

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL 590

By: Monson of the Senate

and

Pope (Clay) of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 1143, as last amended by Section 4, Chapter 208, O.S.L. 1995 and 1146, as amended by Section 3, Chapter 300, O.S.L. 1993 (47 O.S. Supp. 2000, Sections 1143 and 1146), which relate to motor license agents; modifying amount of compensation retained by motor license agents; deleting requirements relating to financial statement and inventory form, employee compensation, leasing and subleasing of certain property and certain purchases; repealing 47 O.S. 1991, Section 1145, as amended by Section 2, Chapter 300, O.S.L. 1993 (47 O.S. Supp. 2000, Section 1145), which relates to operating reserves of motor license agents; requiring forwarding of such operating reserves to Oklahoma Tax Commission; requiring motor license agents to file financial statement with Tax Commission; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 1143, as last amended by Section 4, Chapter 208, O.S.L. 1995 (47 O.S. Supp. 2000, Section 1143), is amended to read as follows:

Section 1143. A. A motor license agent appointed under the provisions of this title shall retain as ~~base~~ compensation those taxes and fees collected and retained pursuant to Section 1141.1 of this title, and ~~after payment of allowable expenses of the motor license agency as defined in subsection C of Section 1146 of this title,~~ shall additionally retain:

1. All amounts remaining from notary and mailing fees received by such agent, after payment of all costs of handling and mailing;

2. All profits from any concessions operated in the agent's office; and

3. All amounts collected pursuant to subsection H of Section 1111 of this title; ~~and~~

~~4. An amount not to exceed Forty Thousand Dollars (\$40,000.00) for each calendar year.~~

B. A motor license agent shall receive a fee of not more than One Dollar (\$1.00) for each document notarized and a fee of fifty cents (\$0.50) for any documents mailed.

C. The Oklahoma Tax Commission shall initiate a mail order vehicle registration notification program, which shall consist of notification annually to all vehicle owners in this state of such time an owner shall register and license ~~his~~ a vehicle as provided for in Section 1101 et seq. of this title. The notification issued by the Tax Commission shall include a breakdown of all charges to be paid by the owner, other items deemed necessary by the Tax Commission and shall notify the owner ~~that he has~~ of the option of paying ~~his~~ registration fees and receiving ~~his~~ the license plate or decal through the mail directly from the Tax Commission or of registering and receiving ~~his~~ the license plate or decal from a motor license agent. On the back of such registration notification forms ~~ordered after the effective date of this act~~ there shall be the address of the Oklahoma Tax Commission in large black type and an explanation of the apportionment of all license fees and penalties collected and their disposition. Such explanation shall include information as to all charges included in the total license fee and any fees or charges incident to the registration of a motor vehicle, to include all fees that a motor license agent is authorized to collect. If the owner chooses the option of receiving these services through the mail, either from the Tax Commission or

the motor license agent, ~~he~~ the owner shall then be instructed to pay the final total listed. The costs of mailing shall be One Dollar (\$1.00) for license plates, fifty cents (\$0.50) for decals and fifty cents (\$0.50) for the mailing of any other form, title, decal or device provided for in the Oklahoma Vehicle License and Registration Act. Provided however, the Tax Commission may adjust any mailing costs from time to time as ~~they deem~~ it deems appropriate and as will allow for additional fees the U.S. Postal Service may charge.

D. Money received by the Tax Commission for the issuance of any registrations, license plates or otherwise shall be apportioned to the schools in accordance with other laws controlling such distributions.

E. Failure by an owner of a vehicle to receive registration notification as provided for in the Motor Vehicle License and Registration Act shall not in any manner relieve such person from the obligation of proper and timely registration and licensing of such vehicle, and such person shall be subject to any penalties prescribed by the Oklahoma Vehicle License and Registration Act.

F. A motor license agent, out of the taxes and fees collected and retained pursuant to Section 1141.1 of this title, shall obtain a faithful performance surety bond or cash bond in the amount of Thirty Thousand Dollars (\$30,000.00) or in such additional amount and form required by the Tax Commission or by the Oklahoma Vehicle License and Registration Act, a blanket surety bond or cash bond covering adequately all office personnel, necessary insurance, necessary office equipment and furniture, and other goods and services essential to the proper operation of the motor license agency. Provided that the Tax Commission shall have the authority to lower such required surety bond to an amount that is commensurate with the amount of business conducted by the motor license agent, but in no event shall that amount be less than Five Thousand Dollars

(\$5,000.00). Motor license agents shall obtain the surety bond or cash bond required by this section only during their first year of operation. Thereafter, the motor license agents shall be subject to the provisions of Section 1143.1 of this title.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 1146, as amended by Section 3, Chapter 300, O.S.L. 1993 (47 O.S. Supp. 2000, Section 1146), is amended to read as follows:

Section 1146. A. ~~Before April 1 of each year and as of the last day of operation of an agent, all motor license agents shall file with the State Auditor and Inspector and the Oklahoma Tax Commission a complete financial statement and inventory on a form prescribed by the State Auditor and Inspector covering all expenses and disbursements out of all taxes and fees collected by such agents during the preceding calendar year or during the current calendar year through the last day of operation of the agent.~~ The Oklahoma Tax Commission shall audit all motor license agents at least once during each calendar year and shall have the power to require any changes it deems necessary in the operation of motor license agents. The Tax Commission shall issue such rules as it deems necessary for the proper control of all fiscal matters involving motor license agents.

B. ~~No person employed in the office of a motor license agent performing duties imposed by law upon such office shall receive a salary that exceeds seventy percent (70%) of the maximum annual compensation designated by law for the motor license agent provided, however, any such employee who has been so employed in excess of five (5) years may be compensated by an additional five percent (5%) of such maximum annual compensation for each year in excess of five (5) years employment not exceeding a total of twenty-five percent (25%). The provisions of this subsection shall not apply to the Commission.~~

~~C. The allowable expenses of a motor license agency shall be the ordinary and necessary expenses allowed small businesses pursuant to the Federal Internal Revenue Code, 26 U.S.C., Section 1 et seq.~~

~~D. The State Auditor and Inspector, annually, shall analyze the financial statement and inventory filed by each motor license agent pursuant to subsection A of this section. After the analysis, the State Auditor and Inspector may, if deemed necessary or advisable, require a review of the taxes and fees received and expenditures made by an agency, which review shall be made in accordance with auditing guidelines prepared by the State Auditor and Inspector and the standards established by the American Institute of Certified Public Accountants by a licensed public accountant or a certified public accountant holding a permit to practice in this state. A copy of the review shall be forwarded to the State Auditor and Inspector and the Tax Commission. The State Auditor and Inspector and the Tax Commission shall evaluate the reviews and may conduct any further audits or examinations as deemed necessary.~~

Any review or audit of a motor license agency performed by the Oklahoma Tax Commission, the State Auditor and Inspector, a licensed public accountant or a certified public accountant, pursuant to the provisions of Sections 1140 through 1147 of this title shall be an open record and shall be made available for public inspection at the Oklahoma Tax Commission, notwithstanding the provisions of Section 205 of Title 68 of the Oklahoma Statutes.

~~E. Any motor license agent whose budgeted compensation is the same as the maximum amount as provided for in this act, Section 1101 et seq. of this title, shall hold all real and personal property leased or purchased from the operating expense budget of the agency in trust as the property of the agency for use in the operation of the agency and for no other purpose and, upon the resignation, removal or death of such agent, such property shall be transferred~~

~~to the successor agent. The Commission shall establish a beginning inventory and maintain records of all real and personal property leased or owned by each motor license agent and shall annually update its records as to any interest, whether partial or whole, held by the motor license agent in such real and personal property. Upon the appointment of a successor agent, the Commission shall have the power to provide for the equitable settlement of any issue arising from any partial interests involved in such real and personal property. Provided however, that the property may be transferred to the Commission to be held or used by the Commission until such time as a successor agent is appointed and qualified as provided in this act.~~

~~F. The following restrictions and requirements shall apply to all motor license agents:~~

~~1. All purchases in excess of One Thousand Dollars (\$1,000.00) made by a motor license agent who collects fees in excess of Seventy-five Thousand Dollars (\$75,000.00) per year shall be identified in each review and shall be accompanied by at least (3) quotes or bids showing that the purchase was at the lowest price available in the agent's local area;~~

~~2. No motor license agent shall enter into a lease or sublease, for use in a motor license agency or in the conduct of agency business for any furniture, equipment, machinery, vehicles or other items from any entity in which the agent or any person related to the agent within the third degree by consanguinity or affinity has a financial interest. Such motor license agent may, however, locate or continue to locate a motor license agency in a building owned by said agent or by a person related to the agent within the third degree by consanguinity or affinity. In such case, the motor license agent shall attach a copy of the lease agreement to his annual financial statement and inventory and such lease agreement shall become a part thereof; and~~

~~3.~~ C. Any and all records, files, books or otherwise of a motor license agent relating to the operation of the motor license agency shall be public record which shall be open to public inspection at reasonable times, regardless of their location.

SECTION 3. REPEALER 47 O.S. 1991, Section 1145, as amended by Section 2, Chapter 300, O.S.L. 1993 (47 O.S. Supp. 2000, Section 1145), is hereby repealed.

SECTION 4. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Any and all monies held in an operating reserve on the effective date of this section pursuant to the provisions of Section 1145 of Title 47 of the Oklahoma Statutes by a motor license agent in a year in which the motor license agent exceeded the maximum compensation allowed by law shall be forwarded to the Oklahoma Tax Commission by the motor license agent not later than September 1, 2001, to be distributed in the same manner as provided for other motor license agency monies. The motor license agent shall also file a statement of disposition of any monies held in such an operating reserve with the Tax Commission at the time the monies are forwarded. The statement shall be on a form prescribed by the Tax Commission.

SECTION 5. Sections 1, 2 and 3 of this act shall become effective July 1, 2001.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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