

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 509

By: Herbert

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 1110, as last amended by Section 173, Chapter 371, O.S.L. 2000 and 1113A (47 O.S. Supp. 2000, Section 1110), which relate to the Oklahoma Vehicle License and Registration Act; defining terms; providing procedure for release of certain liens or encumbrances; providing that certain amounts remain obligation of seller or transferor of motor vehicle; requiring Oklahoma Tax Commission to promulgate certain rules; deleting definitions; requiring retention of certain license plates; limiting transfer of certain license plates; requiring certain license plates to be returned to Tax Commission or motor license agent; providing procedures upon sale, transfer of ownership or repossession of vehicle; levying certain fees and providing for collection and payment thereof; apportioning revenues from fees; providing that certain fee cease to be levied after certain time; creating Tax Commission Data Processing Improvement Revolving Fund; providing for deposits thereto and expenditures therefrom; specifying purpose; providing that collection and payment of certain fees be condition of license or registration of vehicles; providing for codification; providing for recodification; repealing 47 O.S. 1991, Sections 851, as amended by Section 1, Chapter 287, O.S.L. 1996, 852, 854, as last amended by Section 1, Chapter 232, O.S.L. 1999 and 855, as last amended by Section 2, Chapter 158, O.S.L. 1998, Section 1, Chapter 92, O.S.L. 1999, 856, as last amended by Section 3, Chapter 158, O.S.L. 1998, 856.1, as last amended by Section 2, Chapter 92, O.S.L. 1999, 856.1A, 856.3, 856.4, 857, 858, as last amended by Section 2, Chapter 179, O.S.L. 1997, 859, as last amended by Section 4, Chapter 158, O.S.L. 1998 and 860 (47 O.S. Supp. 2000, Sections 851, 854, 855, 855.1, 856, 856.1, 858 and 859), which relate to vehicle inspections; 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 1110, as last amended by Section 173, Chapter 371, O.S.L. 2000 (47 O.S. Supp. 2000, Section 1110), is amended to read as follows:

Section 1110. A. 1. Except for a security interest in vehicles held by a dealer for sale or lease, ~~as defined in paragraph (37) of Section 1-112 of this title~~ and a vehicle being registered in this state which was previously registered in another state and which title contains the name of a secured party on the face of the other state certificate or title, a security interest, ~~as defined in Section 1-201 of Title 12A of the Oklahoma Statutes,~~ in a vehicle as to which a certificate of title may be properly issued by the Oklahoma Tax Commission shall be perfected only when a lien entry form, and the existing certificate of title, if any, or application for a certificate of title and manufacturer's certificate of origin containing the name and address of the secured party and the date of the security agreement and the required fee are delivered to the Tax Commission or to a motor license agent. As used in this section, the term "dealer" shall be defined as provided in Section 1-112 of this title and, except as provided in paragraph 3 of subsection B of this section, the term "security interest" shall be defined as provided in paragraph (37) of Section 1-201 of Title 12A of the Oklahoma Statutes. When a vehicle title is presented to a motor license agent for transferring or registering and the documents reflect a lien holder, the motor license agent shall perfect the lien pursuant to subsection G of Section 1105 of ~~Title 47 of the Oklahoma Statutes~~ this title. For the purposes of this section, the term "vehicle" shall not include special mobilized machinery, machinery used in highway construction or road material construction and rubber-tired road construction vehicles including rubber-tired cranes. The filing and duration of perfection of a security interest, pursuant to the provisions of Title 12A of the Oklahoma Statutes, including, but not limited to, Section 1-9-311 of Title 12A of the Oklahoma Statutes, shall not be applicable to perfection of security interests in vehicles as to which a certificate of title may be properly issued by the Tax Commission, except as to vehicles

held by a dealer for sale or lease and except as provided in subsection D of this section. In all other respects Title 12A of the Oklahoma Statutes shall be applicable to such security interests in vehicles as to which a certificate of title may be properly issued by the Tax Commission.

2. Whenever a person creates a security interest in a vehicle, the person shall surrender to the secured party the certificate of title or the signed application for a new certificate of title, on the form prescribed by the Tax Commission, and the manufacturer's certificate of origin. The secured party shall deliver the lien entry form and the required lien filing fee within twenty (20) days as provided hereafter with certificate of title or the application for certificate of title and the manufacturer's certificate of origin to the Tax Commission or to a motor license agent.

Perfection of the security interest shall begin from the date of the delivery to the Tax Commission or to a motor license agent of ~~(i)~~:

- a. the lien entry form, ~~(ii)~~
- b. the lien filing fee, and ~~(iii)~~
- c. the certificate of title or application for certificate of title and the manufacturer's certificate of origin.

3. a. For each security interest recorded on a certificate of title, or manufacturer's certificate of origin, such person shall pay a fee of Ten Dollars (\$10.00), which shall be in addition to other fees provided for in the Oklahoma Vehicle License and Registration Act. Upon the receipt of the lien entry form and the required fees with either the certificate of title or an application for certificate of title and manufacturer's certificate of origin, a motor license agent shall, by placement of a clearly distinguishing mark, record the date and number shown in a

conspicuous place, on each of these instruments. Of the ten-dollar fee, the motor license agent shall retain Two Dollars (\$2.00) for recording the security interest lien.

- b. It shall be unlawful for any person to solicit, accept or receive any gratuity or compensation for acting as a messenger and for acting as the agent or representative of another person in applying for the recording of a security interest or for the registration of a motor vehicle and obtaining the license plates or for the issuance of a certificate of title therefor unless the Tax Commission has appointed and approved the person to perform such acts; and before acting as a messenger, any such person shall furnish to the Tax Commission a surety bond in such amount as the Tax Commission shall determine appropriate.

4. The certificate of title or the application for certificate of title and manufacturer's certificate of origin with the record of the date of receipt clearly marked thereon shall be returned to the debtor together with a notice that the debtor is required to register and pay all additional fees and taxes due within thirty (30) days from the date of purchase of the vehicle.

5. Any person creating a security interest in a vehicle that has been previously registered in the debtor's name and on which all taxes due the state have been paid shall surrender the certificate of ownership to the secured party. The secured party shall have the duty to record the security interest as provided in this section and shall, at the same time, obtain a new certificate of title which shall show the secured interest on the face of the certificate of title.

6. The lien entry form with the date and assigned number thereof clearly marked thereon shall be returned to the secured party. If the lien entry form is received and authenticated, as herein provided, by a motor license agent, the agent shall make a report thereof to the Tax Commission upon the forms and in the manner as may be prescribed by the Tax Commission.

7. The Tax Commission shall have the duty to record the lien upon the face of the certificate of title issued at the time of registering and paying all fees and taxes due on the vehicle.

B. 1. A secured party shall, within seven (7) business days after the satisfaction of the security interest, furnish directly or by mail a release of a security interest to the Tax Commission and mail a copy thereof to the last-known address of the debtor. If the security interest has been satisfied by payment from a licensed used motor vehicle dealer to whom the motor vehicle has been transferred, the secured party shall also, within seven (7) business days after such satisfaction, mail an additional copy of the release to the dealer. If the secured party fails to furnish the release as required, the secured party shall be liable to the debtor for a penalty of One Hundred Dollars (\$100.00) and, in addition, any loss caused to the debtor by such failure.

2. Upon release of a security interest the owner may obtain a new certificate of title omitting reference to the security interest, by submitting to the Tax Commission or to a motor license agent:

- a. a release signed by the secured party, an application for new certificate of title and the proper fees, or
- b. by submitting to the Tax Commission or the motor license agent an affidavit, supported by such documentation as the Tax Commission may require, by the owner on a form prescribed by the Tax Commission stating that the security interest has been satisfied

and stating the reasons why a release cannot be obtained, an application for a new certificate of title and the proper fees.

Upon receiving such affidavit that the security interest has been satisfied, the Tax Commission shall issue a new certificate of title eliminating the satisfied security interest and the name and address of the secured parties who have been paid and satisfied. The Tax Commission shall accept a release of a security interest in any form that identifies the debtor, the secured party, and the vehicle, and contains the signature of the secured party. The Tax Commission shall not require any particular form for the release of a security interest.

The words "security interest" when used in ~~this act~~ the Oklahoma Vehicle License and Registration Act do not include liens dependent upon possession.

3. In the event of the sale or transfer of the ownership of a vehicle, the purchaser may make application to the Tax Commission or a motor license agent for the release of any security interest resulting from liens or encumbrances for fees or taxes or for any reason other than in connection with purchase or financing of the vehicle by the seller or transferor thereof. If such application is approved, the Tax Commission shall issue a new certificate of title eliminating the security interest. Any amounts still owed by the seller or transferor shall remain the obligation of the seller or transferor and the Tax Commission is hereby authorized to take actions as authorized by law for the collection of such amounts. The Tax Commission shall promulgate rules to implement the provisions of this paragraph. The provisions of this paragraph shall only apply to security interests perfected on or after July 1, 2001.

C. The Tax Commission shall file and index certificates of title so that at all times it will be possible to trace a

certificate of title to the vehicle designated therein, identify the lien entry form, and the names and addresses of secured parties, or their assignees, so that all or any part of such information may be made readily available to those who make legitimate inquiry of the Tax Commission as to the existence or nonexistence of security interest in the vehicle.

D. 1. Any security interest in a vehicle properly perfected prior to July 1, 1979, may be continued as to its effectiveness or duration as provided by ~~subsection (3) of Section 9-401 and subsection (3) of Section 9-403~~ Sections 1-9-501 and 1-9-515 of Title 12A of the Oklahoma Statutes, or may be terminated, assigned or released as provided by Sections ~~9-404, 9-405 and 9-406~~ 1-9-512, 1-9-513 and 1-9-514 of Title 12A of the Oklahoma Statutes, as fully as if this section had not been enacted, or, at the option of the secured party, may also be perfected under this section, and, if so perfected, the time of perfection under this section shall be the date the security interest was originally perfected under the prior law.

2. Upon request of the secured party, the debtor or any other holder of the certificate of title shall surrender the certificate of title to the secured party and shall do such other acts as may be required to perfect the security interest under this section.

E. The priority of a valid security interest in a manufactured home, including without limitation a mobile home or sectional home, perfected pursuant to this section, shall not be affected by reason of the manufactured home becoming a fixture or otherwise being permanently attached to real property after the date of perfection of the security interest. A security interest in a manufactured home perfected pursuant to this section shall have priority over a conflicting interest of a mortgagee or other lien encumbrancer, or the owner of the real property upon which the manufactured home became affixed or otherwise permanently attached. The holder of the

security interest in the manufactured home, upon default, may remove the manufactured home from such real property. The holder of the security interest in the manufactured home shall reimburse the owner of the real property who is not the debtor and who has not otherwise agreed to access the real property for the cost of repair of any physical injury to the real property, but shall not be liable for any diminution in value to the real property caused by the removal of the manufactured home, trespass, or any other damages caused by the removal. The debtor shall notify the holder of the security interest in the manufactured home of the street address, if any, and the legal description of the real property upon which the manufactured home is affixed or otherwise permanently attached and shall sign such other documents, including any appropriate mortgage, as may reasonably be requested by the holder of such security interest.

F. In the case of motor vehicles or trailers, notwithstanding any other provision of law, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 1113A, is amended to read as follows:

Section 1113A. A. As used in this section:

1. "First vehicle" means the vehicle from which a license plate is removed and transferred to a second vehicle; and

2. "Second vehicle" means the vehicle to which a license plate is transferred after removal from a first vehicle; ~~and~~

~~3. "Vehicle" means a passenger vehicle and does not include farm or commercial vehicles.~~

B. A person ~~may~~ shall retain the license plate of any vehicle registered to ~~such~~ the person for purposes of transferring ~~such~~ the

license plate to a second vehicle registered to ~~such~~ the person. The license plate removed from the first vehicle may be transferred to a new or used second vehicle. Upon any sale or transfer of the ownership of a vehicle, the seller or transferor shall retain the license plate, which may be transferred to a second vehicle registered to such person. Upon any repossession of a vehicle, the reposessor thereof shall return the license plate to the Oklahoma Tax Commission or a motor license agent pursuant to the provisions of paragraph 3 of this subsection. A license plate issued for a pickup, truck or truck-tractor used primarily for farm purposes which is registered pursuant to the provisions of Section 1134 of this title shall only be transferred to another pickup, truck or truck-tractor used primarily for farm purposes. A license plate issued for a commercial vehicle which is registered pursuant to the provisions of Section 1133 or 1133.1 of this title shall only be transferred to another commercial vehicle. The procedure for transfer shall be as follows:

1. If the license plate removed from the first vehicle is transferred to a ~~new motor~~ second vehicle registered to the seller or transferor of the first vehicle, the owner of the first vehicle shall obtain a replacement license plate for the first vehicle from the Tax Commission or one of its motor license agents upon payment of the fee required for a replacement plate and an additional Ten Dollars (\$10.00). The replacement plate shall bear an expiration date that corresponds to the expiration date on the license plate removed from the first vehicle. The replacement plate shall be affixed to the first vehicle immediately upon removal of the existing license plate. The license plate removed from the first vehicle shall be affixed to the second vehicle upon payment by the owner of all applicable registration and license fees. Transfer of a license plate to a ~~new motor~~ second vehicle as authorized by this paragraph shall not relieve the owner of payment for registration or

license fees applicable to ~~such new~~ the second motor vehicle as required by this title-;

2. If the license plate removed from the first vehicle is transferred to a second vehicle already displaying a license plate, the owner shall obtain the replacement license plate required by paragraph 1 of this subsection. The replacement plate shall be affixed to the first vehicle and shall bear the expiration date of the license plate removed from the first vehicle. The license plate from the second vehicle shall be removed and returned to the Tax Commission or one of its motor license agents. The license plate removed from the first vehicle shall then be affixed to the second vehicle. The removed plate from the first vehicle shall bear an expiration date identical to the plate removed from the second vehicle; and

3. If the license plate is removed from a vehicle which is sold, the ownership of which is transferred or which is repossessed, and such license plate is not transferred to a second vehicle registered to the seller or transferor thereof within thirty (30) days of such transfer of ownership or repossession, the seller, transferor or reposessor shall return the license plate to the Tax Commission or one of its motor license agents and shall be required to pay a transfer fee of One Dollar (\$1.00).

C. 1. Upon any sale or transfer of ownership of a vehicle to a dealer, no license plate shall be required except as provided in Section 1128 of this title.

2. Upon any repossession of a vehicle, a license plate shall not be required until such time as title to the vehicle is transferred to a person, other than a dealer or a licensed automotive dismantler and parts recycler, who purchases the vehicle from the person who repossessed the vehicle.

3. Upon any sale or transfer of ownership to a person other than a dealer of a vehicle for which a replacement license plate is

not obtained pursuant to the provisions of paragraph 1 or 2 of subsection B of this section, the seller or transferor shall obtain a temporary license plate from the Tax Commission or a motor license agent. The temporary license plate shall be affixed to the vehicle at the time of transfer of possession to the purchaser prior to operation of the vehicle on the roads and highways of this state. The Tax Commission or motor license agent shall charge a fee of One Dollar (\$1.00) for each temporary license plate issued. Such fees collected by the Tax Commission shall be deposited to the Oklahoma Tax Commission Reimbursement Fund and such fees collected by a motor license agent shall be retained by the motor license agent. The purchaser shall register the vehicle with the Tax Commission or a motor license agent within thirty (30) days of the date of the sale or transfer of ownership. The ~~Oklahoma~~ Tax Commission shall be authorized to promulgate ~~such rules or regulations~~ as may be required to implement the license plate transfers authorized by this section.

D. In the event a person fails to obtain a replacement license plate as provided for in this section within the time prescribed for the registration of the new or used second vehicle, a penalty of twenty-five cents (\$0.25) per day shall be assessed from the day following the period prescribed for registration to the date of acquisition of the replacement license plate, such penalty to accrue for no more than thirty (30) days, at the end of which time the penalty shall be twice the registration cost of such vehicle.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1132.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. In addition to other vehicle registration fees specified by law, there is levied and there shall be paid to the Oklahoma Tax Commission a fee of One Dollar (\$1.00) upon every vehicle to be registered or licensed. The fee shall accrue and shall be

collectible upon each vehicle under the same circumstances and shall be payable in the same manner and times as apply to vehicle licenses and registrations under the provisions of the Oklahoma Vehicle License and Registration Act; provided, the fee shall be paid in full for the then current year at the time any vehicle is first registered in a calendar year.

B. Revenue from the fee levied in subsection A of this section shall be apportioned as follows:

1. Fifty percent (50%) of the revenues shall be credited to the General Revenue Fund in the State Treasury; and

2. Fifty percent (50%) of the revenues shall be deposited to the Oklahoma Law Enforcement Retirement Fund; provided, the first Five Hundred Thousand Dollars (\$500,000.00) of the revenues apportioned pursuant to the provisions of this paragraph each fiscal year shall be deposited to the Department of Public Safety Patrol Vehicle Revolving Fund created in Section 854.1 of Title 47 of the Oklahoma Statutes for the purpose of purchasing patrol vehicles.

C. In addition to other vehicle registration fees specified by law, there is levied and there shall be paid to the Tax Commission a temporary fee of fifty cents (\$.50) upon every vehicle to be registered or licensed. The fee shall accrue and shall be collectible upon each vehicle under the same circumstances and shall be payable in the same manner and times as apply to vehicle licenses and registrations under the provisions of the Oklahoma Vehicle License and Registration Act; provided, the fee shall be paid in full for the then current year at the time any vehicle is first registered in a calendar year. Revenue from the fee levied in this subsection shall be apportioned to the Tax Commission Data Processing Improvement Revolving Fund created in subsection D of this section. The fee levied pursuant to the provisions of this subsection shall cease to be levied when the total deposits to the fund equal Two Million Dollars (\$2,000,000.00).

D. There is hereby created in the State Treasury a revolving fund for the Tax Commission to be designated the "Tax Commission Data Processing Improvement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Tax Commission pursuant to the provisions of subsection C of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Tax Commission for the purpose of upgrading and improving its data processing systems. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

E. The collection and payment of the fees specified in this section shall be a prerequisite to license or registration of any vehicles.

SECTION 4. RECODIFICATION 47 O.S. 1991, Section 856.2, as amended by Section 274, Chapter 145, O.S.L. 1993 (47 O.S. Supp. 2000, Section 856.2), shall be recodified as Section 230.17 of Title 47 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 5. REPEALER 47 O.S. 1991, Sections 851, as amended by Section 1, Chapter 287, O.S.L. 1996, 852, 854, as last amended by Section 1, Chapter 232, O.S.L. 1999 and 855, as last amended by Section 2, Chapter 158, O.S.L. 1998, Section 1, Chapter 92, O.S.L. 1999, 856, as last amended by Section 3, Chapter 158, O.S.L. 1998, 856.1, as last amended by Section 2, Chapter 92, O.S.L. 1999, 856.1A, 856.3, 856.4, 857, 858, as last amended by Section 2, Chapter 179, O.S.L. 1997, 859, as last amended by Section 4, Chapter 158, O.S.L. 1998 and 860 (47 O.S. Supp. 2000, Sections 851, 854, 855, 855.1, 856, 856.1, 858 and 859), are hereby repealed.

SECTION 6. This act shall become effective July 1, 2001.

SECTION 7. 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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