds overweight or an axle weight of the motor vehicle is more than two thousand (2,000) pounds overweight.

C. The Commission, in its discretion and on its own motion, may make a contempt complaint in writing under oath setting forth the violation, enter the complaint on its docket, and proceed with the matter in accordance with the provisions of Section 13 of this act.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.15 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Every owner of any motor vehicle, the agents or employees of the owner, and every other person who violates or fails to comply with or procures, aids, or abets in the violations of this act, or who fails to obey, observe, or comply with any order, decision, rule or regulation, direction, demand, or requirement of the Corporation Commission, or who procures, aids or abets any corporation or person in the person's, or its, refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand, or regulation shall be deemed guilty of a misdemeanor. Upon conviction in a criminal court of competent jurisdiction, such misdemeanor is punishable by a fine of not exceeding One Thousand Dollars (\$1,000.00).

B. The Corporation Commission shall report to the Attorney General of this state and the district attorney of the proper county, having jurisdiction of such offense, any repetitive

violation of any of the provisions of this act or any rule or regulation of the Commission promulgated pursuant to the provisions of this act, by any motor vehicle owner, agent or employee of such owner, or any other person. Upon receipt of such report, the Attorney General or the district attorney of the proper county having jurisdiction of such offense shall institute criminal or civil proceedings against such offender in the proper court having jurisdiction of such offense. Any willful failure on the part of members of the Commission, the Attorney General or any district attorney to comply with the provisions of this section, shall be deemed official misconduct. The Commission shall report such complaints so made to the Governor of this state who shall direct and cause the laws of this state to be enforced.

C. Any person failing, neglecting or refusing to comply with the provisions of this act, or with any rule, regulation, or requirement of the Commission promulgated pursuant to the provisions of Section 3 of this act, shall be guilty of contempt of the Commission, and shall be subject to a fine to be imposed by the Commission in a sum not exceeding Five Hundred Dollars (\$500.00). Each day on which such contempt occurs shall be deemed a separate and distinct offense. The maximum fine to be assessed on each day shall be Five Hundred Dollars (\$500.00). All fines collected pursuant to the provisions of this section shall be deposited in the State Treasury to the credit of the Corporation Commission Revolving Fund. This subsection shall not apply in the specific instance of load capacity violations or violations applicable to the transportation or discharge of deleterious substances provided for by specific statutory provisions.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.16 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. All monies accruing to the Corporation Commission Revolving Fund are hereby appropriated to the Corporation Commission and upon the receipt of any fees or fines, be deposited in the State Treasury to the credit of the Corporation Commission Revolving Fund.

B. In addition to other uses authorized by law, funds provided to the Corporation Commission Revolving Fund pursuant to this act shall be expended as follows:

C. The Commission shall appoint a director of transportation and a deputy director at such salaries as the Legislature may from time to time prescribe.

D. The Commission shall employ a sufficient number of motor carrier enforcement officers and supervisor-officers who shall investigate and assist in the prosecution of persons engaged in unauthorized transportation as contemplated under the provisions of this act and any other applicable provisions of law.

E. The Commission shall employ a sufficient number of transportation auditors whose duty and function, in the public interest, shall be to investigate, gather evidence and report to the Commission in writing any violations of the provisions of this act. The auditors shall be graduates of an accredited college or university, or have had at least seven (7) years' practical experience in auditing, rates or related fields in the transportation industry.

F. Such employees shall be compensated as for similar service in the same or other departments of the state and an expense allowance of One Hundred Twenty-five Dollars (\$125.00) per month for maintenance and cleaning of uniforms and other related expenses shall be paid to such employees. Nothing in this section regarding expense allowances shall be construed to mean that such employees shall receive any additional compensation beyond what is provided for maintenance and cleaning of uniforms and other related expenses by the Commission on the effective date of this act.

G. The Commission shall purchase a sufficient number of motor vehicles to provide each motor carrier enforcement officer employed in the Transportation Division a motor vehicle suitable to carry out the enforcement provisions of applicable law. Said vehicles shall be appropriately marked as official vehicles and radio equipped. All costs for operation, maintenance and replacement of the motor vehicles authorized in this section shall be provided for from the Corporation Commission Revolving Fund.

H. The Commission shall employ an Administrative Law Judge whose primary responsibility shall be the adjudication of enforcement proceedings and complaints brought against persons engaged in unauthorized transportation in violation of this act or the rules and regulations of motor carriers as promulgated by the Commission.

I. The Commission is hereby authorized and empowered to employ such extra help as may be necessary to carry out the provisions of this act for the enforcement of the law and the collection of fees and fines set forth herein, said employees to be paid from the appropriations made in this section. Provided, such employees shall be paid such salaries or compensation as is paid for similar service in this state in the same or other departments of the state. The Commission is hereby authorized to pay from the Corporation Commission Revolving Fund such extra operating expenses as may be attributable to the enforcement of this act, in the same manner and form as other expenses are paid. The employees shall be allowed actual and necessary travel expenses pursuant to the provisions of the State Travel Reimbursement Act.

J. Enforcement officers, appointed by the Commission, are hereby declared to be peace officers of this state. Such officers shall be vested with all powers of peace officers in enforcing the provisions of this act in all parts of this state.

K. The powers and duties conferred upon said enforcement officers shall in no way limit the powers and duties of sheriffs or other peace officers of the state, or any political subdivision thereof, or of members of the Division of Highway Patrol, subject to the Department of Public Safety.

L. The enforcement officers when on duty, upon reasonable belief that any motor vehicle is being operated within the jurisdiction of any provisions of this act, shall be authorized to require the driver of the vehicle to stop and submit to an inspection of the vehicle for compliance with safety regulations and to submit to such enforcement officer identification devices, copies of authority, bills of lading, waybills, or other evidences of the character of the commerce being transported in such vehicle, and to submit to an inspection of the contents of the vehicle for the purpose of comparing same with bills of lading or shipping documentation, waybills, or other evidences of transportation carried by the driver of the vehicle. The officers shall not have the right to plea bargain.

M. The enforcement officers are authorized to serve all warrants, writs, and notices issued by the Commission relating to the enforcement of the provisions of this act and the rules, regulations, and requirements prescribed by the Commission promulgated pursuant to this act.

N. The enforcement officers shall not have the power or right of search, nor shall they have the right of power of seizure, except as provided in this act. The enforcement officers are authorized to hold and detain any motor vehicle operating upon the highways of this state, if, the enforcement officer has reason to believe that the vehicle is being operated contrary to the provisions of the Oklahoma Motor Carrier Act, or the rules, regulations, and requirements of the Commission promulgated pursuant to this act.

O. No state officials other than members of the Commission, shall have any power, right, or authority to command, order, or direct any enforcement officer to perform any duty or service authorized by this act.

P. Each of the enforcement officers shall, before entering upon the discharge of their duties, take and subscribe to the usual oath of office and shall execute to the State of Oklahoma a bond in the sum of Twenty-five Thousand Dollars (\$25,000.00) each, with sufficient surety for the faithful performance of their duty. The bond shall be approved and filed as provided by law.

Q. No enforcement officer or employee of the Commission shall have the right to plea bargain in motor carrier or motor transportation matters except the chief legal counsel of the Commission or an assign of the legal staff of the chief legal counsel.

R. Applicants for the position of enforcement officer shall be high school graduates and shall have had at least three (3) years' practical experience in the motor carrier industry or in any law enforcement related field. Applicants shall have attained the age of twenty-one (21) years. Enforcement officers must be certified by the Council on Law Enforcement Education and Training (CLEET) within twelve (12) months from the date of employment for a motor carrier enforcement officer position.

S. The applicants shall pass a written test or examination on motor carrier law and the rules of the Commission pertaining thereto, for the purpose of establishing the applicant's fitness and ability to perform the duties of an enforcement officer.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.17 of Title 47, unless there is created a duplication in numbering, reads as follows:

All records of the Corporation Commission under this act shall be maintained in, and classified as set forth by the Oklahoma Department of Libraries.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.18 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Corporation Commission is hereby authorized and empowered, on behalf of the State of Oklahoma, and when it shall deem it to be in the best interest of the residents of this state so to do, to enter into reciprocal compacts and agreements with other states, or the authorized agencies thereof, when such states have made provisions substantially similar to this section, respecting the regulation of motor vehicles engaged in interstate or foreign commerce upon and over the public highways. And such compacts and agreements may provide for the granting, to the residents of such states, privileges substantially similar to those granted thereby to Oklahoma residents: Provided: (1) That no such compact or agreement shall supersede or suspend the operation of any law, rule or regulation of the State of Oklahoma which shall apply to vehicles operated intrastate in the State of Oklahoma; (2) That any privileges, the granting of which shall be provided by any such compact or agreement, shall extend only in cases of full compliance with the laws of the state joining in such compact or agreement; (3) That no such compact or agreement shall supersede or suspend the operation of any law of the State of Oklahoma other than those applying to this act; and (4) That the powers and authority of the Oklahoma Tax Commission to administer and enforce the tax laws of this state, pertaining to the taxation of motor vehicles, shall be in no manner superseded or suspended.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.19 of Title 47, unless there is created a duplication in numbering, reads as follows:

In addition to all other duties as provided by law, it is hereby declared to be, and shall be the duty of all sheriffs, deputy sheriffs, district attorneys, enforcement officers appointed by the Corporation Commission of the State of Oklahoma, and all highway patrolmen within the State of Oklahoma:

1. To enforce the provisions of this act;

2. To apprehend and detain any motor vehicle or vehicles and driver or operator and their aids who are operating any motor vehicle, upon or along the highways of this state, for a reasonable length of time, for the purpose of investigating and determining whether such vehicle is being operated in compliance with the provisions of this act;

3. To make arrests for the violation of the applicable provisions of this act, without the necessity of procuring a warrant;

4. To sign the necessary complaint and to cause the violator or violators to be promptly arraigned before a court of competent jurisdiction for trial;

5. To aid and assist in the prosecution of the violator or violators in the name of the State of Oklahoma to the end that this law shall be enforced;

6. To furnish such information concerning arrests to the Commission as the Commission may request; and

7. At the request of the Commission, to seize and confiscate any and all identification devices and to forward the same to the Commission for cancellation.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.20 of Title 47, unless there is created a duplication in numbering, reads as follows:

Nothing in this act shall deprive any holder of a receipt of bill of lading any remedy or right of action under existing law. Where litigation is pursued under other existing rights, the

prevailing party shall be allowed reasonable attorney fees and court costs.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.21 of Title 47, unless there is created a duplication in numbering, reads as follows:

Except as provided herein, the provisions of Sections 1 through 23 of this act are expressly made applicable to any license or other authority issued under this act.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.22 of Title 47, unless there is created a duplication in numbering, reads as follows:

Any action against a motor carrier for damages by reason of any breach of duty, whether contractual or otherwise, may be brought, in addition to the other counties in which such action may be brought, in the county where the cause of action or some part thereof arose, and a summons shall be issued to any other county against any one or more of the defendants at the plaintiff's request.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.23 of Title 47, unless there is created a duplication in numbering, reads as follows:

If this act or any provision hereof is, or may be deemed to be, in conflict or inconsistent with any of the provisions of Sections 18 through Section 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, then, to the extent of any such conflicts or inconsistencies, it is hereby expressly declared that this entire act and this section are amendments to and alterations of the sections of the Constitution, as authorized by Section 35 of Article IX of said Constitution.

SECTION 24. AMENDATORY 17 O.S. 2001, Section 40, is amended to read as follows:

Section 40. There is hereby created within the ~~Oklahoma~~ Corporation Commission a division to be known as the Transportation

Division. The Division shall be comprised of a Director and shall include both special motor carrier enforcement officers ~~created by Section 171.1 of Title 47 of the Oklahoma Statutes,~~ and motor carrier enforcement officers created by Section ~~172~~ 16 of ~~Title 47 of the Oklahoma Statutes~~ this act, and such other persons as the Commission may find necessary to carry out the responsibilities prescribed by law and to enforce the orders, rules, regulations and judgments of the Commission.

SECTION 25. AMENDATORY 36 O.S. 2001, Section 3637, is amended to read as follows:

Section 3637. This act shall not apply to any policy covering motor trucks operated by a motor carrier as defined in ~~47 O.S. 1961, Section 161, as amended~~ Section 4 of this act, where the insured has employees who operate motor trucks and such employees are covered by worker's compensation.

SECTION 26. AMENDATORY 40 O.S. 2001, Section 1-208A, is amended to read as follows:

Section 1-208A. In no event will a motor carrier be determined to be the employer of a lessor as defined in Section ~~166a~~ 11 of ~~Title 47 of the Oklahoma Statutes~~ this act, or of a driver receiving compensation from a lessor.

SECTION 27. AMENDATORY 47 O.S. 2001, Section 14-119, is amended to read as follows:

Section 14-119. Any common, contract, or private motor carrier or any shipper, firm, corporation, or other person who willfully or knowingly transports a load having a capacity greater than the axle or gross weights authorized by statute or by special permit pursuant to the provisions of Sections 14-116 and 14-118 of this title, or who loads or causes or requires a vehicle to be loaded to said capacity, upon conviction, is guilty of a misdemeanor and shall be subject to the penalties and fines provided for in Section ~~172~~ 15 of ~~Title 47 of the Oklahoma Statutes~~ this act or to a fine in the

amount provided for in Sections 1115.2 and 1115.3 of Title 22 of the Oklahoma Statutes.

SECTION 28. AMENDATORY 47 O.S. 2001, Section 953, is amended to read as follows:

Section 953. A. No operator shall be permitted nor shall any employee of any operator be permitted, allowed or caused to make service calls without the operator first having obtained from the Department of Public Safety a license to operate a wrecker or towing service. The number of the license shall be displayed, in conformance with rules of the Department, on both sides of every wrecker vehicle operated by the wrecker or towing service.

B. The license ~~fee~~ required by this section shall be in lieu of the motor carrier ~~filing~~ license fee as required in Section ~~165~~ 5 of this ~~title~~ act. No applicant for a wrecker license shall be required to prove public convenience and necessity, file notices, nor shall a public hearing be held. The fee for such license shall be One Hundred Dollars (\$100.00), of which Ten Dollars (\$10.00) shall be allocated to the Department for the administration of Section 951 et seq. of this title.

C. All licenses shall expire on the last day of the calendar year and may be renewed annually at a cost of Fifty Dollars (\$50.00) upon application to the Department as prescribed by rule. No license fee shall be refunded in the event that the license is suspended or revoked.

D. The Department shall issue a letter of reprimand, cancel, suspend, revoke, or refuse to issue or renew the license of an operator when it finds the licensee or applicant has not complied with or has violated any of the provisions of Section 951 et seq. of this title, or any rules adopted by the Department. A suspension or revocation shall be for a period of time deemed appropriate by the Department for the violation. Any canceled, suspended, or revoked license shall be returned to the Department by the operator, and the

operator shall not be eligible to apply for another license until the period of suspension or revocation has elapsed.

E. The provisions of the Oklahoma Administrative Procedures Act are expressly made applicable to Section 951 et seq. of this title.

F. In any civil action to enforce the equal application of the alternation or rotation of wrecker or towing services regulated by a political subdivision of the state, the prevailing party shall be allowed attorney fees determined by the court, to be taxed and collected as costs.

G. Fees collected pursuant to the provisions of this section shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury except as provided by subsection H of this section.

H. Fees allocated to the Department by this section shall be deposited in the Department of Public Safety Revolving Fund.

SECTION 29. AMENDATORY 47 O.S. 2001, Section 230.15, is amended to read as follows:

Section 230.15 A. Whenever the Department of Public Safety has determined that any person who is regulated as a motor carrier pursuant to Sections ~~166 1~~ through ~~180m 23~~ of ~~Title 47 of the Oklahoma Statutes~~ this act has violated any provision of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act or any rule promulgate thereto, the Department of Public Safety shall report such violations to the Corporation Commission for the purposes of determining if such person has violated any provisions of the permit or certificate issued by the Commission pursuant to or any provision of Sections ~~166 1~~ through ~~180m 23~~ of ~~Title 47 of the Oklahoma Statutes~~ this act or of any rule promulgated thereto.

B. Every motor carrier subject to this section shall maintain liability and property damage insurance covering each motor vehicle operated by the motor carrier and file proof of that insurance with the ~~Oklahoma~~ Corporation Commission. The Commission shall set the

amount of necessary insurance for the transportation of all commodities other than hazardous materials. The Commission may allow a motor carrier to meet its liability and property damage insurance requirements through self-insurance if the motor carrier has adequate financial assets to assume liability and is in substantial compliance with all motor carrier safety regulations adopted by the Department. Any person who transports or who causes the transportation of any hazardous material shall be required to comply with the financial responsibility requirements specified by the federal motor carrier safety regulations and the hazardous materials regulations of the United States Department of Transportation provided that in no event shall the financial responsibility requirement exceed One Million Dollars (\$1,000,000.00) except as otherwise specifically required by federal law, or any federal rule or regulation promulgated thereto.

C. Any person who causes or requires any person subject to the provisions of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act to drive at a speed or carry a load in excess of those authorized by law pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act shall be subject to the administrative penalties pursuant to the provisions of this act.

D. In adopting rules and regulations pursuant to the provisions of this act, the Department of Public Safety shall establish limitations on driving hours for motor vehicles subject thereto that are consistent with the hours of service requirements adopted by the United States Department of Transportation in the applicable part of Title 49 of the Code of Federal Regulations, as those regulations now exist or are hereafter amended. Driving hours and on-duty status shall not begin following less than eight (8) consecutive hours off duty. Drivers shall be regulated from the time a driver

first reports for duty for any employer. The regulations adopted pursuant to this section shall establish the following exception:

The maximum driving time within a work period is twelve (12) hours if the vehicle is engaged solely in intrastate commerce and is not transporting hazardous materials as defined by regulations of the United States Department of Transportation in the applicable section of Title 49 of the Code of Federal Regulations, as that section now exists or is hereafter amended; except in the event of an emergency and upon notification of the nearest Oklahoma Highway Patrol troop headquarters of the Department of Public Safety, the Commissioner or his designated agent shall declare an emergency and there shall be no hour restrictions for rural electric cooperatives, public utilities, public service corporations or municipal employees as long as an emergency exists for providing service to restore heat, light, power, water, telephone or other emergency restoration facilities that are necessary to ensure the health, welfare and safety of the public.

E. Any regulation relating to motor carrier safety or to the transportation of hazardous materials adopted by a local government, authority, or state agency or office shall be consistent with corresponding federal regulations. To the extent of any conflict between said regulations and those adopted by the Department of Public Safety under this section, regulations adopted by the Department shall control.

SECTION 30. AMENDATORY 47 O.S. 2001, Section 1133.2, is amended to read as follows:

Section 1133.2 A. Every commercial motor vehicle, whether private, contract or for hire, of ~~twenty-six thousand (26,000)~~ twenty-six thousand one (26,001) pounds or greater weight, which is either the registered weight or gross vehicle weight rating or a combination thereof, shall display the name of the vehicle registrant on each side of the vehicle in ~~two-inch~~ letters that

contrast sharply in color with the background on which the letters are placed ~~or greater which shall and~~ be legible from a distance of fifty (50) feet. The city or town serving as the registrant's principal place of business or postal address shall be displayed in two-inch letters or greater on each side of the vehicle adjacent to the registrant's name. Provided however, ~~in the instance of an Interstate Motor Carrier~~ the address need not be displayed if the ~~Interstate Commerce Commission~~ USDOT number is displayed on the vehicle.

B. Those not complying with the provisions of this section shall be fined One Hundred Dollars (\$100.00). Any person in violation of the provisions of this section may be cited by the Oklahoma Highway Patrol, the ~~Oklahoma~~ Corporation Commission, the Oklahoma Tax Commission or any county sheriff or municipal law enforcement officer. Any fines collected by a county sheriff or municipal law enforcement officer shall be deposited in their respective county or municipal treasury.

C. After a fine has been assessed pursuant to the provisions of subsection B of this section, the offender shall have ten (10) days to display the name of the registrant on the vehicle as provided in subsection A of this section.

~~D. Out-of-state vehicles which have a base license plate from a state other than Oklahoma shall be exempt from this section unless such vehicle is being utilized in intrastate commerce.~~

~~E.~~ The name on the side of the vehicle may differ from the name on the vehicle registration only if a bona fide legal lease is in the vehicle.

SECTION 31. AMENDATORY 17 O.S. 2001, Section 35, is amended to read as follows:

Section 35. There is hereby created within the Corporation Commission a Data Processing Division. The Division shall be responsible for all data processing requirements of the Commission

and shall be funded from any monies available to the Commission.
The Director of the Data Processing Division shall be in the
unclassified service, ~~and shall have a maximum annual salary, which
shall be specified in the Commission's annual appropriation bill.~~

SECTION 32. REPEALER 17 O.S. 2001, Section 180.5, is
hereby repealed.

SECTION 33. This act shall become effective November 1, 2002.

48-2-8852 SCE 6/12/15