

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2336

By: Carey

COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 19 O.S. 2001, Section 526, which relates to house mover permits; deleting certain duties of sheriff; amending 47 O.S. 2001, Sections 1-117 and 1-119, which relate to definitions; modifying definitions; amending 47 O.S. 2001, Section 14-103C, as amended by Section 1, Chapter 53, O.S.L. 2003 (47 O.S. Supp. 2003, Section 14-103C), which relates to special permits; deleting distance specification; deleting authority of the Commissioner to issue certain special permits; amending 47 O.S. 2001, Section 14-116a, which relates to size, weight, and loads on vehicles; clarifying permit carrier for transportation of a load or manufactured home; amending 47 O.S. 2001, Section 230.9, as amended by Section 1, Chapter 474, O.S.L. 2002 (47 O.S. Supp. 2003, Section 230.9), which relates to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act; modifying procedures concerning administrative penalties; amending 47 O.S. 2001, Section 1106, which relates to certificates of title; requiring Oklahoma Tax Commission to refuse registration and issuance of titles under certain circumstances; requiring Oklahoma Tax Commission to revoke registration, certificate of title and license plate under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 19 O.S. 2001, Section 526, is amended to read as follows:

Section 526. ~~The sheriff shall approve permits for all house movers and shall designate routes to be followed by house movers within the county.~~ The sheriff, in addition to his other duties, shall have the responsibility of annually inspecting all county buildings and making a report to the board of county commissioners.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 1-117, is amended to read as follows:

Section 1-117. ~~Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and/or heat, unless such compound, mixture, or device is otherwise specifically classified by the Interstate Commerce Commission. The term "explosives" Explosives shall include all material which is classified as Class A, Class B and Class C explosives by the Interstate Commerce Commission, and includes but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonant fuse, instantaneous fuse, ignitor cord, igniters, and some special fireworks. Commercial explosives are those explosives which are intended to be used in commercial or industrial operations~~ have the same meaning as defined in 49 C.F.R., Part 173.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 1-119, is amended to read as follows:

Section 1-119. ~~Any~~ Flammable substance shall include any liquid, which has a flash point of 70 degrees F., or less, as determined by a tagliabue or equivalent closed-cup test device and having a vapor pressure not exceeding 40 psia at 100 F gas, or other material as defined in 49 C.F.R., Part 173.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 14-103C, as amended by Section 1, Chapter 53, O.S.L. 2003 (47 O.S. Supp. 2003, Section 14-103C), is amended to read as follows:

Section 14-103C. A. The Commissioner of Public Safety shall upon proper application issue a special permit to any person allowing the movement on state and federal highways of a structure in the form of a house or building, including but not limited to industrialized housing as defined in Section 14-103A of this title,

not exceeding thirty-two (32) feet in width at the base, and thirty-four (34) feet in width at the top and twenty-one (21) feet in height. ~~Such~~ The permit shall specify the highways to be used, ~~and a maximum traveling distance of one hundred (100) miles on such highways shall be permitted when~~ consistent with public convenience and safety, as determined by the Commissioner of Public Safety. In addition to the prohibitions on movement as prescribed in Section 14-101 et seq. of this title, such structures shall not be moved on Saturday or Sunday.

B. ~~The Commissioner of Public Safety is hereby authorized to make exceptions to the requirements herein when, in the Commissioner's discretion such exceptions would be warranted. The Commissioner may issue, upon proper application, a special permit allowing the movement of a combination of a motor vehicle, industrialized housing or other industrialized structure, frame or frames thereof not exceeding thirty-two (32) feet in width at the bottom and thirty-four (34) feet in width at the top on state or federal highways. The permit shall specify the highways to be used and shall be permitted when consistent with public convenience and safety, as determined by the Commissioner of Public Safety. If any such combinations have structure or housing described in subsection A of this section has a width in excess of sixteen (16) feet, the towing vehicle shall be a tandem-axle vehicle of no less than two hundred twenty (220) horsepower.~~

C. ~~If the structure is eighteen (18) feet or less in width at the base or the top, the maximum traveling distance shall not apply and such permit shall specify the highways to be used and said movement shall be permitted when consistent with public convenience and safety, as determined by the Commissioner of Public Safety.~~

D. ~~For the purposes of this section, "industrialized housing" means any structure, or component thereof, designed primarily for residential occupancy which is wholly or in substantial part made,~~

~~fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on the building site.~~

SECTION 5. AMENDATORY 47 O.S. 2001, Section 14-116a, is amended to read as follows:

Section 14-116a. Any person, firm, or corporation who moves or transports any load or manufactured home without a permit issued by the Department of Public Safety ~~according to~~ as required by the provisions of ~~Chapter 14 of Title 47 of the Oklahoma Statutes~~ this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as follows:

1. For the first such violation, by a fine of Five Hundred Dollars (\$500.00);

2. For the second such violation, by a fine of One Thousand Dollars (\$1,000.00); and

3. For the third and subsequent violations, by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00).

The permit shall be carried by the ~~mover or transporter~~ operator of the vehicle moving or transporting the load or manufactured home and shall be available for inspection by any law enforcement officer. If said ~~mover or transporter~~ operator is found not to possess a permit, the load or manufactured home shall not continue to be moved or transported. Thereafter, ~~said~~ the load or manufactured home shall not be moved or transported further except by a ~~mover or transporter possessing~~ the operator of a vehicle moving or transporting the load or manufactured home who is in possession of a permit authorizing the movement of the load or manufactured home.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 230.9, as amended by Section 1, Chapter 474, O.S.L. 2002 (47 O.S. Supp. 2003, Section 230.9), is amended to read as follows:

Section 230.9 A. The transportation of any property in commerce, including hazardous materials or the transportation of passengers for compensation or for hire by bus, that is not in compliance with the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act or the rules ~~and regulations~~ issued pursuant thereto, is prohibited.

B. Pursuant to the provisions of this section and except as otherwise provided by subsection D of this section, any person who is determined by the Commissioner to have committed:

1. An act which is a violation of a recordkeeping requirement of this title or of any rule or regulation promulgated thereto or the Federal Motor Carrier Safety Act of 1984, such person shall be liable to the State of Oklahoma for an administrative penalty not to exceed One Hundred Dollars (\$100.00) for each offense, provided that the total of all administrative penalties assessed against any violator pursuant to this paragraph for all offenses related to any single violation shall not exceed Five Hundred Dollars (\$500.00);

2. An act or acts other than recordkeeping requirements, which evidences a serious pattern of safety violations, as determined by the Commissioner, such person shall be liable to the State of Oklahoma for an administrative penalty not to exceed Two Hundred Dollars (\$200.00) for each offense, provided the maximum fine for each pattern of safety violations shall not exceed One Thousand Dollars (\$1,000.00). The Commissioner may consider present and prior offenses in determining a serious pattern of safety violations; or

3. An act or acts which evidences to the Commissioner, that a substantial health or safety violation exists or has occurred which could reasonably lead to or has resulted in serious personal injury or death, such person shall be liable to the State of Oklahoma for an administrative penalty not to exceed One Thousand Dollars (\$1,000.00) for each offense.

C. Each day of violation as specified in subsection B of this section shall constitute a separate single violation/offense.

D. Except for recordkeeping violations, no administrative penalty shall be assessed pursuant to the provisions of this section, against an employee of any person subject to the provisions of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act for a violation unless the Commissioner determines that such actions of the employee constituted gross negligence or reckless disregard for safety in which case such employee shall be liable for an administrative penalty not to exceed One Thousand Dollars (\$1,000.00).

E. In determining the amount of any administrative penalty and the reasonable amount of time for abatement of the violation, the Commissioner shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation, and with respect to the person found to have committed the violation, the degree of culpability, history of prior offenses, effect on ability to continue to do business and such other matters as justice and public safety may require. In each case, the penalty shall be calculated to induce further compliance.

F. The Commissioner or his designated representative shall assess the amount of any administrative penalty, after notice and an opportunity for hearing, by written notice to the violator together with notice of findings in the case. An appeal therefrom may be made to the district court of Oklahoma County pursuant to the provisions of Sections 318 through 323 of Title 75 of the Oklahoma Statutes.

G. An administrative penalty assessed by the Commissioner may be recovered ~~in~~:

1. In an action brought by the Attorney General on behalf of the State of Oklahoma ~~or by~~ However, before referral to the

Attorney General, the administrative penalty may be compromised by the Commissioner;

2. By the Commissioner in the appropriate district court of the State of Oklahoma; or

3. By the Commissioner in an administrative hearing conducted by the Department of Public Safety. ~~Before referral to the Attorney General such administrative penalty may be compromised by the Commissioner.~~

H. The first One Hundred Thousand Dollars (\$100,000.00) of the administrative penalties collected each fiscal year pursuant to the provisions of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act shall be deposited in the General Revenue Fund of the State of Oklahoma. All other monies collected in excess of One Hundred Thousand Dollars (\$100,000.00) each fiscal year shall be deposited to the credit of the Department of Public Safety Revolving Fund for the purpose of administering the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 1106, is amended to read as follows:

Section 1106. A. 1. If the Oklahoma Tax Commission shall determine at any time that an applicant for a certificate of title of a vehicle is not entitled thereto, it may refuse to issue such certificate or to register such vehicle.

2. The Commission may for a similar reason, after ten (10) days' notice and a hearing, revoke the registration and the certificate of title already acquired on any outstanding certificate of title. Said notice may be served in person or by registered mail.

B. 1. The Oklahoma Tax Commission shall refuse registration and issuance of a certificate of title of a commercial motor vehicle, or any transfer of title and registration of a commercial motor vehicle, if the vehicle has been assigned to be operated by a

commercial motor carrier whose ability to operate has been terminated or denied by a federal agency.

2. The Commission shall revoke the registration, certificate of title, and license plate of a commercial motor vehicle if the vehicle has been assigned to be operated by a commercial motor carrier whose ability to operate has been terminated or denied by a federal agency.

SECTION 8. This act shall become effective November 1, 2004.

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